

Original Article

Injustice in Indonesia's Legal Protection Framework for Outsourced Workers

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Abstract

This study analyzes the regulatory weaknesses in the legal protection of outsourced workers in Indonesia, particularly in relation to the fulfillment of justice as mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia. The enactment of Law Number 11 of 2020 on Job Creation has significantly altered the orientation of labor law, shifting it toward economic efficiency and investment facilitation. This shift has resulted in the erosion of normative labor protections and increased vulnerability of outsourced workers, manifested in job insecurity, unequal bargaining power, limited social security coverage, and insufficient welfare guarantees. The primary objective of this research is to evaluate the extent to which existing labor regulations fail to embody substantive justice and to formulate a normative framework for reconstructing labor law in accordance with constitutional values. This study employs an empirical juridical research method with a socio-legal approach, integrating doctrinal legal analysis with empirical data to assess the interaction between legal norms and labor practices. The findings demonstrate that the current regulatory framework prioritizes labor market flexibility over worker protection, leading to structural injustice and normative inconsistencies within the industrial relations system. The study concludes that a comprehensive reconstruction of labor law is necessary through reforms in legal structure, legal substance, and legal culture, grounded in the principles of social justice, humanity, and public welfare, in order to ensure substantive justice and constitutional compliance in the protection of outsourced workers in Indonesia.

Keywords: Indonesia; Labor; Protection; Outsourced;

Introduction

Labor development in Indonesia constitutes an integral part of national development, which is directed toward the realization of a prosperous, just, and dignified society.¹ The state bears the responsibility to guarantee the fundamental rights of workers, ensure equality of opportunity, and secure access for every citizen to employment and a decent livelihood in accordance with constitutional mandates.² In the context of national development, labor is positioned not merely as a factor of production but also as a subject of development that plays an active role in enhancing the nation's social and economic welfare.³ Therefore, labor

¹ Vista Nur Wasiatul Maghfiroh, 'Perlindungan Hukum Bagi Pekerja Berdasarkan Perjanjian Kerja Tidak Tertulis Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja', *NOVUM: JURNAL HUKUM*, 9.03 (2022), 91–100 <<https://doi.org/10.2674/NOVUM.V0I0.41724>>.

² Syamsul Alam and Mohammad Arif, 'Perlindungan Hukum Terhadap Pekerja: Perspektif Tanggung Jawab Konstitusional Negara', *Kalabbirang Law Journal*, 2.2 (2020), 123–33 <<https://doi.org/10.35877/454RI.KALABBIRANG154>>.

³ Regina Amelia, 'Tinjauan Yuridis Perlindungan Hukum Bagi Tenaga Kerja Yang Mengalami Phk Berdasarkan Undangundang Nomor 11 Tahun 2020 Tentang Cipta Kerja' (universitas Hasanuddin Makassar, 2021).



policies in Indonesia must not only promote economic growth but also ensure legal protection for workers as an integral part of human rights.⁴

As a structural reform measure in response to global economic dynamics and the pursuit of increased competitiveness, the Government of Indonesia enacted Law Number 11 of 2020 concerning Job Creation.⁵ The law was designed to expand employment opportunities, streamline business processes, and strengthen the national investment climate.⁶ Nevertheless, since its enactment, the regulation has sparked considerable academic and public debate, particularly within the labor sector cluster.⁷ One of the most controversial aspects concerns the fundamental changes to the outsourcing system. Under the previous regulation, namely Law Number 13 of 2003 concerning Manpower, outsourcing practices were restricted solely to supporting activities and were prohibited from encompassing core functions or tasks directly related to the production process.⁸ However, following the enactment of the Job Creation Law, the provisions limiting the types of work eligible for outsourcing were abolished, thereby allowing the practice to be applied more broadly, including to core functions within companies.⁹

This change carries significant legal and social implications.¹⁰ From a normative perspective, the repeal of Articles 64 and 65, along with the amendment of Article 66 of the Manpower Law, has led to a paradigm shift in industrial relations.¹¹ The new provisions remove the limitations that previously served as protective instruments for workers, particularly in relation to temporary employment arrangements. As a consequence, outsourced workers are now predominantly employed under Fixed Term Employment Agreements (*Perjanjian Kerja Waktu Tertentu* or PKWT), which directly affect their job security, access to social protection, and guarantees of sustainable welfare.¹² On the other hand, this system provides advantages for companies by offering greater flexibility in workforce management and reducing operational costs.¹³

In practice, this situation gives rise to a dilemma between the pursuit of economic efficiency and the need for social protection for workers.¹⁴ On one hand, outsourcing is regarded as a strategic instrument to enhance business efficiency, create employment

⁴ Khairani Khairani, Trie Rahmi Gettari, and Sri Arnetti, 'Perlindungan Pekerja Ditinjau Dari Konsep Hubungan Kerja Pasca Berlakunya Undang-Undang Cipta Kerja', *Unes Journal of Suara Justisia*, 7.2 (2023), 709–21 <<https://doi.org/10.31933/UJSJ.V7I2.372>>.

⁵ Linda Aprillia Safitri and others, 'Perspektif Sistem Alih Daya Dalam Lingkup Tenaga Kerja Dan Perusahaan Di Kota Surabaya', *Economie: Jurnal Ilmu Ekonomi*, 6.1 (2024), 74–85 <<https://doi.org/10.30742/ECONOMIE.V5I2.3583>>.

⁶ Suyoko Suyoko and Mohammad Ghufon AZ, 'Tinjauan Yuridis Terhadap Sistem Alih Daya (Outsourcing) Pada Pekerja Di Indonesia', *Jurnal Cakrawala Hukum*, 12.1 (2021) <<https://doi.org/10.26905/IDJCH.V12I1.5780>>.

⁷ Ali Dahwir, 'Undang-Undang Cipta Kerja Dalam Perspektif Pemikiran Philippe Nonet And Philip Selznick Mengenai Hukum Konservatif', *SOL JUSTICIA*, 3.2 (2020), 165–88 <<https://ojs.ukb.ac.id/index.php/sol/article/view/193>> [accessed 11 November 2025].

⁸ Dwi Putro Santosa, 'Tinjauan Hukum Terhadap Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan Khususnya Tenaga Kerja Outsourcing Di Indonesia', *Lex Et Societatis*, 4.7 (2016) <<https://doi.org/10.35796/LES.V4I7.12626>>.

⁹ Nur Hidayatul Fithri, 'Kesejahteraan Dan Penerapan Keadilan Bagi Pekerja Dalam Undang-Undang Cipta Kerja Klaster Ketenagakerjaan', *Wijaya Putra Law Review*, 1.2 (2022), 120–29 <<https://doi.org/10.38156/WPLR.V1I2.74>>.

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¹¹ Dean Fadhuroman Hafizh and others, 'Analisis Praktik Outsourcing Dalam Perspektif Undang-Undang Cipta Kerja', *Jurnal Lemhannas RI*, 10.3 (2022), 64–75 <<https://doi.org/10.55960/JLRI.V10I3.298>>.

¹² Fithri.

¹³ Rahmat Ramdhan Arsyad, 'Perlindungan Hukum Terhadap Hak Pekerja Akibat Pemutusan Hubungan Kerja (PHK) Sepihak Pada Perusahaan Alihdaya (Outsourcing) Di Dinas Tenaga Kerja, Koperasi, Dan UKM Kota Gorontalo', *Perspektif Administrasi Publik Dan Hukum*, 2.1 (2025), 89–97 <<https://doi.org/10.62383/PERSPEKTIF.V2I1.99>>.

