



RESEARCH ARTICLE

Are Fixed-Term Employment Contracts the Trojan Horse Undermining Labor Rights in Indonesia?

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ABSTRACT

Execution and supervision of Fixed-Term Employment Contracts (PKWT) within Indonesia's legal system, emphasizing the difficulties and efficacy of labor inspection and enforcement strategies. Notwithstanding regulatory frameworks like the Job Creation Law and Manpower Law, substantial inconsistencies between policy and implementation remain, with PKWT frequently exploited for positions appropriate for permanent employment. This abuse compromises workers' rights and legal safeguards. The study underscores the insufficient quantity of labor inspectors, amounting to 1,694, tasked with overseeing more than two million enterprises, coupled with a lack of legal knowledge among businesses, which intensifies non-compliance. This study utilizes a normative legal and sociological framework to analyze the duties of labor inspectors, identify systemic deficiencies, and recommend remedies such as increasing the number of inspectors, improving training, using digital monitoring tools, and enforcing stiffer fines for infractions. The results seek to maintain equitable employment practices and protect labor rights by enhancing enforcement, aligning practices with rules, and promoting legal knowledge among employers and employees. These methods are essential for reconciling regulatory purpose with practical execution, enhancing legal compliance, and cultivating better industrial relations in Indonesia.

INTRODUCTION

A crucial aspect of human resource development is the advancement of the employment sector. As workers, humans are essential resources for national development. To enhance the dignity, status, and capabilities of individuals, the 1945 Constitution and Pancasila must be simultaneously implemented. Almost all businesses employing many workers use the contract system for permanent jobs.¹ Many employers prefer the PKWT system because it is considered more efficient than PKWTT. With PKWT, companies do not need to provide various allowances, training, or education for workers. Companies only need to pay basic wages without additional allowances, and after the contract ends, workers do not receive severance pay.² Many employers prefer the PKWT system because it is considered more efficient than PKWTT. With PKWT, companies do not need to provide

¹ Mega Wulandari and M Syifa Fauzi Yulianis, 'Perlindungan Hukum Bagi Pekerja Terhadap Perjanjian Kerja Waktu Tertentu (PKWT)' "Kajian Yuridis Putusan Mahkamah Konstitusi Nomor: 7/Puu-Xii/2014" (2023) 1 Syariah: Jurnal Ilmu Hukum 191. [193]

² Wulandari and Yulianis.

various allowances, training, or education for workers. Companies only need to pay basic wages without additional allowances, and after the contract ends, workers do not receive severance pay.³ Law No. 13 of 2003 concerning Employment regulates employment issues, demonstrating the government's commitment to addressing employment problems and protecting workers.⁴ Additionally, the Job Creation Law was officially enacted as Law Number 6 of 2023 concerning the Stipulation of Government Regulation Number 2 of 2022 on Job Creation on March 21, 2023,⁵ (hereinafter referred to as the Job Creation Law), which in Article 81, clause 15, paragraph 1 states that fixed-term employment contracts can only be made for jobs that, by their nature or type of activity, will be completed within a specific period.⁶ Despite amendments to the Job Creation Law, particularly concerning employment relations, legal disputes regarding its implementation persist. Labor issues are rarely discussed in the general public, especially in sectors without definitive legal protection.⁷ According to the Ministry of Manpower of the Republic of Indonesia, 6,845 companies violated labor standards by the third quarter of 2023.⁸

In developed countries, social, political, and economic agendas are highly focused on employment issues. National production and societal welfare are significantly influenced by the growth of the employment sector.⁹ Fixed-Term Employment Contracts (PKWT) provide legal protection for both employers and employees.¹⁰ Industrial relations between capital owners and labor begin with an employment agreement.¹¹ Essentially, legal protection for fixed-term employment contracts (PKWT) originates from the agreement itself. PKWTs are designed to safeguard workers by preventing the use of such agreements for continuous employment. The regulation of PKWTs aims to ensure that workers engaged in ongoing tasks are not limited by the duration of their employment contract. For employers, the regulation of PKWTs provides the opportunity to apply these contracts to jobs with limited durations, thereby avoiding the obligation to hire permanent workers for time-limited tasks.¹²

³ Duwi Aprianti, 'Perlindungan Hukum Terhadap Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT)', *Jurnal Hukum Saraswati (JHS)* 3, no. 1 (20 March 2021): 70–82, <https://doi.org/10.36733/jhshs.v3i1.1853>.

⁴ Duwi Aprianti.

⁵ Deni Iskandar, Nurul Amalia, and Muhammad Misbakul Munir, 'Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan Uu No 6/2023 Tentang Cipta Kerja Dan Hukum Islam', *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora* 2, no. 1 (2024): 249–61.

⁶ Duwi Aprianti, 'Perlindungan Hukum Terhadap Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT)'.

⁷ Syerrin Hakim and Imam Haryanto, 'Implementasi Pengawasan Dan Pemberian Sanksi Terhadap Perusahaan Atas Pelaksanaan Perjanjian Kerja Waktu Tertentu', *JURNAL USM LAW REVIEW* 6, no. 2 (16 September 2023): 812–24, <https://doi.org/10.26623/julr.v6i2.7085>.

⁸ Binwasnaker & K3, 'Data Perusahaan Yang Melanggar Norma Ketenagakerjaan s.d. Triwulan Iii Tahun 2023' (Jakarta Selatan, 12 January 2023), <https://satudata.kemnaker.go.id/data/kumpulan-data/1555>.

⁹ Dewa Gede Giri Santosa and Dewa Gede, 'Perjanjian Kerja Waktu Tertentu Pasca Undang-Undang Cipta Kerja: Implementasi Dan Permasalahannya', *Jurnal Ilmu Hukum* 17, no. 2 (2021): 178–91.

¹⁰ Eloi Turnip, Rahayu Subekti, and Purwono Sungkowo Raharjo, 'Penyusunan Perjanjian Kerja Waktu Tertentu (PKWT) Menurut Undang-Undang Nomor 6 Tahun 2023', *Jurnal Litigasi Amsir* 11, no. 1 (2023): 14–18.

