



## The Legal Relevance of Labor Protection within the Framework of Positive Law in Indonesia

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### ARTICLE INFO

*Keywords:* Legal Practice, Termination of Employment, Legal Protection

*Received :* 01 April 2025

*Revised :* 23 April 2025

*Accepted:* 25 May 2025

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### ABSTRACT

Labor encompasses all individuals capable of performing work to generate commodities or services, fulfilling both personal and communal needs. Derived from the Equality Before the Law principle, which asserts that all individuals possess the right to equitable legal recognition, protection, assurance, and certainty, as well as uniform treatment under the law, this constitutes the foundation of legal equality. This study evaluates the efficacy of legal frameworks in safeguarding the rights of employees subjected to Termination of Employment (PHK) owing to extended illness, by scrutinizing the types of legal protections afforded to them. **Methods.** The employed methodology is doctrinal normative legal research, utilizing a legislative approach with pertinent case studies, regulatory examination, judicial rulings, and perspectives from legal scholars. The study's results indicate that violations persist in practice, notwithstanding the provisions in Law Number 6 of 2023 about Job Creation that safeguard workers dismissed due to extended illness. This circumstance indicates that legal rules alone are insufficient. Consequently, the government must enhance ongoing oversight and elevate legal awareness among workers and employers to ensure adherence to established standards.

## INTRODUCTION

Labor encompasses all individuals capable of performing work to generate commodities or services, fulfilling both personal and communal needs. Data from the Central Statistics Agency (BPS) indicates that Indonesia's workforce will total 144.642 million individuals in 2024. In 2024, Indonesia's entire population will reach 278,696.2 individuals. The data suggests that over fifty percent of Indonesia's population comprises workers.

Derived from the Equality Before the Law principle, which asserts that all individuals possess the right to equitable legal recognition, protection, assurance, and certainty, as well as uniform treatment under the law, this constitutes the foundation of legal equality. Employment in Indonesia is governed by Law Number 13 of 2003 about Manpower, which has been updated by Law Number 6 of 2023, transforming Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into law. Among the several employment issues in Indonesia, termination of employment (PHK) is one of the most prevalent. When confronted with a powerful employer, labor consistently occupies a subordinate position, rendering it susceptible to injustices in pursuing corporate goals.

The termination of employment under Article 1, Section 25 of Law No. 13 of 2003 occurs due to a specific circumstance that leads to the cessation of rights and obligations between employees and employers. The legal ramifications of the Termination of Employment (PHK) by the Company will pertain to the employer's commitment to provide compensation, including severance pay, service award funds, and indemnity, along with other responsibilities to ensure the entitlements of terminated employees are met. Many workers fail to receive their rights due to different factors, including corporate insolvency or employers' non-adherence to legal regulations.

Between January and June 2024, 32,064 employees were terminated. The highest percentage of laid-off workers is in DKI Jakarta Province, approximately 23.29 percent. Jaja Sujana, S.Ap., M.Si (Young Expert Mediator of the Cirebon City Manpower Office), reports that there are 28 registered cases of Termination of Employment (PHK) in Cirebon City for 2024, with one case having received a letter of recommendation. The data indicates that a limited number of employees inside the organization undergo Termination of Employment (PHK).

The instance of unilateral termination of employment (PHK) transpired in a company, specifically PT. X, a transportation service provider in Cirebon City, opposes one of its terminated employees due to extended illness. The employee has been employed since 1991 and holds a job in the financial department. In March 2021, he experienced renal failure and required treatment from March to June 2021, rendering him unable to work. Upon resuming employment from July to August 2021, he was summoned by the corporation and issued with a receipt of Rp. 9,750,000 (Nine million seven hundred fifty thousand rupiah) + Rp. 3,250,000 (Three million two hundred fifty thousand rupiah) is indicated on the receipt as the final honorarium for August 2021. The corporation also sent him a letter containing his resignation. The employee dispatched a refusal letter to the corporation as he declined to accept the payment. Since then, he has remained

unemployed, has not received any remuneration, and has had his BPJS Kesehatan membership withdrawn by the Company.

