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The Essence of Justice for Workers/Labourers as a Result of the Termination of Employment Relationships through Law No. 06 of 2023 on Job Creation and its Derivatives

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Abstract---The enactment of the Job Creation Law aims to facilitate business and create investment to open up as many job opportunities as possible. However, with the enactment of the Job Creation Law, the opposite has happened, namely, an increase in unemployment and many cases of termination of employment, particularly in the industrial sector. As a result, the Job Creation Law is considered to have failed to protect the interests of workers/labourers. The Job Creation Law is also alleged to favour employers, one of which is by providing ease in terminating employment relationships with workers/labourers, as reflected in Article 151A paragraph (2). In addition to facilitating the termination of employment for workers/labourers, the Job Creation Law also has the potential to provide low compensation or severance pay, as regulated in the provisions of Government Regulation No. 35 of 2021 on PKWT. Through this study, the author focuses on the provision of compensation/severance pay to workers or labourers upon termination of employment at a low cost. The research method employed is normative legal research, utilising a literature review approach that draws on primary legal sources, such as laws, secondary legal sources, including books and libraries, and tertiary legal sources, including the internet and journals, to obtain norms and regulations supporting the implementation of the research. The results of this research are intended to encourage the state or government to create or revise regulations on termination of employment and compensation or severance pay that are balanced and fair for employers and workers/labourers. Thus, justice for workers/labourers due to the termination of employment can be realised.

Keywords---Compensation, Justice, Termination of Employment, Workers.

Introduction

Article 1, paragraph (3) of the 1945 Constitution states that ‘The State of Indonesia is a State based on the rule of law.’ According to [Riswanto \(2017\)](#), in the context of a modern state based on the rule of law, the function of law is

not only as a means of social control to maintain public order but also as an instrument to drive social change in the desired direction. From the outset, the creation of the Job Creation Law has faced various issues that have been substantively assessed by workers/labourers. The rejection by workers began with the submission of a request for a judicial review by labour unions to the Constitutional Court No. 91/PUU-XVIII/2020. The Constitutional Court, in its ruling, stated that the enactment of the Job Creation Law did not meet the provisions of the 1945 Constitution and was inconsistent with the 1945 Constitution, thereby declaring it unconstitutional with conditions. In response to the Constitutional Court's decision, the government issued Government Regulation in Lieu of Law (PERPPU) No. 02 of 2022, which was subsequently enacted as Law No. 06 of 2023 on Job Creation. PERPPU No. 02 of 2022, which was enacted as Law No. 06 of 2023 on Job Creation According to [Hirma Syamsir \(2023\)](#), normatively, if a law is deemed to be inconsistent with higher-ranking legislation, it may be subject to review by the Constitutional Court. Pursuant to Article 24C (1) of the 1945 Constitution, the Constitutional Court has the authority to adjudicate at the first and final instance, and its decisions are final and binding on the 1945 Constitution.

The Job Creation Law is considered to provide opportunities for employers to terminate employment easily and with relatively low compensation. Article 151, paragraph (2) letter a states, 'In the event that termination of employment cannot be avoided, the employer shall notify the workers and the workers' union of the purpose and reasons for the termination of employment.' Workers affected by termination of employment must be protected under the Job Creation Law, which is seen as more favourable to employers. According to [Rio Christiawan \(2021\)](#), the Job Creation Law was enacted based on the interests of business ease, licensing, regulatory simplification, and national investment. The form of protection for workers/labourers is still considered very minimal and seems unbalanced between the rights and obligations of workers/labourers. Legal protection can be realised in the form of material or welfare, but can also take the form of preventing work accidents, occupational health and safety, so that workers can carry out their work. The employment relationship between employers and workers runs smoothly until workers reach retirement age. Employment relationships can be terminated for various reasons, such as violations committed by workers or employers, or the bankruptcy of a company, leading to layoffs ([Saebani, 2021](#)). Legal protection for workers/labourers is a serious concern in labour law. The purpose of protecting workers/labourers is to ensure the continuity of harmonious employment relationships without pressure from the stronger party to the weaker party ([Fariana, 2012](#)).