¹¹ Ahmad Jaya Kusuma, Edith Ratna M.S, and Irawati Irawati, 'Kedudukan Hukum Pekerja Pkwt Yang Tidak Sesuai Dengan Ketentuan Undang-Undang Ketenagakerjaan', *Notarius* 13, no. 1 (2 May 2020): 193–208, <https://doi.org/10.14710/nts.v13i1.30324>.

¹² Duwi Aprianti, 'Perlindungan Hukum Terhadap Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT)'.

Law enforcement encompasses the principle of justice articulated in legal documents and societal standards maintained by the community.¹³ This procedure seeks to convert the "will of the law," as articulated by the legislator, into tangible acts.¹⁴ Fourteen Labor law enforcement include the application of legislation, oversight of its execution, and remedial procedures in cases of infractions.¹⁵ If the implementation of these PKWTs contradicts the prevailing regulations, the legal protection provided by these laws will not be realized.¹⁶ For instance, the cleaning, warehouse, and quality control (QC) departments are areas where the nature and type of work do not change. This indicates that the conditions deviate from the provisions of the Job Creation Law. Therefore, these PKWT employment relationships should legally be converted to PKWTT employment relationships. Similarly, employees in the injection production division, shape making, warehouse, finance, HR and recruitment divisions, as well as PKWT workers in the production operator, security unit, staff, and sales manager positions. Each of these roles or jobs involves consistent and continuous activities.¹⁷ Due to their continuous and indefinite nature, they should be regulated as permanent positions.

Law enforcement in Indonesia encounters issues necessitating comprehensive study and explicit directives for police.¹⁸ Law enforcement professionals play a crucial role in enforcing legal laws in accordance with rules.¹⁹ The primary responsibility of any labor inspectorate is to enforce labor laws and ensure adherence to them. Labor inspectors are tasked with ensuring the effective implementation of legal provisions related to worker protection through a proactive approach, which includes supplementary functions such as providing guidance, information, and enforcement. Labor inspectors typically possess considerable discretion and autonomy in conducting their investigations.²⁰ To ensure law enforcement the inspection notice serves as a warning or written directive issued by the labor inspector to employers or managers to correct non-compliance with labor norms based on the inspector's findings. This inspection notice also constitutes the first stage of supervision. There are three stages of inspection notices: Inspection Notice I, Inspection Notice II, and Special Inspection Notice.²¹ In South Sulawesi, the court authorized 15 Special Supervision Notes pertaining to PKWT in 2023.²²

Marsha Chikita Widyarini's research (2020) identified infractions in the execution of PKWT at PT. Fajar Graha Pena, including contract extensions surpassing legal thresholds and the assignment of

¹³ Jimly Asshiddiqie, *Menuju Negara Hukum Yang Demokratis* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2008). Pp. 62.

¹⁴ Satjipto Rahardjo, *Penegakan Hukum Sebagai Tinjauan Sosiologis* (Yogyakarta: Genta Publishing, 2009). Pp. 25.

¹⁵ Said Muhammad Is and Sobandi, *Hukum Ketenagakerjaan Di Indonesia*, ed. Eko Widiyanto, Pertama (Jakarta: Kencana, 2020). Pp. 159.

¹⁶ Kusuma, Ratna M.S, and Irawati, 'Kedudukan Hukum Pekerja Pkwt Yang Tidak Sesuai Dengan Ketentuan Undang-Undang Ketenagakerjaan'.

¹⁷ Rudi Avianto, Endeh Suhartini, and Achmad Jaka Santos Adiwijaya, 'Perbandingan Sistem Hubungan Kerja Pkwt Dan Pkwt Dalam Upaya Peningkatan Kesejahteraan Pekerja', *JURNAL ILMIAH LIVING LAW* 14, no. 2 (2022): 154–67, <https://doi.org/https://doi.org/10.30997/jill.v14i2.6361>.

¹⁸ Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009). Pp. 34.

¹⁹ Acmad Ruslan, *Teori Dan Paduan Praktik Pembentukan Peraturan Perundang-Undangan Di Indonesia* (Depok: Rajawali Pers, 2023). Pp. 78.

²⁰ I D Anyfantis, D Papagiannis, and G Rachiotis, 'Burnout among Labour Inspectors in Greece: A Nationwide Cross-Sectional Study', *Safety Science* 135 (2021): 105134, <https://doi.org/https://doi.org/10.1016/j.ssci.2020.105134>.

²¹ Yera Alvira Natanshia, Yati Nurhayati, and Hanafi Hanafi, 'Penerapan Sanksi Terhadap Perusahaan Yang Tidak Mendaftarkan Tenaga Kerja Dalam Badan Penyelenggara Jaminan Sosial Ketenagakerjaan Di Kota Banjarmasin', *Jurnal Penegakan Hukum Indonesia* 4, no. 2 (2023): 151–71, <https://doi.org/https://doi.org/10.51749/jphi.v4i2.105>.

²² Nurul Ashar, 'Pegawai Pengawas/Penyidik Ppns' (Makassar, 6 June 2024).

PKWT employees to permanent positions that ought to be governed by PKWTT, in addition to the company's neglect in reporting the registration of PKWT workers to the Makassar Manpower Office. The resolution requires the corporation to submit the employment agreement to the Manpower Office; nevertheless, this solution is constrained by the company's adherence and insufficient oversight.²³ Research by Ahmad Jaya Kusuma et al. (2020) indicates that PKWT workers engaged in continuous employment should be classified as PKWTT workers according to judicial rulings, necessitating a written and documented work agreement, the efficacy of which relies on rigorous oversight and penalties.²⁴

This study provides a resolution to the issue concerning the function of Labor Inspectors in enhancing the enforcement of the Fixed-Term Employment Agreement (PKWT) system, particularly regarding the nature and classification of work activities and inspection records pertaining to the transition from PKWT to Indefinite-Term Employment Agreement (PKWTT). This research will propose regulatory enhancements and more stringent penalties for corporations who contravene PKWT regulations, drawing on theories of law enforcement, oversight, and efficacy.

This study aims to assess the efficacy of labor inspectors in enforcing Fixed-Term Employment Agreements (PKWT) within organizations. Recognizing the obstacles encountered in executing supervision, particularly during the change of employment status from PKWT to PKWTT and in the enforcement of administrative penalties for labor infractions.