¹⁴ Muh Sjaiful, 'Problematisasi Normatif Jaminan Hak-Hak Pekerja Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja', *Media Iuris*, 4.1 (2021), 37–60.



opportunities, and adapt to global competition.¹⁵ On the other hand, the implementation of an outsourcing system without strict limitations risks neglecting the principles of justice and equality as mandated by Article 27(2) and Article 33 of the 1945 Constitution of the Republic of Indonesia.¹⁶ This situation reveals a contradiction between the objectives of labor law which emphasize worker protection and welfare and the normative reality that allows potential exploitation through unstable and minimally protected employment relationships.¹⁷

Furthermore, the amendment of outsourcing regulations under the Job Creation Law also reveals a gap between the normative framework and its implementation.¹⁸ Normatively, Indonesia's labor regulations uphold the principles of fairness, non-discrimination, and the guarantee of the right to decent employment.¹⁹ However, in practice, the expansion of outsourcing has generated uncertainty in employment status, disparities in welfare, and a weakened bargaining position of workers in relation to employers.²⁰ Many outsourced workers have lost access to social security, experienced discrimination in wages and benefits, and faced contract uncertainty due to continuous renewals without clear employment status.²¹

This condition also highlights a serious challenge to the role of the state as both regulator and supervisor.²² The government faces a dilemma between maintaining an investment-friendly climate and ensuring the fulfillment of workers' rights in accordance with the principles of social justice.²³ In this context, the effectiveness of labor inspection institutions and law enforcement mechanisms becomes crucial in balancing economic interests with the protection of workers' rights.²⁴ However, various studies indicate that the mechanisms for labor inspection and law enforcement in Indonesia continue to face significant challenges, including limited resources, weak inter-agency coordination, and inefficiency in resolving industrial relations disputes.²⁵

¹⁵ Idul Fitri, Ferdi Ferdi, and Bisma Putra Pratama, 'Perlindungan Hukum Tenaga Kerja Alih Daya Dalam Sistem Pengupahan Pada Badan Layanan Umum Daerah (Studi Kasus RSUD Dr. M. Zein Painan)', *Unes Journal of Swara Justisia*, 5.2 (2021), 133–41 <<https://doi.org/10.31933/UJSJ.V5I2.207>>.

¹⁶ Andrew Kakabadse and Nada Kakabadse, 'Outsourcing: Current and Future Trends', *Thunderbird International Business Review*, 47.2 (2005), 183–204 <<https://doi.org/10.1002/TIE.20048;WGROU:STRING:PUBLICATION>>.

¹⁷ Ashabul Kahfi, 'Perlindungan Hukum Terhadap Tenaga Kerja', *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah Dan Hukum*, 3.2 (2016), 59–72 <<https://doi.org/10.24252/JURISPRUDENTIE.V3I2.2665>>.

¹⁸ Amelia.

¹⁹ Irawan Harimurti, 'Jaminan Terhadap Pemenuhan Hak Tenaga Kerja Kaitannya Dengan Legalisasi Sistem Pekerja Kontrak Untuk Jangka Waktu Jangka Pendek (Outsourcing) (Analisis Yuridis Terhadap Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan)' (UNS (Sebelas Maret University), 2010) <<https://digilib.uns.ac.id/dokumen/13299/Jaminan-terhadap-pemenuhan-hak-tenaga-kerja-kaitannya-dengan-legalisasi-sistem-pekerja-kontrak-untuk-jangka-waktu-jangka-pendek-Outsourcing-analisis-yuridis-terhadap-Undang-Undang-Nomor-13-Tahun-2003-tentang-ketenagakerjaan>> [accessed 11 November 2025].

²⁰ Maria Sisilia Lou Kelen and Kadek Wiwik Indrayanti, 'Status Hukum Penjatuhan Pemutusan Hubungan Kerja Dengan Alasan Efisiensi Perusahaan Dampaknya Terhadap Eksistensi Perusahaan Dari Sudut Pandang Normatif', *MLJ Merdeka Law Journal*, 3.1 (2022), 23–34 <<https://doi.org/10.26905/MLJ.V3I1.7927>>.

²¹ Prayogo Pranowo, Tanudjaja Tanudjaja, and Nynda Fatmawati Octarina, 'Fair Remuneration of Workers in Micro and Small Enterprises in Job Creation Act', *Jurnal Cakrawala Hukum*, 13.2 (2022), 175–83 <<https://doi.org/10.26905/IDJCH.V13I2.5625>>.

²² Gene Grossman and Elhanan Helpman, 'Outsourcing in a Global Economy', *The Review of Economic Studies*, 72.1 (2005), 135–59 <<https://doi.org/10.1111/0034-6527.00327>>.

²³ Salma Elsa Anindya and Ratih Damayanti, 'Perlindungan Hukum Terhadap Hak Dan Kewajiban Pekerja Di Indonesia: Tantangan Dan Solusi', *Media Hukum Indonesia (MHI)*, 2.4 (2024), 572–79.

²⁴ May Linda Iswaningsih, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujianti, 'Perlindungan Hukum Terhadap Tenaga Kerja Lokal Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Omnibus Law Cipta Kerja', *Jurnal Preferensi Hukum*, 2.3 (2021), 478–84 <<https://doi.org/10.22225/JPH.2.3.3986.478-484>>.

²⁵ M. Bagus Basofi and Irma Fatmawati, 'Perlindungan Hukum Terhadap Pekerja Di Indonesia Berdasarkan Undang-Undang Cipta Kerja', *Professional: Jurnal Komunikasi Dan Administrasi Publik*, 10.1 (2023) <<https://doi.org/10.37676/PROFESSIONAL.V10I1.3544>>.



Given this phenomenon, there exists a significant research gap that warrants further examination.²⁶ Most previous studies have primarily focused on the economic aspects of the outsourcing system, while in-depth analyses of legal protection for workers following the amendment of the Job Creation Law remain limited. In fact, these regulatory changes have direct implications for workers' bargaining positions, the structure of industrial relations, and the social security system for labor in Indonesia.²⁷ Therefore, a study that critically examines the implications of the changes in the outsourcing regulatory framework under the Job Creation Law on the protection of workers' rights is of crucial importance.

This research is urgent because its findings can provide both theoretical and practical contributions to the development of labor law in Indonesia. Theoretically, it will enrich academic discourse on the relationship between labor market flexibility and social protection within the framework of modern labor law. Practically, this study can offer policy recommendations for the government to improve regulations and oversight of outsourcing practices so that they remain consistent with the principles of justice, legal certainty, and the protection of human rights. Accordingly, this research is expected to make a substantive contribution to the realization of a fair, sustainable, and constitutionally grounded labor development system in Indonesia.

Method

This study adopts an empirical juridical research approach, which involves initially examining secondary data, followed by conducting primary data collection in the field. The juridical dimension focuses on analyzing existing legal norms and regulations relevant to the research problem, while the empirical dimension provides a framework for verification and validation to ensure the accuracy and reliability of the research findings.²⁸ This study employs a socio-legal (juridical-sociological) approach, which is conducted by examining real conditions within society or the community environment with the aim of discovering facts (fact-finding), leading to the identification of problems (problem-identification), and ultimately to the formulation of solutions (problem-solution).²⁹ This research method will be carried out based on the relevant legal provisions that serve as the foundation for analyzing emerging legal phenomena, particularly those related to the protection of workers following the enactment of Law Number 11 of 2020 concerning Job Creation.