The question arises: why has the Job Creation Law been widely rejected by workers/labourers? The core issue lies in Article 89(4) and (5) of the Job Creation Law, which amends Article 156 of Law No. 13 of 2003, stating changes to the calculation of severance pay under Article 156(1). The revised wording now reads: 'In the event of termination of employment, the employer is obligated to pay severance pay and/or service award.' Changes were also made to Article 156, Paragraph (3), Letters g and h. Under Letter g, the provision now states: 'For a service period of 21 (twenty-one) years or more, 8 (eight) months' wages.' This amendment aims to eliminate the calculation of service award as previously stipulated, where employees with 24 (twenty-four) years or more of service received 10 (ten) months' wages ([Kurniawan, 2020](#)). [Husni \(2023\)](#), states that the core issues in the Job Creation Law are injustice and discrimination. Acts of injustice and discrimination in the Job Creation Law include low wages, job positions, layoffs, length of service, and treatment based on status, resulting in unequal treatment. The Job Creation Law is perceived as favouring employers rather than workers/labourers. As a result, the essence of justice for workers/labourers due to layoffs regulated in the Job Creation Law, Government Regulation No. 35 of 2021, does not provide a sense of justice, ease, or affordability and is deemed detrimental to workers/labourers.

Therefore, this study aims to further examine the formulation of compensation for termination of employment under the Job Creation Law and its implementing regulations to determine whether they provide a sense of justice for workers/labourers and to propose a compensation formulation for termination of employment that can provide a sense of justice for workers/labourers ([Sari et al., 2022](#)).

Method

This study uses normative legal research. According to Soerjono Soekanto, normative legal research is legal research that investigates and uses reference materials or secondary data as the most basic material ([Soekanto & Mamudji, 2003](#)). The method involves tracing regulations and literature related to this study and conducting an in-depth review of laws, theories, principles, and legal concepts related to the issues to be studied by the researcher. [Arikunto \(2002\)](#), defines a research approach as a method of conducting research. [Marzuki \(2017\)](#) mentions the types of approaches in legal research, namely: the statutory approach (*statuete approach*), the case approach (*case approach*), the historical approach (*historical approach*), the comparative approach (*comparative approach*), and the conceptual approach (*conceptual approach*). In accordance with the type of research chosen, the researcher uses normative legal research,

so that the research approach used can go beyond a single approach. The approaches used in this study are the statutory approach (statute approach) and the conceptual approach (conceptual approach).

Compensation Theory

The regulations governing the provision of compensation/severance pay are the Job Creation Law and Government Regulation No. 35 of 2021. Compensation is the right of workers/employees resulting from the termination of an employment relationship with a fixed-term contract (PKWT), while severance pay is the right of workers/employees resulting from the termination of an employment relationship for various reasons. Compensation, according to [Flippo \(2009\)](#), is the fair and reasonable payment of wages to workers/employees for their contributions to the achievement of the organisation. The provision of unfair and inadequate compensation can lead to dissatisfaction and affect the work performance of workers/labourers. With proper compensation, a sense of fairness among workers/labourers within the organisation is ensured, and each worker/labourer will receive what is commensurate with their duties and functions, position, and work performance ([Swasto, 2011](#)).

Result and Discussion

Compensation/severance pay for termination of employment under the Job Creation Law has provided a sense of justice for workers/labourers

When viewed from the history of labour relations since the New Order era until now, the government has paid considerable attention to workers/labourers. One example is labour policy. During the reform era, the focus shifted to various issues related to labour regulations and democracy faced by workers/labourers in their efforts to fight for their rights and obligations (Ni Komang Sri Intan Amilia and I Gede Yasa., tth). Labour law not only addresses employment relationships but also covers termination of employment (PHK). The consequences of termination of employment (PHK) are serious, including the threat of economic instability for families due to the loss of income. Legal protection for workers/labourers is a fundamental right, as stipulated in Article 27(2) of the 1945 Constitution, which states, "Every citizen has the right to work and to a decent life for humanity," and based on the fifth principle of Pancasila, which mandates that social justice applies to all people of Indonesia.

In the Book of Contracts, it is generally explained that in the provisions of Article 1233 of the Civil Code in Book III of the Civil Code on contracts, it is stated that 'Every contract that is born either because of an agreement or because of a law' means that in addition to agreements in the Civil Code, it also determines that contracts are born from laws ([Widjaja & Muljadi, 2021](#)). An employment contract is an agreement between an employee or worker and an employer to establish an employment relationship or work relationship for a specific period or for specific work in another form as agreed upon. Thus, an employment contract is an employment agreement between an employee/worker and an employer that arises from a law. Generally, the termination of an employment contract is caused by several factors, namely: (1) the death of the worker, (2) the expiration of the employment contract period, (3) the completion of specific work, and (4) a final and binding decision by a court or industrial dispute resolution body. If either party terminates the employment relationship before the agreed time limit specified in the employment contract, the party terminating the employment relationship is obligated to pay compensation to the other party equivalent to the worker's wages up to the agreed time limit.