The Role of Labor Supervisors in the Implementation of the Fixed-Term Employment Agreement (PKWT) System

Law enforcement seeks to attain justice and enhance order and legal certainty within society.²⁵ Monitoring is a supervisory procedure designed to guarantee that all tasks are executed in accordance with the established plan. Siagian delineates two primary techniques of oversight: direct and indirect control.²⁶ Supervision guarantees that actions align with the plan and facilitates the comprehension and assessment of task execution, whereas control ensures that implementation adheres to the established plan.²⁷ The objective of supervision is to evaluate effectiveness, efficiency, and adherence to the plan, as well as to identify deviations for potential enhancements.²⁸ Labor oversight guarantees adherence to relevant rules and regulations.²⁹ Article 3 Paragraph 1 of the Regulation of the Minister of Manpower of the Republic of Indonesia Number 33 of 2016 stipulates that labor supervision procedures are designed to ensure the implementation of labor norms in

²³ Marsha Chikita Widyarini, 'Perlindungan Hukum Terhadap Pekerja Dengan Status Perjanjian Kerja Waktu Tertentu Pada Pt. Fajar Graha Pena Di Kota Makassar' (Thesis, Universitas Hasanuddin, 2020), <http://repository.unhas.ac.id:443/id/eprint/1328>.

²⁴ Kusuma, Ratna M.S, and Irawati, 'Kedudukan Hukum Pekerja Pkwt Yang Tidak Sesuai Dengan Ketentuan Undang-Undang Ketenagakerjaan'.

²⁵ Atika Thahira, 'Penegakan Hukum Administrasi Lingkungan Hidup Ditinjau Dari Konsep Negara Hukum', JCH (Jurnal Cendekia Hukum) 5, no. 2 (30 March 2020): 260–73, <https://doi.org/10.33760/jch.v5i2.229>.

²⁶ Sri Meike Jusup, 'Pengaruh Pengawasan Terhadap Disiplin Kerja Pegawai Pada Kantor Dinas Kependudukan Dan Catatan Sipil Kota Gorontalo', Nobel Management Review 2, no. 2 (30 June 2021): 194–204, <https://doi.org/10.37476/nmar.v2i2.2284>.

²⁷ Yohannes Yahya, *Pengantar Manajemen* (Yogyakarta: Graha Ilmu, 2006). Pp.133.

²⁸ Amelia Cahyadini, Zainal Muttaqin, and Anindya Saraswati Ardiwinata, *Hukum Pengawasan*, ed. Nur Asri Novitasari (Bandung: PT Remaja Rosdakarya, 2023). Pp. 21.

²⁹ Ananda Alfikro, 'Analisis Keabsahan Pengawasan Ketenagakerjaan Menurut Uu No. 13 Tahun 2003 Dalam Pemenuhan Hak Pekerja Disabilitas Dalam Tinjauan Hak Asasi Manusia', Gema Keadilan 10, no. 1 (12 September 2023): 35–50, <https://doi.org/10.14710/gk.2023.20250>.

companies or workplaces,³⁰ thereby safeguarding the rights of laborers and workers.³¹ According to Law Number 23 of 2014, since 2016, only provincial governments has the jurisdiction to conduct labor monitoring.³²

The Technical Implementation Unit (UPT) of Labor Supervision is responsible for overseeing labor relations and enforcing rules at the provincial level.³³ As of 2023, Indonesia will have 89 labor supervision units throughout all provinces.³⁴ Article 176 of Law Number 13 of 2003 regarding Manpower stipulates that labor supervision is conducted by qualified and autonomous Labor Supervisory Officers to ensure compliance with labor norms and legislation.³⁵ Labor supervision encompasses three phases: preventative education, non-judicial repression, and judicial repression.³⁶ Labor monitoring guarantees the seamless operation of the industrial relations process, encompassing Occupational Safety and Health (K 3) requirements.³⁷ Consequently, the Manpower Office is tasked with overseeing enterprises that contravene the Fixed-Term Employment Agreement (PKWT).³⁸

Legal protection is administered both preventively and repressively. Preventive protection refers to government measures implemented to avert infractions before to their occurrence through proactive and punitive actions.³⁹ Repressive monitoring is conducted post-completion of work to verify that outcomes align with the plan and to uphold workers' normative rights in cases of noncompliance.⁴⁰ As of the third quarter of 2021, Indonesia has 1,694 labor inspectors, comprising 1,354 general inspectors, 382 specialty inspectors, and 365 PPNS inspectors.⁴¹ Derived from the Company

³⁰ Andhyka Muchtar and Adi Sulistiyono, 'Efektivitas Putusan Mahkamah Konstitusi Nomor 7/Puu-Xii/2014 Terhadap Pekerja Dengan Perjanjian Kerja Waktu Tertentu', *Masalah-Masalah Hukum* 50, no. 4 (30 October 2021): 387-97, <https://doi.org/10.14710/mmh.50.4.2021.387-397>.

³¹ Karina Hatane, Saartje Sarah Alfons, and Merlien Irene Matitaputty, 'Perlindungan Hukum Terhadap Pekerja Di Masa Pandemi Covid-19', *TATOHI: Jurnal Ilmu Hukum* 1, no. 3 (2021): 265-75.

³² Heidy Annisa Dharmawan, Agus Mulya Karsona, and Holyness N Singadimedja, 'Pelaksanaan Pengawasan Ketenagakerjaan Terhadap Hak Pekerja Untuk Mendapatkan Upah Kerja Lembur', *SANGAJI: Jurnal Pemikiran Syariah Dan Hukum* 7, no. 2 (2023): 136-47, <https://doi.org/https://doi.org/10.52266/sangaji.v7i2.1731>.

³³ Rizki Amalia Fitriani et al., 'Efektivitas Pengawasan Ketenagakerjaan Terhadap Upah Minimum Pekerja', *JURNAL USM LAW REVIEW* 5, no. 2 (27 December 2022): 809-118, <https://doi.org/10.26623/julr.v5i2.5761>.

³⁴ Binwasnaker & K3, 'Lembaga Pengawasan Ketenagakerjaan Tahun 2023' (Jakarta Selatan, 29 February 2024), <https://satudata.kemnaker.go.id/data/kumpulan-data/1749>.