Results and Discussions

Regulatory Arrangements on Legal Protection for Outsourced Labor in Indonesia

The guarantee of workers' rights to wages and severance pay constitutes a fundamental element of the labor law system, which is oriented toward social justice and the protection of groups that are structurally disadvantaged within industrial relations.³⁰ In this context, wages are not merely an economic instrument reflecting the exchange value of labor but also a constitutional right guaranteed by the state, as stipulated in Article 27(2) of the 1945 Constitution of the Republic of Indonesia, which affirms that every citizen has the right to

²⁶ Barbara J. Spencer, 'International Outsourcing and Incomplete Contracts', *Canadian Journal of Economics/Revue Canadienne d'économie*, 38.4 (2005), 1107–35 <<https://doi.org/10.1111/J.0008-4085.2005.00317.X>>.

²⁷ Kelen and Indrayanti.

²⁸ Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Pustaka Pelajar, 2010).

²⁹ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Rajawali Pers, 1986).

³⁰ Analisis Yuridis Pemberian Uang Kompensasi Kerja Waktu Tertentu Perusahaan Alih Daya Berdasarkan UUD Cipta Kerja Maryono, 'Analisis Yuridis Pemberian Uang Kompensasi Kerja Waktu Tertentu Perusahaan Alih Daya Berdasarkan UUD Cipta Kerja', *Jurnal Hukum Indonesia*, 2.1 (2023), 25–34 <<https://doi.org/10.58344/JHI.V1I2.8>>.



employment and a decent livelihood for humanity.³¹ The right to a decent livelihood underscores the state's responsibility to ensure the existence of a wage system that is fair, proportional, and humane.³² Accordingly, wage regulation cannot be viewed merely as a matter of private agreement between employers and workers; rather, it must fall within the framework of mandatory public law (*ius cogens*) designed to protect workers' rights as the economically weaker party.³³

In practice, the changes introduced by Law Number 11 of 2020 concerning Job Creation have given rise to serious issues regarding the construction of legal protection for workers, particularly in matters relating to wages and severance pay.³⁴ The new regulation introduces a paradigm of deregulation and labor market flexibility under the pretext of creating a conducive and efficient investment climate.³⁵ However, this approach generates a dilemma, as it shifts the orientation of labor law from the principle of state protection toward a market oriented regulatory framework.³⁶

This tendency is clearly manifested in the revision of several provisions that were previously protective of workers, transforming them into more flexible regulations that grant employers greater discretion and authority.³⁷ In industrial relations, the relationship between workers and employers is inherently imbalanced; workers depend on employers for their livelihood, while employers possess the economic power to determine the terms and conditions of employment. This structural inequality should serve as the fundamental justification for state intervention through regulations that effectively protect workers' rights.³⁸

Article 81 point 25 of the Job Creation Law, which introduces Article 88A into Law Number 13 of 2003, stipulates that wage arrangements shall be determined based on an agreement between employers and workers or labor unions, provided that such agreements may not set wages lower than those prescribed by statutory regulations³⁹. At first glance, this provision appears to protect workers, as it establishes a legal minimum standard that must

³¹ Rafi Bagas Riyadi, 'Tanggung Jawab Hukum Terhadap Tenaga Kerja Outsourcing Dalam Perspektif Undang-Undang Ketenagakerjaan Di Indonesia', *Jurnal Teknik, Komputer, Agroteknologi Dan Sains*, 4.1 (2025), 7–11 <<https://doi.org/10.56248/MAROSTEK.V4I1.110>>.

³² Muhammad Rahman, Muhammad William Hafis, and Putri Saraswati, 'Analisis Yuridis Rencana Penghapusan Sistem Outsourcing Dalam Undang-Undang Cipta Kerja', *Journal of Social Movements*, 2.1 (2025), 41–49 <<https://doi.org/10.62491/JSM.V2I1.2025.36>>.

³³ Khairani, Gettari, and Arnetti.

³⁴ Sela Nopela Milinum, 'Problematisasi Fleksibilitas Outsourcing (Alih Daya) Pasca-Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Klaster Ketenagakerjaan', *Jurnal Hukum Lex Generalis*, 3.5 (2022), 412–32 <<https://doi.org/10.56370/JHLG.V3I5.119>>.

³⁵ Sri Purnawanti, Ni Nyoman Samantri, and Rizal Amrul, 'Perlindungan Hukum Tenaga Kerja Outsourcing Di PT Semasa Sejahtera Mandiri Bersama: Ditinjau Dari Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja', *SIMPUL: Jurnal Ilmu Politik Dan Hukum*, 1.2 (2025), 54–58 <<https://doi.org/10.71094/SIMPUL.V1I2.137>>.

³⁶ Lidia Febrianti, Thamrin Sambah, and Puti Mayang Seruni, 'Komparasi Alih Daya Undang-Undang Ketenagakerjaan Dengan Undang-Undang Cipta Kerja Tahun 2023', *JURNAL USM LAW REVIEW*, 6.3 (2023), 1193–1209 <<https://doi.org/10.26623/JULR.V6I3.7965>>.

³⁷ Riyadi.

³⁸ Mulfirana, Moh Taufik, and Ajus Wiratman, 'Kebijakan Publik Dalam Perspektif Hukum: Studi Kasus Implementasi Undang-Undang Cipta Kerja Dengan Metode Studi Dokumen', *Perkara : Jurnal Ilmu Hukum Dan Politik*, 3.1 (2025), 731–49 <<https://doi.org/10.51903/PERKARA.V3I1.2335>>.

³⁹ Al Fath, Nada Syifa Nurulhuda, and Virna Amalia Nur Permata, 'Tinjauan Yuridis Atas Kebijakan Outsourcing Di Indonesia Dan Implikasinya Terhadap Kesejahteraan Pekerja', *Jurnal Hukum Statuta*, 3.2 (2024), 63–73 <<https://doi.org/10.35586/JHS.V3I2.9027>>.



be observed.⁴⁰ However, upon closer examination, this provision contains the potential for misuse, as it grants employers broad interpretative discretion in determining wage levels, particularly in the informal sector or within companies lacking strong labor unions.⁴¹ In the context of legal protection theory as articulated by Fitzgerald and Roscoe Pound, law should function as an instrument to safeguard the weaker party from potential oppression or exploitation by the stronger one.⁴² Therefore, allowing wage determination to rely solely on market mechanisms and the principle of freedom of contract, without substantive protection, signifies a neglect of the law's fundamental social function.⁴³

Furthermore, the minimum wage system regulated under Article 88C of the Job Creation Law has also generated juridical debate, as the phrase “the Governor may determine the district/city minimum wage” renders the policy discretionary rather than mandatory.⁴⁴ In reality, the cost of living varies significantly across regions, and the application of a single provincial minimum wage for all areas risks creating disparities in regional welfare.⁴⁵ Consequently, the relaxation of this provision not only undermines legal certainty but also threatens distributive justice, as workers in regions with a higher cost of living may receive wages insufficient to meet their basic needs.⁴⁶ This provision also contravenes the principle of a living wage, which constitutes one of the international minimum standards as stipulated in ILO Convention No. 131 concerning Minimum Wage Fixing, which has been ratified by Indonesia.⁴⁷

On the other hand, the regulation concerning severance pay under the Job Creation Law also reflects a significant paradigm shift.⁴⁸ Prior to the amendment, Article 156 of Law Number 13 of 2003 employed the phrase “*at least*” as the minimum threshold for severance pay granted to workers experiencing termination of employment. However, in the revised version under the Job Creation Law, the phrase was changed to “*at most*,” which substantively alters the direction of legal protection.⁴⁹ This shift is not merely a matter of wording but rather signifies an ideological transformation in labor policy from a protection oriented

⁴⁰ Ratna Dewi and Jeklira Tampubolon, ‘Permasalahan Tanpa Solusi Tentang Buruknya Pengawasan Ketenagakerjaan Di Indonesia’, *Jurnal Global Ilmiah*, 2.11 (2025), 841–51 <<https://doi.org/10.55324/JGI.V2I11.257>>.