The condition, as mentioned earlier, indicates that the company fails to adhere to the Termination of Employment (PHK) procedure as outlined in Article 81, Number 40 of Law No. 6 of 2023, which pertains to the enactment of Government Regulations instead of Law No. 2 of 2022 regarding Job Creation. This legislation modifies Article 151 of Law No. 13 of 2003 about Manpower, providing that if an employee contests the Termination of Employment, the resolution must be achieved through bipartite negotiations between the Employer and the Employees/Laborers and/or the Labor Union. If an agreement is not reached, the termination of employment advances to the next stage under the Industrial Relations Dispute (PHI) resolution framework. This example demonstrates the disparity between the theoretical rule of law and its practical implementation. Notwithstanding the stipulations of Law Number 13 of 2003 on Manpower and Law Number 6 of 2003 about the Establishment of Government Regulations instead of Law Number 2 of 2022 on Job Creation, which outline legal safeguards for employees, including termination protocols and related entitlements, infractions continue to occur in practice.

The author seeks to examine the legal practice of labor protection within the framework of positive law in Indonesia, particularly concerning layoffs resulting from prolonged illness, to ascertain the effective implementation of legal norms and the provision of justice for workers. The author will examine the provision of legal protection for employees dismissed due to prolonged illness, following Law Number 6 of 2023 on the Codification of Regulations into Law and Government Regulation (PP) Number 35 of 2021 regarding Fixed-Term Employment Agreements (PKWT), Outsourcing, Working Hours, and Employment Termination as regulatory frameworks.

## **LITERATURE REVIEW**

### **Labour Protection**

In Employment, especially in Companies, Workers play the role of the driving wheel, making them very important in improving and advancing the company. Considering that workers greatly contribute to the company, the welfare of workers needs to be viewed for improvement, especially in terms of wages. (Isaura, Abadi, & Chamdani, 2023 in Gumilang, 2025). Workers in their activities have rights and obligations to the company, where the workers must work according to the rules, both legal rules and work rules and the right of the workers is to receive wages for the work they have done according to what has been agreed upon. The company is required to compensate the workers with a specified wage upon their completion of labor as per the mutually established agreement. Nevertheless, in reality, numerous enterprises continue to disregard their commitment to compensate employees above the Minimum Wage, and several employers fail to uphold the normative rights of workers, remaining much below the established norms (Manurung, 2022, in Gumilang, 2025).

### **Positive Law in Indonesia**

The 1945 Constitution, as the country's supreme constitution, plays a crucial role in ensuring the protection of human rights for all Indonesian citizens. Human rights are fundamental rights inherent in every individual from birth, regardless of race, religion, ethnicity, or social status. Protecting human rights is an essential element in the modern state of law, including in Indonesia, because it ensures that every individual has rights and freedoms guaranteed by law. Since the 1998 reform, Indonesia has made four amendments to the 1945 Constitution. This amendment improved and strengthened the country's legal and political framework, including human rights protection. One of the significant changes resulting from the amendment is strengthening human rights protection in the constitution, which includes the affirmation of fundamental rights and freedoms that must be respected and protected by the state (Rahman, 2024).

### **Labour Law**

Business organizations tended toward large, vertically integrated systems of production, which produced goods and services for mass markets. In these large firms, such as car manufacturers and banks, the business is operated through a bureaucratic organization. This organization linked together and coordinated numerous jobs through managerial hierarchies. Employees typically joined these companies in entry positions, received training in the necessary skills for their jobs, and then, subject to good performance, remained in those jobs or received promotion and training to other jobs for much of their working careers. The jobs were usually full-time, of indefinite duration. They were expected to last until retirement, at which point most employees of the large organization would benefit from the employee's occupational pension scheme (Collins et al., 2019).