³⁵ Neni Vesna Madjid and Indah Monalisa, 'Pengawasan Terhadap Pelaksanaan Wajib Laport Ketenagakerjaan Di Perusahaan Oleh Uptd Pengawasan Ketenagakerjaan Wilayah i Provinsi Sumatera Barat', *UNES Law Review* 5, no. 3 (1 March 2023): 639-52, <https://doi.org/10.31933/unesrev.v5i3.401>.

³⁶ Madjid and Monalisa.

³⁷ Salesius Jemaru and Yulianus Pabassing, 'Problematika Implementasi Undang-Undang Ketenagakerjaan Nomor 13 Tahun 2003 Dalam Kontrak Kerja Karyawan Outsourcing Di Angkasa Pura 1 Jayapura', *Jurnal Hukum Yurisdiksi (JHY)* 1, no. 1 (2024): 1-13.

³⁸ Chika Agishintya and Siti Hajati Hoesin, 'Akibat Hukum Terhadap Perjanjian Kerja Waktu Tertentu (Pkwt) Yang Tidak Dicatatkan', *Humani (Hukum Dan Masyarakat Madani)* 12, no. 1 (2022): 125-39.

³⁹ Agishintya and Hoesin.

⁴⁰ Jayanti Armida Sari et al., 'Pengawasan Pelayanan Publik Oleh Ombudsman RI Perwakilan Sumatera Barat', *Publikauma : Jurnal Administrasi Publik Universitas Medan Area* 10, no. 2 (12 December 2022): 127-36, <https://doi.org/10.31289/publika.v10i2.7886>.

⁴¹ Binwasnaker & K3, 'Jumlah Pegawai Pengawas Ketenagakerjaan Triwulan Iii Tahun 2021' (Jakarta Selatan, 10 August 2022), <https://satudata.kemnaker.go.id/data/kumpulan-data/711>.

Employment Reporting System (WLKP).⁴² The WLKP data is longitudinal, indicating that a firm is consistently represented in the database year.⁴³ In 2023, the WLKP application recorded 1,886,947 registered firms.⁴⁴

Per Article 8, paragraph (1) of Minister of Manpower Regulation Number 33 of 2016, labor inspectors are required to examine a minimum of five enterprises monthly or 60 companies annually.⁴⁵ The interview findings indicated that there are currently 51 supervisory personnel in South Sulawesi, a figure that is disproportionate to the number of enterprises in the region. Similarly, the total count of supervisory staff in Indonesia is 1,694, given the substantial number of firms, as each supervisory employee oversees five employees monthly and 60 enterprises annually.⁴⁶ Article 8 of Regulation 6 does not specify the maximum number of labor inspectors designated to oversee a firm. While this language intentionally refrains from employing restrictive terminology or constraints through phrases like "at least" and "maximum/most," it does not suggest that labor inspectors are obligated to do inspections beyond their physical capabilities.⁴⁷ The ILO recommends that one labor inspector should ideally oversee 20,000 workers in developing nations.⁴⁸ Nevertheless, the constraints of limited manpower and the geographical characteristics of the Indonesian archipelago hinder inspectors from fulfilling the objectives of labor inspection. Traditional work methodologies that are more goal-oriented require modification.⁴⁹ Direct oversight is conducted to verify that tasks have been executed as intended.⁵⁰ As of the third quarter of 2023, 15,728 firms had undergone inspections, encompassing initial, periodic, re-inspection, and special inspections.⁵¹

METHOD

The employed research methodology is a normative legal strategy for analyzing relevant legislative statutes, including Manpower Law No. 13 of 2003, Job Creation Law No. 6 of 2023, and their derivative regulations, alongside a sociological/empirical approach to evaluate the practical application of these laws. Data analysis involves assessing the alignment between the legal content of the law and its practical application. Primary legal documents, including statutes, governmental regulations, and judicial rulings, are utilized to ascertain the legal foundation regulating PKWT. Concurrently, secondary legal documents, including scholarly publications, government reports, and

⁴² Turro S Wongkaren et al., 'Analisa Implementasi Uu Cipta Kerja Kluster Perjanjian Kerja Waktu Tertentu (Pkw) Dan Alih Daya', *Jurnal Ketenagakerjaan* 17, no. 3 (2022): 210–37.

⁴³ Wongkaren et al.

⁴⁴ Binwasnaker & K3, 'Perusahaan Yang Terdaftar Di Wlkp Online, Tw. Iii Tahun 2023' (Jakarta Selatan, 12 March 2023), <https://satudata.kemnaker.go.id/data/kumpulan-data/1577>.

⁴⁵ Wongkaren et al., 'Analisa Implementasi Uu Cipta Kerja Kluster Perjanjian Kerja Waktu Tertentu (Pkw) Dan Alih Daya'.

⁴⁶ Ashar, 'Pegawai Pengawas/Penyidik Ppns'.

⁴⁷ Weny Almoravid Dunga and Abdul Hamid Tome, 'Identifikasi Faktor Penghambat Penyelenggaraan Pengawasan Ketenagakerjaan Di Provinsi Gorontalo', *Jambura Law Review* 1, no. 1 (2019): 1–21, <https://doi.org/https://doi.org/10.33756/jalrev.v1i1.1605>.

⁴⁸ Yeni Nuraeni et al., 'Menciptakan Layanan Pengawasan Ketenagakerjaan Secara Profesional, Modern, Dan Bermartabat Berbasis Teknologi Digital', *Jurnal Teknologi Informasi Dan Ilmu Komputer* 9, no. 1 (2022): 181–90, <https://doi.org/https://doi.org/10.25126/jtiik.2022915595>.

⁴⁹ Nuraeni et al.

⁵⁰ Mardiana Mardiana and Sri Ernawati, 'Pengaruh Kepemimpinan Dan Pengawasan Terhadap Disiplin Kerja Pada Dinas Ketenagakerjaan Kota Bima', *Jurnal Valuasi: Jurnal Ilmiah Ilmu Manajemen Dan Kewirausahaan* 2, no. 2 (2 July 2022): 867–80, <https://doi.org/10.46306/vls.v2i2.115>.