⁴¹ Arinto Nugroho and others, ‘The Impact of Labor Law Reform on Indonesian Workers: A Comparative Study After the Job Creation Law’, *Lex Scientia Law Review*, 8.1 (2024), 65–106 <<https://doi.org/10.15294/LSLR.V8I1.14064>>.

⁴² Nugroho Habibi and others, ‘Memperkuat Perlindungan Pekerja Outsourcing: Analisis Implementasi Kebijakan’, *Journal of Social Movements*, 1.1 (2024), 85–97 <<https://doi.org/10.62491/JSM.V1I1.2024.5>>.

⁴³ Petra Mahy, ‘Indonesia’s Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments’, *Asian Journal of Comparative Law*, 17.1 (2022), 51–75 <<https://doi.org/10.1017/ASJCL.2022.7>>.

⁴⁴ Nabiyla Risfa Izzati, ‘Deregulation in Job Creation Law: The Future of Indonesian Labor Law’, *Padjadjaran Jurnal Ilmu Hukum*, 9.2 (2022), 191–209 <<https://doi.org/10.22304/PJH.V9N2.A3>>.

⁴⁵ Nafila Nafila, Erlin Kristine, and Endra Wijaya, ‘Perlindungan Hak-Hak Buruh Pada Praktik Sistem Outsourcing: Sebuah Kesenjangan Penerimaan’, *Jurnal Hukum Novelty*, 8.2 (2017), 252 <<https://doi.org/10.26555/NOVELTY.V8I2.A5552>>.

⁴⁶ Sudharto P. Hadi, Rizkiana S. Hamdani, and Ali Roziqin, ‘A Sustainability Review on the Indonesian Job Creation Law’, *Helijon*, 9.2 (2023) <<https://doi.org/10.1016/J.HELIYON.2023.E13431>>.

⁴⁷ Ahmad Fadlil Sumadi, ‘Mahkamah Konstitusi Dan Kontrak Outsourcing’, *Jurnal Konstitusi*, 9.1 (2016), 1 <<https://doi.org/10.31078/JK911>>.

⁴⁸ Zaimah Husin, ‘Outsourcing Sebagai Pelanggaran Terhadap Hak Para Pekerja Di Indonesia’, *Jurnal Kajian Pembinaan Hukum*, 1.1 (2021), 1 <<https://doi.org/10.19184/JKPH.V1I1.23396>>.

⁴⁹ Analisis Kontrak Kerja Alih Daya Dalam Perspektif Hukum Kontrak and others, ‘Analisis Kontrak Kerja Alih Daya (Outsourcing) Dalam Perspektif Hukum Kontrak’, *LEX PRIVATUM*, 15.2 (2025) <<https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/60556>> [accessed 12 November 2025].



principle toward one of economic flexibility.⁵⁰ In fact, severance pay serves a crucial social function as a safety net for workers who lose their employment, enabling them to meet their basic needs during the transitional period.⁵¹ When the right to severance pay is restricted by the phrase “*at most*,” the socioeconomic security of dismissed workers becomes weakened, which clearly contradicts the principle of social justice as mandated by Article 33(4) of the 1945 Constitution.⁵²

In the context of Aristotle's theory of justice, distributive justice requires that each individual receive what is rightfully theirs in proportion to their contribution and needs.⁵³ Therefore, limiting the amount of severance pay received by workers without taking into account factors such as length of service, family dependents, and socioeconomic conditions is clearly inconsistent with the concept of proportional justice.⁵⁴ Furthermore, this change in terminology can be considered a form of legal regression, as it effectively reduces the level of protection that previously existed.⁵⁵ Under the international legal doctrine of the non-retrogression principle, states are prohibited from lowering the standards of human rights protection, including economic and social rights such as the right to employment and social security.⁵⁶ Therefore, the Job Creation Law, in its provisions concerning severance pay, can be considered inconsistent with this principle.

Moreover, the changes in wage and severance pay regulations also have serious implications for legal certainty (*rechtszekerheid*).⁵⁷ Many of the new provisions delegate regulatory authority to implementing regulations, such as government regulations or ministerial decrees, without specifying clear timelines or parameters.⁵⁸ This situation creates a temporary legal vacuum, generating uncertainty for both workers and employers in managing employment relations. From Gustav Radbruch's perspective, legal certainty constitutes one of the three fundamental values of law, alongside justice and utility. When legal certainty is neglected, the law loses its moral legitimacy as an instrument for establishing a just social order.⁵⁹

⁵⁰ Dede Agus, 'Eksistensi Hubungan Industrial Pancasila Pasca Disahkannya Peraturan Pemerintah Pengganti Undang-Undang Cipta Kerja', *Jurnal Ius Constituendum*, 8.1 (2023), 87–100 <<https://doi.org/10.26623/JIC.V8I1.6276>>.

⁵¹ Turro S Wongkaren and others, 'Analisa Implementasi UU Cipta Kerja Kluster Perjanjian Kerja Waktu Tertentu (PKWT) Dan Alih Daya', *Jurnal Ketenagakerjaan*, 17.3 (2022), 208–35 <<https://doi.org/10.47198/NAKER.V17I3.184>>.

⁵² Yohanes Suhardin and Heny Saida Flora, 'Eksistensi Putusan Mahkamah Konstitusi Pasca Disahkannya Undang-Undang Penetapan Perpu Cipta Kerja', *JURNAL USM LAW REVIEW*, 6.1 (2023), 320–31 <<https://doi.org/10.26623/JULR.V6I1.6307>>.

⁵³ Hadi, Hamdani, and Roziqin.

⁵⁴ Ardina Khoirun Nisa and Zulfahmi, 'Implikasi Hukum Dan Perlindungan Hak Karyawan Dalam Ketidakjelasan Status Pasca Berakhirnya Kontrak Kerja', *YUDHISTIRA: Jurnal Yurisprudensi, Hukum Dan Peradilan*, 2.4 (2024), 31–40 <<https://doi.org/10.59966/YUDHISTIRA.V2I4.1531>>.

⁵⁵ Regina Sapta Samudera, 'The Implementasi Kebijakan UU Cipta Kerja Dalam Tata Kelola Ketenagakerjaan, Lingkungan, Dan Perizinan Berusaha Berbasis Risiko Di Indonesia Pasca-Pandemi', *Development Policy and Management Review (DPMR)*, 2025, 68–80 <<https://doi.org/10.61731/DPMR.V5I1.44206>>.

⁵⁶ Budi Santoso and others, 'Perlindungan Hukum Bagi Pekerja Dalam Perusahaan Alih Daya Ditinjau Dari Undang-Undang Cipta Kerja', *Jurnal Multidisiplin Indonesia*, 1.1 (2022), 1–22 <<https://doi.org/10.58344/JMI.V1I1.1>>.