According to [Notoatmojo \(2009\)](#), the objectives of compensation are (1) to reward performance, (2) to reduce turnover, (3) to ensure fairness in wages, (4) to obtain competent workers, (5) to control costs, and (6) to follow rules and regulations. Justice, according to [Nasution \(2016\)](#), is an imaginary concept both in meaning and application. Legally, it should align with what humans aspire to. However, it cannot be denied that every human being desires justice ([Nasution, 2016](#)). [Rawls \(2011\)](#) in his theory was able to present a method for realising justice, namely pure procedural justice. In this concept, John Rawls also formulated the principles that must be implemented, namely the principles of justice. This method and formulation are the result of a social contract made in an original position ([Soetoprawiro, 2010](#)). The context of justice in employment is the protection of the rights of workers/labourers before the employment relationship begins, during the employment relationship, and when the employment relationship ends. According to [Levenbach \(1985\)](#), *arbeidserchts* or labour law is a part that includes laws relating to employment relationships and work carried out under leadership and with living conditions directly linked to the employment relationship (Imam Soepomo, 1985). The regulation on termination of employment (PHK) in Government Regulation No. 35 of 2021 defines PHK as the termination of an employment relationship caused by a specific event that results in the termination of rights and obligations for both the employer and the worker/labourer. ([Sastrohadiyono, 2008](#)) in his book explains that PHK is the process of terminating the employment relationship

between a company and its workforce, either at the initiative of the worker or due to company policy. This may occur because the worker is no longer productive or because the company's capabilities no longer permit it (Yuniarsi & Suwarno, 2011).

The regulations governing compensation for workers/employees are the Job Creation Law, Government Regulation No. 35 of 2021. Article 15 states that employers are required to provide compensation to workers/employees whose employment relationship is based on an employment contract. The compensation referred to in Article 15(1) of Government Regulation No. 35 of 2021 is provided to workers/employees who have completed at least 1 (one) month of uninterrupted service. Under the Fixed-Term Employment Contract (PKWT) Article 8, the duration of employment under the PKWT system may not exceed 5 (five) years. Meanwhile, the regulation on severance pay is stipulated in Article 40 of Government Regulation No. 35 of 2021. Severance pay is intended for workers/labourers with permanent worker/labourer status. This policy is considered unfair to workers/labourers, as it results in discrimination based solely on the difference in status between contract workers/labourers and permanent workers/labourers. Compensation is a form of recognition from the company to workers/labourers for fulfilling their rights and obligations. Compensation payments are provided to workers/labourers with a fixed-term employment contract at the end of the employment contract period or upon completion of specific work. The provisions governing this matter are explained in Article 61A, inserted between Articles 61 and 62 of the Job Creation Law, as follows: (1) In the event that a fixed-term employment contract expires as referred to in Article 61(1)(b) and (c), the employer is obligated to provide compensation to workers/labourers. The compensation referred to in paragraph 1 shall be provided to workers/employees following their length of service at the relevant company (Government Regulation No. 35 of 2021). The provisions outlined in the aforementioned Government Regulation clarify Article 15 as follows: 1) The employer is obligated to provide compensation to workers/employees whose employment relationship is based on a fixed-term employment contract. 2) The payment of compensation shall be made at the termination of the fixed-term employment contract. 3) The compensation payment referred to in paragraph (1) is the right of workers/employees who have worked for at least 1 (one) month. 4) If the PKWT employment relationship is extended, the compensation payment is provided when the extended period of the PKWT ends/completes. 5) No compensation payment shall be made to foreign workers employed by an employer under an employment relationship based on a work contract.

The derivative regulations of the Job Creation Law also stipulate the amount of compensation for contract workers, as outlined in Article 16(1), namely: 1) For a fixed-term employment contract (PKWT) of 12 (twelve) consecutive months, compensation equivalent to 1 (one) month's salary shall be provided. 2) A fixed-term employment contract of at least 1 (one) month but less than 12 (twelve) months shall be calculated proportionally using the formula: length of service \times 1 month's salary. 3) A fixed-term employment contract with a length of 12 (twelve) months shall be calculated proportionally using the formula: length of service / 12 \times 1 month's salary.