⁵¹ Binwasnaker & K3, 'Perusahaan Yang Diperiksa s.d. Tw. Iii Tahun 2023' (Jakarta Selatan, 12 January 2024), <https://satudata.kemnaker.go.id/data/kumpulan-data/1634>.

case studies, are utilized to bolster legal interpretation and furnish context for the application of laws in the domain. The findings of this research are utilized to assess the efficacy of supervision and to offer recommendations for rules and their execution.

RESULTS AND DISCUSSION

Supervision of the nature and type of Employment Agreements

direct supervision

Direct supervision refers to oversight conducted by supervisors or leaders over their subordinates as they perform their tasks at the activity site, sometimes termed "control built-in."⁵² Labor supervision in Indonesia is governed by Law Number 3 of 1951, which empowers supervisors to visit workplaces, gather information from employers and employees, and perform direct inspections of working conditions.⁵³ Law No. 7 of 1981 on Compulsory Labor Reporting in Enterprises. Nonetheless, in reality, this reporting responsibility frequently encounters difficulties.

Supervisors' direct inspection of the workplace is crucial as it enables them to ascertain actual working conditions, gather accurate data, and enforce legal regulations immediately. Field supervisors can enhance corporate compliance with rules, particularly with reporting duties. To address corporate non-compliance, labor inspectors may employ measures like scheduled inspections, educational initiatives, and outreach to employers on the significance of reporting, as well as imposing penalties on those found in violation.

During the initial meeting with the employer, the inspector must thoroughly explain the legal authority and regulations that will be used to conduct the inspection. The inspector should emphasize that the inspection will comply with legal standards and further explain the reasons for conducting the inspection. All parts of the company must be inspected by the inspector together with the employer or their designated representative. During the inspection, the inspector must visit all areas and sections of the company safely. The inspector must remember that they are also responsible for improving work standards.⁵⁴

Supervisory officers ensure the implementation of Fixed-Term Employment Agreements (PKWT) in companies, where currently, laws and regulations govern such agreements as stipulated in Article 1, number 1 of the Regulation of the Minister of Manpower No: KEP.100/MEN/VI/2004 and Article 1, paragraph 10 of Government Regulation No.35 of 2021. The fixed-term employment agreement refers to: "An employment agreement between workers/laborers and employers to establish an employment relationship for a certain period or for specific work."⁵⁵

a) Work that is executed once or is transient. Employment partnerships established by PKWT may be conducted for tasks that are finalized in a single execution. Work examples comprise BTS installation technicians at CV. Guna Teknik, project drilling technicians at Energi Equity EWpic Sengkang, construction laborers at PT. Mitra Duta Mahakarya, production operators at PT. Dinar Wisesa Mahakarya, and plastic product production operators at PT. Anugrah Jaya Utama. The inspector assesses if the employment is genuinely temporary and adheres to the stipulations of the PKWT.

⁵² Cahyadi, Muttaqin, and Ardiwinata, *Hukum Pengawasan*. Pp.67.

⁵³ Arifuddin Muda Harahap, *Pengantar Hukum Ketenagakerjaan* (Malang: Literasi Nusantara, 2020). Pp. 133.

⁵⁴ Risal Ibran Saisab, Vecky Yanni Gosal, and Marthin Doodoh, 'Tugas Dan Wewenang Pegawai Pengawas Ketenagakerjaan Dalam Menangani Masalah Ketenagakerjaan Selama Bekerja Diperusahaan', *LEX ADMINISTRATUM* 10, no. 5 (2022), <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/43057/37904>.

⁵⁵ Geraldo Samuel Sengkey, 'Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan Hukum Ketenagakerjaan', *Lex Privatum* 9, no. 6 (2021): 130–40.

b) The completion is anticipated to occur shortly. PKWT is applicable for tasks anticipated to be finished within a brief timeframe, after which the contract concludes automatically upon completion of the job. The inspector verifies that the contract aligns with the stipulated period of the job. The Pettarani Toll Road Development Project is anticipated to conclude in three years, with the inspector ensuring that the contract adheres to the designated timeline.

c) Seasonal. Seasonal employment is contingent upon the season or weather, and PKWT is applicable just for a certain sort of labor within a designated timeframe. Inspectors verify that seasonal contracts pertain only to tasks associated with a certain season, as evidenced by PT. Sulse Raja Agro.

d) Concerning novel goods, activities, or supplementary offerings that remain in the trial or exploratory phase. PKWT may be established for tasks associated with new goods, novel activities, or supplementary products that remain in the experimental phase. Work examples comprise new plastic product designers at PT. Anugrah Jaya Utama and BTS ornament development technicians at CV. Guna Teknik. The inspector verifies that this work complies with the provisional character of the product testing.

e) Temporary Employment: For instance, drilling operators at Energi Equity EWpic Sengkang and APD officials at PT. Dinar Wisesa Mahakarya, the inspector guarantees compliance with the PKWT duration constraints.

Indirect Supervision Based on Complaints

Inspections prompted by complaints, as stipulated in Article 34 of Minister of Manpower Regulation Number 3 of 2016, allow for evaluations beyond the standard work plan. Special inspections concerning normative rights are conducted in response to complaints, corporate requests, or directives from the director of the labor inspectorate. Should infractions be identified, the inspectorate will generate an inspection report pursuant to Article 34 of Minister of Manpower Regulation Number 33 of 2016.⁵⁶ The inspection note from the labor inspectorate employee seeks to provide legal certainty and ensure compliance with relevant laws and regulations.⁵⁷ The message is secret and intended just for business stakeholders.⁵⁸ Concerning the PKWT matter, Article 34 paragraphs (1) and (2) of the Minister of Manpower Regulation on Supervision Procedures stipulates that the labor inspectorate may issue a specific inspection note that pertains solely to fixed-term work agreements and/or the delegation of part of the work to another entity. This special inspection note differs from Inspection Notes I and II, which are governed by Article 33 of the Minister of Manpower's Regulation on Supervision Procedures and are exclusively issued for specific PKWT matters.⁵⁹

According to the interview findings, grievances typically arise when employees face the danger of termination (PHK) or see a misalignment between their duties and the PKWT. For instance, at PT. Dinar Wisesa Mahakarya, including Human Resources Development, Administration, Quality Engineering, and Cleaning Services. Subsequently, proceeded with a specialized examination in

⁵⁶ Natanshia, Nurhayati, and Hanafi, 'Penerapan Sanksi Terhadap Perusahaan Yang Tidak Mendaftarkan Tenaga Kerja Dalam Badan Penyelenggara Jaminan Sosial Ketenagakerjaan Di Kota Banjarmasin'.