⁵⁷ Wenbin Yang, Jiaqi Mou, and Li Ji, 'Labor Outsourcing and Corporate Innovation', *China Journal of Accounting Research*, 18.1 (2025), 100407 <<https://doi.org/10.1016/J.CJAR.2025.100407>>.

⁵⁸ Sulistio Adwinarto and others, 'Kepastian Hukum Tentang Kesejahteraan Tenaga Kerja Dalam Perspektif Undang-Undang Cipta Kerja', *National Multidisciplinary Sciences*, 2.4 (2023), 349–55 <<https://doi.org/10.32528/NMS.V2I4.315>>.

⁵⁹ Tri Manisha Roitona Pakpahan, Si Ngurah Ardhya, and Muhamad Jodi Setianto, 'Tinjauan Yuridis Mengenai Perlindungan Hukum Terhadap Hak Tenaga Kerja Yang Mengalami Pemutusan Hubungan Kerja Secara Sepihak Ditinjau Dari Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja', *Jurnal Komunitas Yustisia*,



Therefore, there is a need to reorient labor policies to prioritize workers' welfare within the framework of economic development.⁶⁰ The state must act not only as a facilitator of an investment-friendly climate but also as a regulator and protector, ensuring a balance between economic interests and the social rights of citizens.⁶¹ Wages and severance pay should not be regarded merely as production costs but as constitutional and moral rights inherent to the dignity of workers.⁶² The principle of social justice, which underpins the state, should be realized through policies that ensure every worker receives a decent income and adequate severance pay upon the termination of employment. Accordingly, fair labor law is not one that merely adheres to market logic, but a legal framework that upholds the values of humanity, welfare, and social justice as envisioned by the constitution.⁶³

In addition to issues concerning wages and severance pay, the aspect of Termination of Employment (PHK) has also undergone substantial changes that impact workers' legal protection.⁶⁴ Under the previous system, termination could only be carried out after obtaining a decision from the industrial relations dispute resolution body.⁶⁵ This provision functioned as a preventive mechanism to ensure that employers did not carry out terminations arbitrarily. However, the Job Creation Law eliminates this obligation and grants employers the direct authority to terminate employment on the grounds of efficiency, restructuring, or corporate policy adjustments.⁶⁶ As a result, legal protection shifts from being preventive to repressive, as workers can only assert their rights after the termination has occurred.

This situation creates legal uncertainty while simultaneously diminishing the level of protection afforded to workers.⁶⁷ Employers can invoke efficiency as a pretext to reduce their workforce without presenting objective evidence regarding the company's financial condition. As a result, legal norms that are intended to balance interests are transformed into instruments that legitimize unilateral terminations. From the standpoint of social justice, this clearly contravenes the principle of *justice as fairness*, granting disproportionate power to economically dominant parties while leaving economically vulnerable workers without effective legal protection.⁶⁸

5.3 (2022), 129–44 <<https://ejournal.undiksha.ac.id/index.php/jatayu/article/view/51893>> [accessed 11 November 2025].

⁶⁰ Jongmoo Jay Choi and others, 'Outsourcing Flexibility under Financial Constraints', *Journal of Corporate Finance*, 67 (2021) <<https://doi.org/10.1016/j.jcorpfin.2021.101890>>.

⁶¹ Wai-Ming Ho, 'International Outsourcing, Exchange Rates, and Monetary Policy ☆', *Journal of International Money and Finance*, 118 (2021), 102461 <<https://doi.org/https://doi.org/10.1016/j.jimonfin.2021.102461>>.

⁶² Wiwin Budi Pratiwi and Devi Andani, 'Perlindungan Hukum Tenaga Kerja Dengan Sistem Outsourcing Di Indonesia', *Jurnal Hukum IUS QULA IUSTUM*, 29.3 (2022), 652–73 <<https://doi.org/10.20885/IUSTUM.VOL29.ISS3.ART9>>.

⁶³ Otti Ilham Khair and others, 'Analisis Undang-Undang Cipta Kerja Terhadap Perlindungan Tenaga Kerja Di Indonesia', *Widya Pranata Hukum: Jurnal Kajian Dan Penelitian Hukum*, 3.2 (2021), 45–63 <<https://doi.org/10.37631/WIDYAPRANATA.V3I2.442>>.

⁶⁴ Maqsood Ahmad Sandhu, Ahm Shamsuzzoha, and Petri Helo, 'Does Outsourcing Always Work? A Critical Evaluation for Project Business Success', *Benchmarking: An International Journal*, 25.7 (2018), 2198–2215 <<https://doi.org/https://doi.org/10.1108/BIJ-06-2017-0146>>.

⁶⁵ Ellida Nuriya, Budi Ispriyarto, and Irma Cahyaningtyas, 'Optimalisasi Pengawasan Sistem Outsourcing Sebagai Upaya Menunjang Perlindungan Tenaga Kerja Di Indonesia', *Notarius*, 13.1 (2020), 298–311 <<https://doi.org/10.14710/NTS.V13I1.30883>>.

⁶⁶ Maryono Maryono and Markoni Markoni, 'Analisis Yuridis Pemberian Uang Kompensasi Kerja Waktu Tertentu Perusahaan Alih Daya Berdasarkan UUD Cipta Kerja', *Jurnal Hukum Indonesia*, 2.1 (2023), 25–34 <<https://doi.org/10.58344/JHI.V1I2.8>>.

⁶⁷ Sela Nopela Milinum, 'Problematisasi Fleksibilitas Outsourcing (Alih Daya) Pasca-Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Klaster Ketenagakerjaan', *Jurnal Hukum Lex Generalis*, 3.5 (2022), 412–32 <<https://doi.org/10.56370/JHLG.V3I5.119>>.

⁶⁸ Husin.



The social impact of unilateral termination policies cannot be overlooked. Job loss entails the loss of income, which adversely affects family welfare and contributes to rising unemployment. The state, in this context, should play an active role in ensuring that every termination decision is carried out fairly, proportionally, and in accordance with legal procedures.⁶⁹ The mechanism for resolving industrial relations disputes needs to be strengthened to ensure that workers have rapid and effective access to assert their rights. The fundamental principle that must be upheld is that termination of employment (*PHK*) should serve as an *ultimum remedium*, a last resort, only after all alternative resolution measures have been exhausted.⁷⁰

Another equally important labor issue concerns the practice of outsourcing. This system was originally regulated to provide efficiency in the division of labor and to support corporate productivity.⁷¹ However, following the enactment of the Job Creation Law, outsourcing practices have expanded and are no longer limited to specific types of work. The removal of these restrictions has resulted in an increasing number of contract-based workers who face job insecurity. Outsourced workers often do not receive the same rights as permanent employees, whether in terms of wages, social security, or career development opportunities.

This condition reflects a violation of the principles of equality and justice within employment relations.⁷² Labor law is intended to protect the weaker party; however, in practice, it often provides employers with leeway to exploit labor without long term responsibility. In this context, the role of the state as both regulator and protector becomes crucial to ensure that all employment relationships are conducted fairly. The state must clarify the limits on the types of work that can be outsourced, strengthen oversight of labor supply companies, and ensure the protection of the normative rights of outsourced workers, including social security, fair wages, and the right to organize.⁷³

Furthermore, the provision prohibiting worker cooperatives from serving as labor service providers reflects a form of structural injustice.⁷⁴ This policy removes the opportunity for labor unions to play an active role in managing the work system and in strengthening workers' bargaining power.⁷⁵ As a result, the dominance of large corporations is further strengthened, creating an imbalanced employment relationship. According to Radbruch's theory of justice, law must fulfill three fundamental values: justice, certainty, and utility. If regulations emphasize only economic efficiency without considering social justice, the law loses its meaning as a means to protect human dignity.