Termination of Employment (PHK). This regulation contains a provision that is of concern to workers/labourers, namely the termination of employment (PHK) that is urgent and unfair, whereby employers may terminate employment as referred to in Article 37(2) of the Job Creation Law. The purpose of regulating employment relationships through law is to ensure a balanced position between employers and workers. This can be achieved through three efforts: (1) legal certainty, (2) livelihood certainty, and (3) old-age certainty (Mutiawati & Saputra, 2023). Legally, under labour law, the positions of employers and workers are equal. However, sociologically, under certain conditions, the positions of workers/labourers are not equal because workers/labourers are in a weaker position (Khoe, 2013). The consequence of the enactment of this law is that the parties are considered to be in an equal position, even though the labour law was enacted based on the unequal position between employers and workers/labourers. The primary purpose of labour law is to achieve social justice in the workplace, which is implemented by protecting workers from the unlimited power of employers (Imam Soepomo, 2020). By definition, there is no satisfactory answer regarding justice. However, quoting the statement of Lord Denning (2011), a Supreme Court Judge from England, that "Justice is not something that can be seen; justice is absolute and not temporal. How does one know what justice is, since justice is not the result of reasoning but a product of the conscience (Sholehuddin, 2011). The provisions on compensation and/or severance pay as stipulated in Article 156(2) of the Job Creation Law are not absolute, as the entitlement to such compensation and/or severance pay is determined based on criteria and the causes leading to the termination of employment. The provisions regarding compensation and/or severance pay as stipulated in the implementing regulations of the Job Creation Law vary depending on the cause of the termination of employment (PHK).

The compensation/severance pay formula stipulated in the derivative of the Job Creation Law includes: 1) Termination due to worker efficiency entitles the worker to severance pay equal to 1 x the provisions of Article 40 paragraph (2), service award equal to the provisions of Article 40 paragraph (3), and compensation for rights; 2)

Merger/Consolidation and Division of Companies: if the worker refuses to continue the employment relationship and/or the company refuses to continue the employment relationship, the worker is entitled to severance pay and compensation for rights; 3) Layoffs due to prolonged illness or disability resulting from a work-related accident after 12 (twelve) months, the worker is entitled to severance pay at 2 times the provisions, 1 times the provisions for the length of service and compensation for rights; 4) Termination due to serious violations by the employer, who may terminate the employment relationship, and the employee is entitled to compensation for rights in accordance with Article 40(4) and severance pay as regulated by company regulations or the employment contract. 5) Termination due to the expiration of the employment contract, the termination of the employment relationship, or other reasons between the employee and the employer (Bouazzaoui et al., 2020).

The Job Creation Law has the potential to enable unilateral layoffs

Companies may terminate employment unilaterally following Article 154A of the Job Creation Law because the company is undergoing a merger, consolidation, acquisition, restructuring, bankruptcy, or PKPU (Debt Restructuring). In addition to these grounds, companies may also easily terminate employment relationships (PHK) by repealing Article 151 of the Job Creation Law, which states that "all efforts must be made to prevent the termination of employment relationships (PHK). The company may also terminate employment relationships (PHK) without prior consultation with workers/employees and the Workers' Union/Labour Union. The Job Creation Law also repeals Article 161 of Law No. 13 of 2003, which previously regulated the issuance of a warning letter before terminating employment relationships with workers/employees.

Reduced compensation/severance pay

The Job Creation Law Article 156 reduces the value of compensation/severance pay because it abolishes the compensation for rights, which was previously regulated in Article 156 of the Labour Law at 15% (fifteen per cent) of the severance pay and/or length of service award. Additionally, the Job Creation Law also repeals Articles 162–166 of the Labour Law, which pertain to the details of severance pay, the calculation of service pay, and the compensation for rights for workers/employees who resign (Eger, 2003).

It is clear from the above that there is an overlap in the regulation of compensation/severance pay rights. The regulation of termination of employment is stipulated in Article 156(2), (3), and (4) of the Job Creation Law. On the other hand, the regulation of compensation/severance pay rights is governed by Government Regulation No. 35 of 2021. Furthermore, the compensation/severance pay regulated in the Job Creation Law and Government Regulation No. 35 of 2021, when compared to the provisions of the Labour Law, experiences a significant decrease in economic value. The provisions on compensation/severance pay under Law No. 13 of 2003 on Labour reached 32.5 (thirty-two point five) months' wages, whereas the provisions on compensation/severance pay under the Job Creation Law, Government Regulation No. 35 of 2021, only reach a maximum of 25 (twenty-five) months' wages. Based on the above analysis, the author concludes that there are two fundamental issues in the Job Creation Law and its implementing regulations regarding the provision of compensation/severance pay, namely: First: there is an overlap in regulations governing compensation/severance pay between the Job Creation Law and its implementing regulations, which are regulated in the Job Creation Law and Government Regulations; Second: there is a reduction in economic benefits for workers regarding severance pay when compared to the previous law, namely Law No. 13 of 2003 on Manpower. The formulation of compensation/severance pay for termination of employment in the Job Creation Law and its implementing regulations is deemed not to provide a sense of justice. The Job Creation Law was enacted based on economic interests, ease of doing business, licensing, and investment, resulting in the law being deemed to provide minimal protection for workers/labourers. Therefore, the compensation/severance pay under the Job Creation Law and its implementing regulations are perceived as not providing a sense of fairness for workers/labourers.