⁵⁷ Eva Noviana, Toto Tohir Suriaatmadja, and Rini Irianti Sundary, 'Asas Keseimbangan Dalam Perjanjian Kerja Antara Pekerja Dan Pengusaha Dalam Rangka Mewujudkan Keadilan Bagi Para Pihak', *Jurnal Wawasan Yuridika* 6, no. 1 (31 March 2022): 84–100, <https://doi.org/10.25072/jwy.v6i1.533>.

⁵⁸ Noviana, Suriaatmadja, and Sundary.

⁵⁹ Rizky Heber, Baso Madiong, and Mustawa Nur, 'Analisis Perlindungan Hukum Perubahan Perjanjian Kerja Waktu Tertentu Menjadi Perjanjian Kerja Waktu Tidak Tertentu', *Indonesian Journal of Legality of Law* 5, no. 2 (30 June 2023): 281–89, <https://doi.org/https://doi.org/10.35965/ijlf.v5i2.2665>.

accordance with the directives of the unit commander. To this end, the inspector juxtaposes documentation from employees and the organization, examines adherence to the PKWT, and scrutinizes the production process and contract length.⁶⁰ The labor inspectorate is responsible for conducting investigations and collecting sufficient preliminary evidence to demonstrate that an employer has violated the agreed terms regarding the working period with employees. If it is determined that the employer has committed a violation, the labor inspector will issue an inspection letter that includes a warning. This inspection memo contains details of the findings from the labor inspector's examination of the company or employer, including directives or recommendations for rectifying violations or implementing specific labor standards. The labor inspector will continue to issue inspection memos until employees with a fixed-term employment agreement are converted to an indefinite term employment agreement.⁶¹

Imperative to Enhance Oversight and Enforcement of PKWT Legislation in Indonesia In Indonesia's employment relations, the use of Fixed-Term Employment Agreements (PKWT) is frequently abused, particularly for positions that need to utilise Indefinite-Term Employment Agreements (PKWTT). According to Soerjono Soekanto's philosophy of law enforcement, addressing this issue necessitates a synergy among legal substance, legal structure, and legal culture to enhance supervision and law enforcement efficacy.

a) Legal Substance: The inconsistency between regulation and practice, as established by the Job Creation Law (Law No. 6 of 2023) and the Manpower Law (Law No. 13 of 2003), stipulates that PKWT may solely be employed for temporary, particular, or seasonal labour. In actuality, several firms employ PKWT for permanent positions, particularly in finance, human resources, and quality control departments. This contravenes the norms of legality and legal justice, as articulated in Marsha Chikita Widyarini's study (2020).

b) Legal Structure: The insufficiency in the quantity and capability of labour inspectors is evident, as data indicates that Indonesia has 1,694 labour inspectors responsible for overseeing almost two million enterprises (WLKP 2023). This indicates a significant disparity between the demand for oversight and the available resources, leading to inadequate monitoring of PKWT implementation.

c) Legal Culture: Limited Legal Awareness among Corporations; several corporations favour PKWT due to its perceived economic efficiency, despite its illegality. This indicates a deficient legal culture among company participants.

The Examination Notes Related to The Transition of Employment Status

Once it is recognized that Labor Inspectors are administrative officials, the decisions made by Labor Inspectors (including assessments of the requirements for fixed-term employment agreements or outsourcing) may be subject to legal challenge in the Administrative Court (PTUN).⁶² The Constitutional Court issued a new regulation in its decision. Decision 7/PUU XII/2014 enhances the authority of labor inspectors and emphasizes legal actions that can be taken following inspection notes issued by labor inspectors that are disregarded by employers or companies.⁶³ In fact, the above issue has been resolved. Constitutional Court Decision No. 7/PUU-XII/2014 stipulates that inspection

⁶⁰ Ashar, 'Pegawai Pengawas/Penyidik Ppns'.

⁶¹ Lanny Ramli and Samuel Nikodemus Kaban, 'Legal Action on Labour Inspection Memo in Industrial Relations in Indonesia', *International Journal of Criminology and Sociology* 10 (2021): 668-74, <https://doi.org/https://doi.org/10.6000/1929-4409.2021.10.78>.

⁶² Tri Budiyo, 'Perlindungan Hukum Tenaga Kerja Kontrak Dan Outsourcing, Serta Problematika Implementasinya', *Refleksi Hukum: Jurnal Ilmu Hukum* 5, no. 2 (29 April 2021): 145-60, <https://doi.org/10.24246/jrh.2021.v5.i2.p145-160>.

⁶³ Ramli and Kaban, 'Legal Action on Labour Inspection Memo in Industrial Relations in Indonesia'.

notes have binding legal force, and workers can request validation of inspection notes from labor inspectors to the local district court under the following conditions:⁶⁴

- a) Bipartite negotiations have been conducted but have not reached an agreement, or one party refuses to negotiate.
- b) Additionally, based on legislation, labor inspectors conduct inspections.

Based on Constitutional Court Decision No. 7/PUU-XII/2014, workers can request validation from the local district court.⁶⁵ According to the ratio decidendi of the Constitutional Court, an inspection memo includes information on the findings of an inspection conducted by an inspection officer regarding an employer or hiring company, as well as instructions to prevent violations and enforce labor regulations. Consequently, the Constitutional Court considers the inspection memo to be a recommendation rather than an executory document.⁶⁶

When employers refuse to accept the validation of Labor Inspectorate (PPK), the Constitutional Court decision does not provide a solution. As a result, the District Court lacks the authority to enforce coercive measures (execution), such as collectively implementing Joint Agreements (PB). This is because the District Court's decision only provides support and not a final decision with executorial value, labeled "For the Sake of Justice Based on the Almighty God".⁶⁷ Since not all court decisions have executive power, except for:

- a) Final court decisions;
- b) Arbitration decisions;
- c) Agreements stipulated by law; and
- d) Deeds made for the sake of justice based on the Almighty God