⁶⁹ Fauzi Ridwan Harahap, Yamin Lubis, and Marzuki Marzuki, 'Perlindungan Hukum Pekerja Alih Daya (Outsourcing) Tenaga Administrasi Perkantoran Berdasarkan Perjanjian Kerja Menurut Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja', *Jurnal Ilmiah METADATA*, 5.1 (2023), 320–34 <<https://doi.org/10.47652/METADATA.V5I1.327>>.

⁷⁰ Susilo Andi Dharma, 'Kajian Hukum Ketenagakerjaan Terhadap Peraturan Menteri Tenaga Kerja Dan Transmigrasi Nomor 19 Tahun 2012', *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 26.2 (2014), 247 <<https://doi.org/10.22146/JMH.16041>>.

⁷¹ Syerrin Hakim and Imam Haryanto, 'Implementasi Pengawasan Dan Pemberian Sanksi Terhadap Perusahaan Atas Pelaksanaan Perjanjian Kerja Waktu Tertentu', *JURNAL USM LAW REVIEW*, 6.2 (2023), 812–24 <<https://doi.org/10.26623/JULR.V6I2.7085>>.

⁷² Suyoko and Ghuftron AZ.

⁷³ Aan Ahmad Sancoko, 'Perjanjian Kerja Waktu Tertentu (PKWT) Dalam UU N0 13 Tahun 2003 Tentang Ketenagakerjaan Suatu Analis Masalah Mursalah Dan Keadilan Pancasila', *JURNAL USM LAW REVIEW*, 1.2 (2018), 141–57 <<https://doi.org/10.26623/JULR.V1I2.2249>>.

⁷⁴ Suhardin and Flora.

⁷⁵ Wongkaren and others.



In conclusion, the current construction of labor regulations in Indonesia does not fully reflect the principle of substantive justice. Whether in the regulation of wages and severance pay, the mechanisms of termination, or the outsourcing system, there is a clear tendency for the law to favor economic interests over social protection. To establish a fair labor system, regulatory reform is required that places human beings at the center of legal development. The state must act not only as an investment facilitator but also as a protector of workers' rights, which are an essential component of social justice and national welfare.⁷⁶

Weaknesses in the Legal Protection Regulations for Outsourced Workers in Indonesia

The regulations concerning legal protection for outsourced workers in Indonesia continue to exhibit various weaknesses, both normatively, structurally, and in terms of implementation.⁷⁷ The root of the weak legal protection for outsourced workers lies in the policy orientation embedded in Law Number 11 of 2020 concerning Job Creation. Conceptually, this law prioritizes an economic logic based on investment and labor market flexibility, which results in the diminishment of social justice values as guaranteed by the constitution. Labor regulations under the Job Creation Law emphasize efficiency and ease of doing business, but provide insufficient safeguards for the fundamental rights of workers.

The labor law paradigm, built upon the principles of a liberal economic framework, clearly contradicts the constitutional economic principles enshrined in Article 33 of the 1945 Constitution.⁷⁸ Article 33 explicitly states that Indonesia's economy is organized as a collective enterprise based on the principle of kinship, with the primary objective of maximizing the welfare of the people. Meanwhile, Article 34 affirms the state's responsibility to guarantee the well-being of the poor and vulnerable groups. Accordingly, labor law should reflect the spirit of a people-centered economy grounded in social justice, rather than merely serving as an instrument to attract investment. The orientation of the Job Creation Law, which positions workers as flexible factors of production, contradicts the values of *Pancasila*, particularly the second and fifth principles, which emphasize just and humane treatment as well as social justice for all Indonesian citizens.⁷⁹

At the normative level, there are several inconsistencies and contradictions between the provisions of the Job Creation Law and its derivative regulations, such as Minister of Manpower Regulation No. 19 of 2012, highlighting fundamental weaknesses in the legal framework for the protection of outsourced workers.⁸⁰ First, there is a contradiction in the determination of the employment relationship. The Job Creation Law stipulates that the employment relationship exists between the labor service provider company and the outsourced worker. However, in practice, workers perform their duties at the user company. This condition contradicts Article 1(15) of Law Number 13 of 2003, which requires three essential elements for an employment relationship: work, direction, and wages. When direction and supervision come from the user company, the legal employment relationship

⁷⁶ Febrianti, Sambah, and Mayang Seruni.

⁷⁷ Nikmah Dalimunthe and Fitria Nurhaliza, 'Analisis Perubahan Hukum Ketenagakerjaan Pada UU Cipta Kerja Mengenai Perlindungan Hak Pekerja', *Jurnal Cahaya Mandalika* ISSN 2721-4796 (Online), 4.3 (2023), 1548–56 <<https://doi.org/10.36312/JCM.V4I3.2347>>.

⁷⁸ Dalimunthe and Nurhaliza.

⁷⁹ N. (Nila) Amania, 'Problematisasi Undang-Undang Cipta Kerja Sektor Lingkungan Hidup', *Syariat*, 6.02 (2020), 540545 <<https://doi.org/10.32699/SYARIATI.V6I02.1545>>.

⁸⁰ Winda Fitri and Luthfia Hidayah, 'Problematisasi Terkait Undang-Undang Cipta Kerja Di Indonesia: Suatu Kajian Perspektif Pembentukan Perundang-Undangan', *Jurnal Komunitas Yustisia*, 4.2 (2021), 725–35 <<https://ejournal.undiksha.ac.id/index.php/jatayu/article/view/38719>> [accessed 11 November 2025].



should, in principle, be established between the worker and the user company, rather than with the labor service provider.⁸¹

Second, weaknesses are also evident in Article 66(4) of the Job Creation Law, which states that if the conditions for the transfer of work are not met, the employment relationship legally shifts from the labor service provider company to the user company. Normatively, this provision appears to protect workers; however, in practice, it is difficult to implement because the mechanisms for supervision and evidence are not clearly regulated. As a result, outsourced workers often lose their rights when contracts are transferred between the old and new service provider companies.⁸²

Third, there is a conflict between the provisions of the Minister of Manpower Regulation and Constitutional Court Decision No. 27/PUU-IX/2011. The Ministerial Regulation permits employment relationships between the contracting company and workers to be based on either a Fixed-Term Employment Agreement (PKWT) or an Indefinite-Term Employment Agreement (PKWTT). However, the Constitutional Court has affirmed that the application of PKWT to permanent types of work is conditionally unconstitutional.⁸³ The Constitutional Court decision emphasizes that employment relationships must include the transfer of workers' rights protection in the event of a change in the outsourcing company, particularly when the work object remains constant.⁸⁴ However, the derivative regulations under the Job Creation Law disregard this principle, resulting in workers losing continuity of employment and recognition of their prior service tenure.

This condition indicates that the implementation of the outsourcing system in Indonesia tends to place workers in a subordinate position.⁸⁵ When a user company replaces the labor service provider, workers often lose their jobs without any mechanism for compensation or recognition of prior service.⁸⁶ In many cases, they are required to sign new contracts with the new provider under less favorable terms, including reduced wages. This practice clearly violates the principle of *justice as fairness*, which emphasizes the protection of the weaker party in social and economic relations.⁸⁷

Furthermore, another weakness is evident in the restriction of labor unions or worker cooperatives from participating as providers of outsourced labor.⁸⁸ Article 66 of the Job Creation Law requires that labor service provider companies must be established as legal entities and obtain a business license from the central government. This provision indirectly

⁸¹ Hippu Maruli, 'Pelaksanaan Upah Kerja Lembur Terhadap Tenaga Kerja Di Pt Supraco Vadhana Consortium Kabupaten Siak Berdasarkan Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2021 Tentang Perjanjian Kerja Waktu Tertentu, Alih Daya, Waktu Kerja Dan Waktu Istirahat...' (Universitas Lancang Kuning, 2022).