Severance Pay That Can Provide a Sense of Justice for Workers

According to Adisu (2008), severance pay is money given by an employer to an employee as a result of the termination of employment. The amount of severance pay depends on the type of termination. In order to ensure fairness in compensation/severance pay for workers/labourers, there must be legal protection for workers/labourers in the form of supervision, guidance and administration. The government, as the state authority in the field of labour, must be able to carry out these three functions. In the view of Rawls (2011), the concept of basic position contains the main principles of justice, including the principle of equality, which states that everyone is equal in terms of

universal, fundamental, and compatible freedoms, and the principle of inequality in terms of social and economic needs of each individual. The first principle is called the principle of equal liberty, for example, freedom of religion, political freedom, freedom of speech and expression, and the second principle is stated as the difference principle, which hypothesises the principle of equal opportunity. Rawls further explains that the enforcement of law and justice must take into account the principles of justice, namely: *first*, granting equal rights and opportunities for broad basic freedoms, as broad as the same freedoms for every individual; *second*: being able to regulate socio-economic disparities to provide mutual benefits for all parties (Kelsen, 2011).

The law pays special attention to the protection of the weak in employment relationships and provides a specific legal framework to avoid unbalanced and unreasonable employment relationships that result in rights and obligations between one another. Legal protection is an act of safeguarding the interests of legal subjects through regulations or rules that apply to individuals to enable them to take actions that fulfil their interests. The protection provided by law is also related to the rights and obligations of individuals and their environment to take legal actions. The meaning of protection can be said to be legal protection if it contains the following elements: (a) the existence of government protection for the community; (b) the guarantee of legal certainty; (c) its relationship with the rights of citizens; and (d) the existence of legal sanctions for those who violate it (Simanjuntak, 2011).

Since the enactment of the Job Creation Law, especially regarding the termination of employment relationships, it can be done easily under the principle of '*easy to hire, easy to fire*,' meaning "easy to recruit, easy to lay off," even opening the door for unilateral layoffs by employers against workers/labourers. This can be seen in the provisions of Article 151(2) of Law No. 13 of 2003 on Labour, which has been amended by Law No. 6 of 2023 on Job Creation, as follows: As stated in Article 151(2) of Law No. 13 of 2003 on Manpower before the amendment: "If all efforts have been made but the termination of employment cannot be avoided, the intention to terminate the employment relationship must be negotiated by the employer with the workers' union/labour union, or with the worker/labourer if the worker/labourer is not a member of a trade union/labour union." After the amendment, Article 151(2) now reads: ' If termination of employment cannot be avoided, the employer shall notify the worker/labourer and/or the trade union/labour union of the purpose and reasons for the termination of employment."

Provisions regarding termination of employment are contained in Article 41, Article 42(1) and (2), Article 43(1) and (2), Article 44(1) and (2), Article 45(1) and (2), Article 46(1) and (2), Article 47, Article 48, Article 49, Article 50, Article 51, Article 52(1), (2) and (3), Article 53(1) and (2), Article 54(1), (2), (3), (4) and (5), Article 55(1) and (2), Article 56, Article 57, Article 58(1), (2) and (3), and Article 59, for example Article 42(2) of Government Regulation No. 35 of 2021, in the event of a company takeover resulting in changes to the terms and conditions of employment and the worker/employee is unwilling to continue the employment relationship, the employer may terminate the employment relationship, and the worker/employee is entitled to: (a) severance pay equivalent to 0.5 (zero point five) times the provisions of Article 40(2);(b) a service award equal to 1 (one) times the provisions of Article 40(3), and (c) compensation for rights in accordance with the provisions of Article 40 (4).

The government has a primary role in establishing regulations to ensure that the relationship between workers/labourers and employers/companies is balanced based on fair rights and obligations, acting as a mediator in resolving disputes and conflicts, and functioning as a law enforcer. The government also has a role in maintaining the continuity of the production process for the broader public interest. The government, as the administrator of the state in the field of labour, must be able to carry out this function properly. The legal concept of *sociale rechtsaat* (P. Sehnabel in Lany Ramly, 1996) states that "the duty of the state, in addition to protecting civil liberties, is also to protect the way of life of the people, which is an extension of the function of the state (Ramli, 2010). The protection provided by law is also related to the rights and obligations of individuals and their environment to engage in legal actions. Protection can be said to be legal protection if it contains the following elements: (a) the government's protection of its citizens; (b) legal certainty; (c) relation to the rights of citizens; and (d) legal sanctions for those who violate it (Simanjuntak, 2011). The legal position of labour law in the Indonesian legal system lies within Administrative Law, Private Law, and Criminal Law. The relationship between workers/labourers and employers is part of private law. This relationship is based on agreements or contracts, which are part of civil law. Meanwhile, the government's position is as a supervisor or facilitator if there are disputes or conflicts in the implementation. The supervisory and government functions can be maximised if, philosophically, the government's position is higher than those being supervised (Al-Aydarus, 2017).