### **METHODOLOGY**

This study employs normative (doctrinal) legal research as its methodology. Normative legal research is performed by analyzing literary materials (secondary data). This is to as normative legal research or literature law study, in contrast to sociological or empirical legal research, which primarily investigates primary data. This normative research employs document or literature studies, utilizing legal sources including statutes, regulations, judicial decisions, legal theories, and scholarly opinions. This normative legal research examines the legal norm system, encompassing norms or regulations pertinent to a legal event. This research seeks to articulate legal reasons to ascertain the morality of an occurrence and its legal framework.

The study will employ a Statute Approach, examining all laws and regulations pertinent to the identified legal challenges. It will utilize legal materials or secondary data, specifically main legal materials, which include legislation, and secondary legal materials comprising law books, legal journals, findings from legal research, interviews with legal experts, and non-legal materials such as census data.

## RESEARCH RESULT AND DISCUSSION

Legal Protections for Employees Dismissed Due to Prolonged Illness Under Law Number 6 of 2023, Enacting Government Regulations Pursuant to Law Number 2 of 2022 on Job Creation, and Government Regulation (PP) Number 35 of 2021 Concerning Fixed-Term Employment Agreements (PKWT), Outsourcing, Working Hours, and Employment Termination.

Law No. 13 of 2003 regarding Manpower does not include a distinct definition for "prolonged illness." Article 81, number 45 of Law No. 6 of 2023 stipulates that Termination of Employment may occur if "the Worker/Laborer experiences prolonged illness or disability due to a work accident and is unable to perform their duties after exceeding a duration of 12 months." Thus, "prolonged illness" is implicitly defined as a medical condition persisting continuously beyond 12 months. The aforementioned layoff scenario indicates that employees are afflicted with kidney failure, a chronic illness. Kidney failure is the impairment of renal function that results in chronic kidney dysfunction. The author posits that the worker suffers from a serious ailment due to kidney failure. This chronic condition can lead to a progressive deterioration of health, necessitating a prolonged recovery period. This condition is encompassed within the criteria for chronic illness as stipulated in Article 81, Section 45 of Law No. 6 of 2023.

Moreover, the paramount element of legal protection for employment termination is the accuracy of workers' status and the veracity of the reasons for dismissal. There are two fundamental categories of reasons for layoffs: permissible reasons and impermissible reasons.

Prohibition of Terminations In the course of illness Article 81, number 43 of Law Number 6 of 2023, concerning the implementation of Government Regulations instead of Law Number 2 of 2022 on Job Creation, mandates that employers are forbidden from terminating employees incapacitated by illness, as verified by a medical professional, provided that the disease does not extend beyond twelve (12) consecutive months.

The article seeks to ensure legal safeguards for workers to prevent the forfeiture of their rights in situations necessitating prolonged medical care. According to the stipulations of the layoff prohibition, employees who are ill for an extended duration or have a continuous absence from work for 12 months may have their employment terminated by the employer in the 13th month.

Article 81, number 43 of Law Number 6 of 2023 stipulates that legal protections for workers ensure the continuation of their rights, including wages and allowances, provided the worker remains within the protection period of twelve months, contingent upon a doctor's certificate. This medical certificate thereafter serves as the foundation for the company to implement policies regarding wages and the employment status of the respective worker. Article 93, paragraph (3) of Law Number 13 of 2003 about Manpower delineates the regulations for wage calculation during an employee's extended illness. During the initial four months of illness, the Company compensates the worker with 100% of their wages.

The wages constitute 75% of the employees' compensation during the subsequent four months. Over the next four months, wages will constitute 50% of the employees' compensation. The corporation disburses 25% of the employee's wages for the month following the cessation of employment. A proper medical certificate must accompany the aforementioned wage conditions. Assume the ill employee does not work constantly without a physician's certificate. In such circumstances, the employer may deem the employee absent from their position, potentially resulting in termination of employment without severance compensation.