Because the validation of the Labor Inspectorate's Examination Notes by the District Court does not include the above points, the validation lacks executorial power. Furthermore, it still leaves the issue of the absence of legal consequences if employers continue to violate provisions.⁶⁸ Following an application for annulment or modification, the Court shall issue a ruling. The Court's decision regarding the adoption of the inspection memo has two possible outcomes. First, the Court may rule on the enactment of an inspection memo that confirms the change in the status of workers from a fixed-term employment agreement to an indefinite-term employment agreement. Alternatively, the Court may determine that the status of workers should remain under the fixed-term employment agreement. The Court's decision is crucial in ensuring the predictability of workers' status. If an employer refuses to comply with a court order enforcing the inspection memo, execution cannot be requested, and the matter must be addressed through the resolution of an employment termination dispute.⁶⁹ This indicates that the inspection notes from the Labour Inspectorate lack the same legal authority as a court ruling with enduring legal effect. The execution of inspection notes is heavily

⁶⁴ Mahdi Haidar, 'Reformulasi Ketentuan Masa Kerja Pada Perjanjian Kerja Waktu Tertentu Berdasarkan Jangka Waktu', *Masalah-Masalah Hukum* 51, no. 2 (28 April 2022): 179–87, <https://doi.org/10.14710/mmh.51.2.2022.179-187>.

⁶⁵ Azyzatul Layli and Emmilia Rusdiana, 'Problematika Putusan Mahkamah Agung No 107 k/Pdt.Sus-Phi/2021 Mengenai Perselisihan Perjanjian Kerja Waktu Tertentu Terkait Pembaharuan Pkwt Pada Pekerjaan Musiman', *Novum: Jurnal Hukum*, 31 July 2023, 66–79.

⁶⁶ Ramli and Kaban, 'Legal Action on Labour Inspection Memo in Industrial Relations in Indonesia'.

⁶⁷ Muchtar and Sulistiyono, 'Efektivitas Putusan Mahkamah Konstitusi Nomor 7/Puu-Xii/2014 Terhadap Pekerja Dengan Perjanjian Kerja Waktu Tertentu'.

⁶⁸ Haidar, 'Reformulasi Ketentuan Masa Kerja Pada Perjanjian Kerja Waktu Tertentu Berdasarkan Jangka Waktu'.

⁶⁹ Ramli and Kaban, 'Legal Action on Labour Inspection Memo in Industrial Relations in Indonesia'.

reliant on the integrity and benevolence of the employer. Consequently, breaches of the Fixed-Term Employment Agreement (PKWT) are regarded as conflicts requiring resolution through the Industrial Relations Court (PPHI) just when employees perceive their rights to have been infringed.⁷⁰

Administrative Sanctions and Policy Solutions

In general, law enforcement can be defined as the application of sanctions to ensure compliance with established provisions. Repressive legal protection is intended to resolve disputes or impose coercive punishments.⁷¹ From a legal standpoint, supervision entails evaluating the legitimacy of governmental activities that yield legal ramifications.⁷² The supervisory mechanism evaluates the alignment between planning (*das sollen*) and implementation (*das sein*).⁷³ Repressive legal protection is intended to resolve disputes or impose coercive punishments.⁷⁴ Both terms, as mentioned above, definitely differ. The term "implementation of inspection memo" is about the execution of a verdict that has permanent legal force, which in the judgment must contain condemnatory verdict, while the term "enactment of inspection memo" is related to the documentation of cases in volunteer where the product of endorsement is declaratory determination, that is to confirm the legal state as contained in the inspection note. Not every single decision that has already obtained the force of law must be implemented because all that is required is condemnation decisions, which contain instructions to comply with carrying out certain acts as described in the decision. With such a difference, it should then certainly be differentiated on the difference between the terms "implementation of inspection memo" with the term "enactment of inspection memo."⁷⁵

When discussing the effectiveness of laws, we must first assess the level of compliance with the law. If the majority of the target group complies, the law is considered effective.⁷⁶ Additionally, law enforcement indicates the achievement of goals to maintain and protect society in social life.⁷⁷ The case of Mataram District Court Decision No. 17/Pdt.Sus-PHI/2021/PN Mtr, dated January 19, 2022, illustrates the importance of validation by the local court. This note, issued on September 17, 2021, had not been approved by the local District Court in accordance with Constitutional Court Decision No. 07/PUU XII/2014. Consequently, the lawsuit was dismissed. The results of inspections conducted by labor inspectors are referred to as inspection reports. In fact, the inspection note does not affect employers' legal violations because the inspection note is not executorial.⁷⁸

According to Nurul Ashar, employers often ignore the contents of Special Examination Notes even if validated by the court. Therefore, labor inspectors suggest resolving cases in the Industrial Relations Court because only Special Examination Notes cannot provide effective sanctions. In such situations, labor inspectors can only contact employers through official calls and report to the labor inspector

⁷⁰ Ikhwan Fahrojih, *Hukum Perburuhan Konsep, Sejarah, Dan Jaminan Konstitusional* (Malang: Setara Press, 2016).

⁷¹ Silvia Agustin Suyandi and Asri Wijayanti, 'Penegakan Pidana Ketenaagkerjaan Oleh Pegawai Pengawas Ketenagakerjaan', *Wijayakusuma Law Review* 2, no. 01 (29 December 2020): 44–57, <https://doi.org/10.51921/wlr.v2i01.128>.

⁷² Sondang P. Siagian, *Administrasi Pembangunan* (Jakarta: Gunung Agung, 2000). Pp. 135.

⁷³ Victor M. Situmorang and Jusuf Juhir, *Aspek Hukum Pengawasan Melekat* (Jakarta: PT Rineka Cipta, 1994). Pp. 74.

⁷⁴ Suyandi and Wijayanti, 'Penegakan Pidana Ketenaagkerjaan Oleh Pegawai Pengawas Ketenagakerjaan'.

⁷⁵ Ramli and Kaban, 'Legal Action on Labour Inspection Memo in Industrial Relations in Indonesia'.