In practice, these must be carried out in a coordinated manner. The legal relationship between employers and workers/labourers is based on employment agreements or contracts that fall under civil law, during the creation of the agreement, its implementation, and the termination of the employment relationship. Their implementation is supervised by the government as a consequence of carrying out the functions of *bestuurs*, *politie*, and *rechtraak*. If, during the process of creating, implementing, and terminating the employment relationship, there are legal

violations, criminal sanctions may be imposed, which are studied in the field of criminal law (Al-Aydarus, 2017). The government, as the administrator of the state in the field of labour, must be able to carry out this function properly. The legal concept of *sociale rechtsaat*. Fundamental rights relating to social rights recognised in *social rechtstaat* relations include industrial relations. An employment relationship can be defined as the relationship between an employee and an employer that arises after an agreement is made between the employee and the employer, where the employee expresses their willingness to work for the employer in exchange for wages, and where the employer expresses their willingness to employ the employee by paying wages (Imam Soepomo, 2003). In another opinion, it is stated that an employment relationship is a working relationship between a worker/employee and an employer that begins with an employment agreement, which is an agreement in which the employee binds himself to the employer to work by expressing his willingness to be an employee in exchange for wages (Asikin, 1994). Meanwhile, according to Article 1(15) of Law No. 13 of 2003, an employment relationship is defined as the relationship between an employer and a worker/employee based on an employment contract that includes the elements of work, wages, and instructions.

The Job Creation Law does indeed introduce a new nuance in labour law, namely (Husni, 2023), aligning the term “labourer” with “worker” and the term “employer” with “business owner” or “employer”. These terms have long been sought to be changed to better align with the Pancasila industrial relations framework, replacing the term ‘labour agreement’ with ‘collective labour agreement’ (PKB), as the former is considered to originate from liberal principles that often lead to conflicts in its formulation. The transformation of the Labour Law into the Job Creation Law has far-reaching implications for workers/labourers, including: 1) The status of fixed-term employment contracts (PKWT) under the Job Creation Law is no longer restricted, and all types of work can be carried out through the PKWT system. Article 6 of Government Regulation No. 35 of 2021 states that work that is expected to be completed in a relatively short period, as referred to in Article 5(1)(a), shall be carried out for a maximum period of 5 (five) years. 2) The practice of outsourcing is becoming more widespread, meaning that the Job Creation Law does not impose restrictions on the types of work that can be delegated to third parties, allowing all types of work to be assigned to others, even if such work constitutes the main activity of the employer. 3) Working hours are becoming longer, with overtime work permitted for up to 18 hours per week. 4) Ease in the process of terminating employment relationships, namely, the clarification of Article 151(2) of the Job Creation Law: ‘In the event that the termination of an employment relationship cannot be avoided, the employer shall notify the worker/employee and/or the workers' union/labour union of the purpose and reasons for the termination.’ Simply notifying the worker/labourer concerned means that the provision in the article facilitates the company to terminate the employment relationship (Dulebohn & Werling, 2007).

Industrial relations disputes often occur in industrial practice, namely, disputes over termination of employment (PHK). Employment Termination Disputes are disputes arising from a lack of agreement regarding the termination of employment by one of the parties (Whimbo, 2010). PHK Imam Soepomo (1982:86). According to Juanda Pangaribuan (2024), there are four principles of ease in the termination process under the Job Creation Law, namely: (1) Employers may unilaterally terminate employment relationships, including because the worker/employee has violated an urgent nature, (2) Termination of employment relationships does not require a decision from an industrial relations dispute resolution body, (3) Termination of employment is not carried out after bipartite negotiations, (4) Bipartite negotiations are carried out if the worker/labourer rejects the termination of employment (<https://www.hukumonline.com>).

Consequences of Termination of Employment, Compensation, and Severance Pay under the Job Creation Law are as follows:

First, Compensation. Compensation is provided to workers/employees with a fixed-term employment contract at the end of the employment contract period and/or upon completion of specific work. The provisions governing this matter are explained in Article 61A, inserted between Articles 61 and 62 of the Job Creation Law, as follows: a) If a fixed-term employment contract expires as referred to in Article 61(1)(b) and (c), the employer is obligated to provide compensation to the worker/employee, b) The compensation referred to in paragraph (1) is provided to the worker/employee following the worker/employee's length of service at the relevant company.