⁸² Ana Ramadhona, 'Rekonstruksi Regulasi Perlindungan Hukum Terhadap Hak Pekerja Outsourcing Yang Berbasis Nilai Keadilan - ProQuest' (Universitas Islam Sultan Agung, 2023) <<https://www.proquest.com/openview/e39a99dfa395b485aa5e069d15e3ffd9/1?pq-origsite=gscholar&cbl=2026366&diss=y>> [accessed 11 November 2025].

⁸³ I Gede Agus Kurniawan, 'Putusan Mahkamah Konstitusi Terhadap Undang-Undang Cipta Kerja Dalam Perspektif Filsafat Utilitarianisme', *JURNAL USM LAW REVIEW*, 5.1 (2022), 282–98 <<https://doi.org/10.26623/JULR.V5I1.4941>>.

⁸⁴ Zainal Arifin Mochtar and Idul Rishan, 'Autocratic Legalism: The Making of Indonesian Omnibus Law', *Yustisia*, 11.1 (2022), 29–41 <<https://doi.org/10.20961/YUSTISIA.V11I1.59296>>.

⁸⁵ Ana Ramadhona.

⁸⁶ Made Intan Permatasari and others, 'Legal Protection against Bouwheer in a Contract for the Outsourcing of Work with a Bank Guarantee', *Journal of Law, Politic and Humanities*, 5.4 (2025), 3131–41 <<https://doi.org/10.38035/JLPH.V5I4.1693>>.

⁸⁷ Idad Rais Mustopa and Dipo Wahjoeono, 'Perlindungan Hukum Terhadap Pekerja Alih Daya Yang Mengalami Pemutusan Kerja Sepihak Dalam Merger Dan Akuisisi Perusahaan', *Recht Studiosum Law Review*, 3.1 (2024), 6–27 <<https://doi.org/10.32734/RSLR.V3I1.14235>>.

⁸⁸ Kadek Agus Sudiarawan and others, 'The Indonesian Outsourcing Workers' Rights in the Tourism Business Sector: Toward Better Protection?', *Lentera Hukum*, 10.3 (2023), 365–90 <<https://doi.org/10.19184/EJLH.V10I3.43325>>.



closes the opportunity for worker cooperatives to serve as labor service providers.⁸⁹ In fact, Article 43(4) of Law Number 25 of 1992 concerning Cooperatives affirms that cooperatives play a central role in all sectors of the people's economic life. This restriction reinforces the dominance of large corporations and undermines the principle of economic democratization, which is central to Article 33 of the 1945 Constitution. If the outsourcing system can only be operated by commercial legal entities, economic gains will circulate among investors rather than returning to workers as part of the people's economy.⁹⁰

Substantively, outsourcing regulations also reveal weaknesses in three main aspects: legal substance, employment agreements, and the institutional framework of labor service provider companies.⁹¹ First, the legal substance in the Job Creation Law favors employers by granting broad discretion in the use of Fixed Term Employment Agreements (PKWT). In contrast, Article 59 of Law Number 13 of 2003 limits PKWT to work that is temporary, seasonal, or project-based, with a maximum duration of three years. The widespread use of PKWT in permanent sectors violates the principle of legal protection and creates employment status uncertainty for workers.⁹² Second, regarding employment agreements, the weakness lies in the imbalance of bargaining power. In the outsourcing system, employment contracts are typically drafted unilaterally by the labor service provider company. Workers are compelled to accept all contractual clauses merely to secure employment. Such agreements violate the principle of fair freedom of contract as regulated in Article 1338 of the Civil Code, since contractual freedom must not disregard the principles of propriety and balance.

Third, from an institutional perspective, labor service provider companies often function merely as administrative intermediaries rather than entities that provide social protection. Many of these companies lack adequate financial capacity to guarantee workers' rights in the event of employment termination.⁹³ The strict business licensing requirements emphasize administrative formality over the substantive protection of workers. From the overall analysis above, it can be concluded that outsourcing regulations in Indonesia are not yet fully aligned with constitutional mandates and the principle of social justice. Inconsistencies between statutory norms, implementing regulations, and Constitutional Court decisions create a legal gray area that benefits employers while disadvantaging workers. The outsourcing system should be designed to support economic flexibility without compromising the basic protection of workers.⁹⁴ Therefore, labor law reform must focus on reconstructing outsourcing regulations based on justice, equality, and humanitarian principles, so that Indonesia's labor legal system is not only economically efficient but also socially equitable.

Legal Protection Regulations for Outsourced Workers Based on Justice

⁸⁹ Allen Sitohang and others, 'Perlindungan Hukum Terhadap Tenaga Kerja Alih Daya (Outsourcing)', *DIKTUM*, 1.1 (2022), 1–9 <<https://doi.org/10.46930/DIKTUM.V1I1.3301>>.

⁹⁰ Mahazanni Najwa Al-Asyifa Ode, 'Navigating The Impact of Outsourcing Rule Changes Under the Omnibus Law on Job Creation', *Jurnal Hukum Dan Kenotariatan*, 8.1 (2024), 36–47 <<https://doi.org/10.33474/HUKENO.V8I1.21413>>.

⁹¹ Shafira Nurulita Aini, 'Impacts of the Use of Outsourced Labor on the Welfare of Workers in Indonesia', *Jurnal Pengembangan Ketenagakerjaan*, 2.2 (2024) <<https://doi.org/10.59574/JPk.V2I2.110>>.

⁹² Dody Partogi Nadeak and others, 'Outsourcing (Alih Daya) Dan Pengelolaan Tenaga Kerja Pada Pt Indofarm Sukses Makmur Menurut Undang-Undang No 13 Tahun 2003 (Tentang Ketenagakerjaan)', *The Juris*, 5.2 (2021), 171–76 <<https://doi.org/10.56301/JURIS.V5I2.284>>.

⁹³ Bernat Panjaitan, 'Outsourcing (Alih Daya) Dan Pengelolaan Tenaga Kerja Pada Perusahaan (Tinjauan Yuridis Terhadap Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan)', *JURNAL ILMIAH ADVOKASI*, 4.1 (2016), 12–24 <<https://doi.org/10.36987/JIAD.V4I1.346>>.

⁹⁴ Qijie Xiao, Fang Lee Cooke, and Mengtian Xiao, 'In Search of Organizational Strategic Competitiveness? A Systematic Review of Human Resource Outsourcing Literature (1999–2022)', *International Journal of Human Resource Management*, 35.6 (2024), 1088–1131 <<https://doi.org/10.1080/09585192.2023.2258360>>.