⁷⁶ Farida Azzahra, 'Pemberlakuan Sanksi Administratif: Bentuk Upaya Paksa Meningkatkan Kepatuhan Pejabat Atas Pelaksanaan Putusan Peradilan Tata Usaha Negara (Teori Efektivitas Hukum)', *Binamulia Hukum* 9, no. 2 (4 April 2020): 127–40, <https://doi.org/10.37893/jbh.v9i2.368>.

⁷⁷ Azzahra.

⁷⁸ Haidar, 'Reformulasi Ketentuan Masa Kerja Pada Perjanjian Kerja Waktu Tertentu Berdasarkan Jangka Waktu'.

unit leader.⁷⁹ The possibility of implementing administrative labor sanctions is becoming an increasingly vital legal tool for safeguarding workers' legitimate rights and interests within the framework of comprehensive rule of law. Based on their research, Qin et al. (2024) demonstrate that the enforcement of labor administrative fines in cities has a more pronounced effect on increasing the share of labor income for enterprises with lower levels of real investment, particularly those with fixed assets.⁸⁰

Policy measures to enhance the efficacy of fixed-term employment contract (PKWT) implementation in Indonesia:

a) Harmonisation of Regulations with Field Practices by Explicit Job Categorisation, Formulating more comprehensive standards about the sorts of work eligible for PKWT, thus mitigating the exploitation of temporary work contracts for permanent positions.

b) Enhancing Oversight and Competence of Labour Inspectors:

1. Augmenting the Quantity of Supervisors: Substantially enhancing the quantity of labour inspectors to address current deficiencies. The present ratio is suboptimal.

2. Training and Competency Development: Delivering continuous training to labour inspectors to enhance their proficiency in identifying violations and implementing administrative punishments efficiently.

3. Enhancing Technological Supervision: According to study by Nuraeni et al. (2022), employing technology-based methods, such as digital apps or platforms,⁸¹ to monitor corporate reports in real time and assist labour inspectors in their oversight duties. Concrete measures are required, including the creation of a centralised complaint hotline at the Ministry of Manpower.⁸²

c) Enhancing Law Enforcement and Penalties:

1. Enhanced Administrative Penalties: Augment the administrative fines imposed on enterprises that contravene the stipulations of the PKWT, including the termination of business licenses, to ensure a deterrent impact.

2. Executorial Sanctions: Researchers have suggested many techniques to enhance labour inspections and enforcement, hence granting labour inspector records executive legal authority.⁸³ This necessitates modifications to laws or regulations, enabling the immediate implementation of inspection records without the need for further judicial procedures.

3. Compliance Incentives: Offer rewards or incentives to enterprises who continuously adhere to labour rules, such as PKWT.

d) Legal Instruction and Awareness.

1. Corporate Socialisation: Inform corporations of the significance of adhering to labour standards and the legal repercussions of non-compliance.

⁷⁹ Ashar, 'Pegawai Pengawas/Penyidik Ppns'.

⁸⁰ Xuerui Qin, Xiao Pan, and Libo Li, 'Cities' Labor Administrative Penalties and Labor Income Share of Enterprises', *Heliyon* 10, no. 14 (2024): e33123, <https://doi.org/https://doi.org/10.1016/j.heliyon.2024.e33123>.

⁸¹ Nuraeni et al., 'Menciptakan Layanan Pengawasan Ketenagakerjaan Secara Profesional, Modern, Dan Bermartabat Berbasis Teknologi Digital'.

⁸² Solechan Solechan, 'Pengawasan Pelaksanaan Sistem Outsourcing Yang Berbasis Pada Hak Asasi Manusia', *Administrative Law and Governance Journal* 2, no. 2 (2 June 2019): 337-48, <https://doi.org/10.14710/alj.v2i2.337-348>.

⁸³ Pilot Ndhlovu and Provilence Ndhlovu, 'Precipitants of the Ineffective Labor Act Enforcement in Zimbabwe', *Conflict Resolution Quarterly* 41, no. 2 (8 December 2023): 197-211, <https://doi.org/10.1002/crq.21401>.

2. Enhancing Worker Awareness: Educate employees of their rights, particularly with PKWT, to empower them to proactively report violations.

3. Collaboration with NGOs and Trade Unions: Engage non-governmental organisations and trade unions in the promotion and oversight of PKWT implementation.⁸⁴ In Argentina, labour inspectors have utilised their connections with worker organisations to enhance enforcement, illustrating the.⁸⁵

The implementation of PKWT is anticipated to be more open and equitable, while safeguarding workers' rights and guaranteeing business adherence to relevant rules.

CONCLUSION

The significance of oversight and enforcement of legislation pertaining to the Fixed-Term Employment Agreement (PKWT) system in Indonesia. This study demonstrates that the application of PKWT is frequently inappropriate, particularly for roles that ought to employ Indefinite-Term Employment Agreements (PKWTT), including those in finance, human resources, and quality control sectors. Despite the existence of legislation like the Job Creation Law and the Manpower Law, a substantial discrepancy between regulatory frameworks and field practices persists.

This report underscores the insufficient number of labor inspectors, totaling around 1,694 individuals, tasked with overseeing over two million firms across Indonesia. This leads to insufficient oversight of the execution of PKWT. Moreover, insufficient legal understanding among corporations exacerbates the problem, as PKWT is frequently perceived as more cost-effective despite being illegality.

This report recommends many measures to enhance oversight and law enforcement, such as augmenting the quantity and proficiency of inspectors, employing digital technologies for monitoring, and implementing more stringent administrative penalties for noncompliant organizations. These measures are anticipated to enhance adherence to PKWT legislation, safeguard workers' rights, and foster equitable employment relationships in Indonesia.

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⁸⁴ Encup Supriatna, 'Inisiatif Partisipasi Sosial Dalam Mengatasi Anak Putus Sekolah: Studi Kasus Pada Jaringan Kerja Dan Kolaborasi Antara Lembaga Pemerintah, LSM, Dan Masyarakat Sipil Di Indonesia', *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 17, no. 3 (10 May 2023): 1828, <https://doi.org/10.35931/aq.v17i3.2196>.

⁸⁵ Matthew Amengual and Janice Fine, 'Co-enforcing Labor Standards: The Unique Contributions of State and Worker Organizations in Argentina and the United States', *Regulation & Governance* 11, no. 2 (24 June 2017): 129–42, <https://doi.org/10.1111/rego.12122>.

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