The provisions outlined in Government Regulation No. 35 of 2021, as a derivative of the Job Creation Law, clarify Article 15 as follows: 1) the employer should provide compensation to workers/employees whose employment relationship is based on a fixed-term employment contract (PKWT). 2) The payment of compensation shall be made at the expiration of the PKWT. 3) The compensation payment referred to in paragraph (1) shall be provided to employees who have completed at least 1 (one) month of service.

If the PKWT employment relationship is extended, the compensation payment shall be provided upon the expiration/completion of the extended PKWT period. Compensation payments do not apply to foreign workers employed by employers under a contractual employment relationship.

The amount of compensation for fixed-term employment contracts (PKWT) as stipulated in Article 16(1) is as follows: 1) For a fixed-term employment contract of 12 (twelve) consecutive months, compensation equivalent to 1 (one) month's salary shall be provided. 2) Employment contracts for 1 (one) month or more but less than 1 (one) year shall be calculated proportionally. 3) Employment contracts for more than 12 (twelve) months shall be calculated proportionally based on the length of service / 12 x 1 month's salary.

Second, severance pay. Unlike compensation, severance pay is provided by the employer to workers/employees (under an indefinite employment contract) when the employment relationship is terminated for various reasons, except when the worker/employee resigns. Workers/employees who resign voluntarily are only entitled to severance pay and other entitlements, but not severance pay.

The regulations regarding severance pay are stipulated in the Job Creation Law, specifically in Article 156, which states: 'In the event of termination of employment, the employer is obligated to pay severance pay and/or service award and compensation for rights that should be received.'

Severance pay as referred to in paragraph (1) shall be provided in accordance with the following provisions: 1) For a period of less than 1 (one) year: 1 (one) month's salary; 2) For a period of 1 (one) year or more but less than 2 (two) years: 2 (two) months' salary; 3) Employment period of 2 (two) years or more but less than 3 (three) years: 3 (three) months' wages; 4) Employment period of 3 (three) years or more but less than 4 (four) years: 4 (four) months' wages; 5) Employment period of 4 (four) years or more but less than 5 (five) years: 5 (five) months' salary; 6) Employment period of 5 (five) years or more but less than 6 (six) years: 6 (six) months' salary; 7) Employment period of 6 (six) years or more but less than 7 (seven) years: 7 (seven) months' salary; 8) Employment period of 7 (seven) years or more but less than 8 (eight) years: 8 (eight) months' salary; 9) Length of service of 8 (eight) years or more: 9 (nine) months' salary (Republic of Indonesia, 2023).

Upon closer examination, there are two regulations governing compensation and/or severance pay, both of which form a series of laws and Government Regulations. Meanwhile, in the law, severance pay provisions are regulated in Article 156 of the Job Creation Law, which standardises the amount of severance pay for workers/employees. On the other hand, Government Regulations adjust the severance pay amount according to the circumstances leading to the termination of employment. The provisions on severance pay in Government Regulation No. 35 of 2021 also do not clearly regulate the right to compensation or severance pay for workers/employees with a contract-based status and daily wage workers. The applicable legal framework in cases of termination of employment involving workers/employees with such statuses remains unclear, whether it should be governed by the Job Creation Law or Government Regulation No. 35 of 2021.

To achieve fairness in terms of compensation/severance pay for workers/labourers, the author has outlined the composition of the formula and/or severance pay as follows:

Regulations in Job Creation and its derivatives	Disadvantages	Formulation
Article 1 Fixed-term employment agreement or employment contract, hereinafter referred to as Contract Worker, is an employment agreement between a worker/labourer and an employer for specific work and a specific period of time.	Article 8 of Government Regulation No. 35 of 2021 states that a fixed-term employment contract (PKWT) may be entered into for a period of 5 (five) years. If, within the agreed period, the work has not been completed, a new employment contract may be entered into in accordance with mutual agreement, provided that the duration does not exceed 5 (five) years. Thus, the understanding of PP 35/2021 regarding employment agreements is limited to two aspects: it is established at the outset of the agreement and may be extended.	The PKWT employment agreement is made informally, so that workers/labourers do not receive maximum legal protection. In the event of a dispute, the position of workers/labourers is very weak, meaning that there is no protection of workers'/labourers' rights. Therefore, it is necessary to draw up a formal employment agreement and specify the work restrictions that should be imposed, as well as the rights of workers/labourers in the event of termination by the employer.
Article 39 paragraph 1(one) Workers/labourers who have received a notice of termination of	The provisions of Article 39(1) do not provide protection to workers in cases where a worker who has	Provisions of Article 39 paragraph (1) The solution to realise protection for workers/labourers is