Value reconstruction is the process of rebuilding, re-creating, and reorganizing an existing system of values to align with societal developments and the requirements of legal justice.⁹⁵ In the context of national law, this reconstruction is understood as an effort to interpret and reorganize the fundamental legal values so that they align with social realities, moral considerations, and the objectives of the law itself.⁹⁶ Pancasila, as the foundational philosophy of the nation, serves as the primary source of values in every legal reconstruction process, as it encompasses the principles of divinity, humanity, unity, democracy, and justice, which collectively reflect the worldview of the Indonesian people.⁹⁷ However, in practice, the implementation of law in Indonesia often deviates from these values, resulting in law functioning less as an instrument of justice and more frequently as a tool serving the interests of particular groups. This is particularly evident in the field of outsourced labor, where legal protection for workers continues to exhibit significant disparities and uncertainties.⁹⁸

In the context of protecting outsourced labor, the reconstruction of legal values needs to be carried out comprehensively, encompassing the three main dimensions of the legal system as proposed by Lawrence M. Friedman, namely legal structure, legal substance, and legal culture.⁹⁹ First, from the perspective of legal structure, policies that restrict the provision of outsourced labor to companies with certain legal statuses while prohibiting cooperatives or foundations from operating have created structural imbalances. These provisions favor the interests of companies both labor-supplying firms and client companies while workers bear the greatest disadvantage, losing both legal protection and bargaining power.¹⁰⁰ Such a legal structure demonstrates that the law has not yet aligned with the principles of social justice as mandated by Pancasila. Therefore, a reconstruction of the legal structure is necessary so that state institutions genuinely function as protectors of workers rather than instruments serving the economic interests of certain elite groups.

Second, in terms of legal substance, the provisions in Article 66 of the Labor Law regulating the outsourcing system have actually resulted in injustice by limiting the participation of labor cooperatives and reinforcing the dominance of large corporations. This discriminatory legal substance contradicts the principles of justice and humanity that form the foundation of the national legal system.¹⁰¹ Law should serve as a means to achieve the welfare and well-being of society, rather than exacerbate social inequalities. Therefore, the substance of labor law needs to be reconstructed to incorporate the values of substantive justice, providing balanced protection for both workers and employers, and reflecting harmony among legal certainty, utility, and fairness.¹⁰² The reconstruction of legal substance should also be accompanied by an affirmation of the philosophical values of law, ensuring that the law is not merely normative but genuinely functions in real social life.

⁹⁵ Ucock Charles Kairupan, 'Konstruksi Perjanjian Kerja Outsourcing Dalam Hukum Ketenagakerjaan Di Indonesia' (Universitas Kristen Indonesia, 2024).

⁹⁶ Rd. Danny Zulkarnaen and Hady Efendy, 'Outsourcing in Positive Law and Practice in Indonesia', *Case Studies in Business and Management*, 4.2 (2017), 70 <<https://doi.org/10.5296/CSBM.V4I2.11867>>.

⁹⁷ Agus.

⁹⁸ Lidia Febrianti, Thamrin Sambah, and Puti Mayang Seruni, 'Komparasi Alih Daya Undang-Undang Ketenagakerjaan Dengan Undang-Undang Cipta Kerja Tahun 2023', *JURNAL USM LAW REVIEW*, 6.3 (2023), 1193–1209 <<https://doi.org/10.26623/JULR.V6I3.7965>>.

⁹⁹ Abdul Rohman, Ismail I, and Puguh Aji Hari Setiawan, 'Perlindungan Hukum Pekerja Alih Daya Untuk Mewujudkan Nilai Keadilan', *Media Hukum Indonesia (MHI)*, 3.2 (2025), 720–27 <<https://doi.org/10.5281/zenodo.15783168>>.

¹⁰⁰ Robert L. Simanungkalit and others, 'Peran Serikat Pekerja Dalam Advokasi Penghapusan Sistem Kerja Outsourcing Dan Implikasinya Terhadap Hubungan Industrial', *Arus Jurnal Sosial Dan Humaniora*, 5.2 (2025), 2369–75 <<https://doi.org/10.57250/AJSH.V5I2.1509>>.

¹⁰¹ Dean Fadhurohman Hafizh and others.

¹⁰² Centia Sabrina Nuriskia and Andriyanto Adhi Nugroho, 'Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja', *JURNAL USM LAW REVIEW*, 5.2 (2022), 678–92 <<https://doi.org/10.26623/JULR.V5I2.5555>>.



Third, from the perspective of legal culture, the reconstruction of values is also essential because, without a strong legal culture, even well designed legal structures and substantive laws will not function effectively. Legal culture reflects the awareness, attitudes, and behaviors of society toward the law, encompassing their values, beliefs, and expectations regarding justice.¹⁰³ The legal culture in Indonesia remains weak because the values of Pancasila have not been fully internalized in the legal behavior of both society and law enforcement officials. When the law is perceived merely as a tool of power or economic interest, the social justice values at the core of Pancasila are neglected. Therefore, efforts to reconstruct legal culture are necessary through the strengthening of law education based on Pancasila values, the establishment of a legal ethic that upholds humanity, and the cultivation of participatory legal awareness within society.¹⁰⁴

In the context of labor law, strengthening legal culture based on the values of Pancasila is crucial for creating a just and humane legal system. As Chiba asserts, the formation of an ideal legal system must accommodate the living elements of law within society, such as religious law and customary law, which serve as moral and social sources within the national legal framework.¹⁰⁵ Thus, the reconstruction of legal values within the labor law system is intended not only to improve legal structure and substance but also to cultivate a legal culture that is responsive, just, and grounded in the values of spirituality, morality, and humanity, as embodied in Pancasila and the 1945 Constitution of the Republic of Indonesia.

Conclusion

The regulatory framework for the legal protection of outsourced labor in Indonesia has yet to reflect the principles of justice as mandated by Pancasila and the 1945 Constitution. Existing regulations tend to favor economic interests and labor market efficiency rather than safeguarding workers' rights. The implementation of the Omnibus Law on Job Creation has expanded the outsourcing system without restrictions on types of work, facilitated termination of employment, and limited the roles of cooperatives and labor unions. Consequently, workers have lost guarantees for fundamental rights such as fair wages, severance pay, and job security. This situation demonstrates that labor law functions more as an instrument of capital interests than as a tool of social justice, resulting in significant imbalances between employers and workers. Therefore, a comprehensive reconstruction of the legal protection system for outsourced labor is necessary, strengthening its three main pillars: legal structure, legal substance, and legal culture. The state must actively act as a protector rather than merely a facilitator of the labor market. Legal substance should be formulated based on the values of substantive justice, ensuring the welfare and humanity of workers. Meanwhile, legal culture must be built upon the values of Pancasila so that the legal system genuinely upholds humanity and social justice. Through such reconstruction, labor law is expected to achieve a balance among legal certainty, utility, and fairness, restoring law to its fundamental function as a means to realize human welfare and dignity.

¹⁰³ Wiwin Budi Pratiwi and Devi Andani, 'Perlindungan Hukum Tenaga Kerja Dengan Sistem Outsourcing Di Indonesia', *Jurnal Hukum Ins Quia Iustum*, 29.3 (2022), 652–73 <<https://doi.org/10.20885/IUSTUM.VOL29.ISS3.ART9>>.

¹⁰⁴ Robby Tejamukti Kusuma, 'Efektivitas Perlindungan Hukum Terhadap Pekerja Kontrak Dalam Sistem Outsourcing Pasca Berlakunya Undang-Undang Cipta Kerja Dan Peraturan Pemerintah Nomor 35 Tahun 2021', *IBLAM LAW REVIEW*, 5.2 (2025) <<https://doi.org/10.52249/ILR.V5I2.633>>.

¹⁰⁵ Febrianto, 'Rekonstruksi Regulasi Perlindungan Tenaga Kerja Kontrak Waktu Tertentu Berbasis Keadilan' (Universitas Islam Sultan Agung, 2023).



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