employment and declare their refusal must submit a letter of refusal accompanied by reasons no later than 7 (seven) working days after receipt of the notice.	been declared terminated by the Company usually experiences psychological pressure, rendering the worker unable to do much.	that the company management must issue a written summons and explain the reasons for the termination of employment.
Article 39 paragraph (3) in the event that bipartite negotiations as referred to in paragraph (2) fail to reach an agreement on the next stage of termination of employment, the dispute shall be settled through industrial relations dispute resolution mechanisms in accordance with the laws and regulations.	Article 39 paragraph (3) does not mention the Tripartite Institution, which means that the government appears to be irresponsible because the article does not mention the agency responsible for labour in the event of layoffs.	The solution to realise legal protection for workers/labourers is that in the case of termination of employment under Article 39(3), a clause on a tripartite institution involving government elements needs to be added.
Article 40 paragraph (1) in the event of termination of employment, the employer shall pay severance pay and/or service pay and compensation for any rights that should have been received.	The weakness of Article 40 paragraph (1) is the inclusion of the phrase 'and/or severance pay and service pay as well as compensation for rights,' so that the clause 'and/or' becomes an option for employers to provide compensation, meaning that the phrase does not guarantee workers compensation if they are laid off.	The solution is due to the weak protection of workers/labourers in Article 40 paragraph (1), where the word 'or' has been omitted, so that protection in the event of termination of employment becomes mandatory in the form of severance pay, length of service awards and other rights that should be received.

Conclusion

Based on the above discussion and explanation, the author draws the following conclusions:

There are two regulations governing compensation/severance pay, namely: first, the Job Creation Law and, second, a Government Regulation.

Compensation is a provision inserted into the Job Creation Law, Article 61A, which regulates fixed-term employment contracts (PKWT). This article states that it is the obligation of the company to provide compensation to workers/employees with a fixed-term employment contract whose employment relationship has ended or terminated. Furthermore, the provisions regarding the payment of compensation are regulated in Government Regulation No. 35 of 2021, Article 15, which calculates the amount based on the employment agreement. Upon examining the provisions of the law, it is evident that there is discrimination in the regulation of compensation payments. This difference or discrimination is evident in the status of workers/employees with PLWT status and permanent workers/employees. In reality, workers/labourers with contract status and workers/labourers with permanent status have the same job responsibilities. Second, severance pay is a right of workers/labourers obtained due to termination of employment, and the amount of severance pay received varies depending on the consequences of the termination. Severance pay is regulated in the Job Creation Law, Article 156 and its implementing regulations, namely: Article 41, Article 42(1) and (2), Article 43(1) and (2), Article 44(1) and (2), Article 45(1) and (2), Article 46(1) and (2), Article 47, Article 48, Article 49, Article 50, Article 51, Article 52(1), (2), and (3), Article 53(1) and (2), Article 54(1), (2), (3), (4), and (5), Article 55(1) and (2), Article 56, Article 57, Article 58(1), (2), and (3), and Article 59.

Economically, there is a decrease in the value/benefit of compensation/severance pay under the Job Creation Law and Government Regulation No. 35 of 2021, compared to the previous law, namely Law No. 13 of 2003 on Manpower. Compensation/severance pay is of great importance to workers/employees, as it constitutes their final financial income during their service to the company. Adequate and fair compensation/severance pay can at least alleviate the economic burden on their families until they secure new employment. Obtaining fair and adequate compensation/severance pay will create a sense of satisfaction among workers/labourers, which in turn will encourage them to work harder and with a greater sense of responsibility. To ensure fairness for workers/labourers and employers in the provision of compensation/severance pay, regulations are needed that can address these issues. For example, in the form of employment contracts, company regulations, and collective bargaining agreements. In

this way, each party will be aware of their rights and obligations during the employment relationship and in the event of termination of the employment relationship.

Recommendations

Based on the discussion and explanation above, the author provides the following recommendations: First, compensation and/or severance pay are inseparable between workers/labourers and employers, meaning that both are the final income for workers/labourers as a result of the termination of their employment relationship. Workers/labourers with PKWT status and workers/labourers with permanent status have the same roles and responsibilities in their work. Therefore, it is necessary to improve the regulations to ensure that the status of workers/labourers does not hinder them from obtaining the same rights. Secondly, to avoid overlapping regulations regarding the provision of compensation and/or severance pay for workers/labourers, separate labour laws should be established, distinct from the Job Creation Law. By separating the regulations, the provisions regarding worker/labourer protection, supervision, training, and the rights and obligations of workers/labourers will be more specific.

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