### **Legal Ramifications of Corporate Layoffs Targeting Employees Due to Extended Illness.**

The dismissal of employees by employers due to extended illness, substantiated by a medical certificate and not surpassing twelve consecutive months, violates Law Number 6 of 2023 pertaining to the Implementation of Government Regulations, in contrast to Law Number 2 of 2022 regarding Job Creation. The legal consequences of the layoffs are specified in Article 153, paragraph (2) of Law Number 13 of 2003 on Manpower, as amended by Article 81, number 43 of Law Number 6 of 2023, concerning the Enactment of Government Regulations instead of Law Number 2 of 2022 on Job Creation, which renders it null and void, thereby requiring the employer to reinstate the affected worker/laborer.

Concerning the legal consequences for an employer who neglects to compensate sick employees, Article 81, number 67 of Law Number 6 of 2023, which changes Law Number 2 of 2022 on Job Creation, prescribes criminal sanctions. Penalties encompass incarceration for a minimum of one month and a maximum of four years, and/or penalties ranging from Rp 10,000,000.00 (ten million rupiahs) to Rp 400,000,000.00 (four hundred million rupiahs). Jaja Sujana, S.Ap., M.Si, a Young Expert Mediator of Industrial Relations at the Cirebon City Manpower Office, stated that if a company or entrepreneur continues to refuse compliance with legal wage obligations, legal sanctions may be enforced in accordance with the applicable industrial relations dispute resolution procedures by the relevant court, specifically the Industrial Relations Court.

### **Remuneration**

Assume a worker suffering from a chronic illness has been sidelined for twelve months and is unable to fulfill their responsibilities. In this case, the company may dissolve the employment relationship by providing compensation in the form of severance pay and/or service award funds, along with remuneration for employee rights as outlined in Government Regulation (PP) Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment, Article 55, paragraph (1), under the specified conditions: Severance compensation totaling double the provisions of Article 40, paragraph (2) A monetary award for service, as defined in Article 40, Paragraph (3), shall be granted only once.

Remuneration under the stipulations of Article 40, paragraph (4). The stipulations for determining severance compensation, service award funds, and reimbursement amounts are elaborated in the Calculation of Severance Pay (Governed by Article 40, paragraph (2) of Government Regulation Number 35 of 2021)

The compensation shall be equivalent to one month's salary for a duration of employment under one year. Employment tenure of one year or more but less than two years warrants a severance of two months' compensation. Employment duration of two years or more but less than three years entitles one to three months' remuneration. Employment duration of three (3) years or more but less than four (4) years warrants a severance equivalent to four (4) months' income. Employment tenure of four years or more but less than five years warrants a remuneration equivalent to five months' pay. Employment duration of five (5) years or more but less than six (6) years entitles one to six (6) months of income. Employment duration of six (6) years or greater but less than seven (7) years warrants seven (7) months' remuneration. For a duration of employment of seven (7) years or more but less than eight (8) years, the compensation should be eight (8) months' salary; For a duration of employment of eight years or more, the compensation shall be nine months' salary.

In instances of employment termination due to extended illness, according to Article 55 paragraph (1) of Government Regulation Number 35 of 2021 regarding Fixed-Time Work Agreements, Outsourcing, Working Hours and Rest Periods, and Employment Termination, the employee is entitled to receive double severance pay. The worker's total compensation will be twice the severance pay determined by the length of employment. Determination of Service Award Compensation (Governed by Article 40, paragraph (3) of Government Regulation Number 35 of 2021). Employees with a tenure of three to less than six years are entitled to two months' salary. Employees with a tenure of six years or more, but less than nine years, shall get three months' salary.

If you have worked for a duration of 9 (nine) years or more but less than 12 (twelve) years, you are entitled to 4 (four) months of remuneration; An employee with 12 to fewer than 15 years of service will earn 5 months' salary. Employees with 15 to 18 years of tenure will receive 6 months' salary. Individuals with 18 to 20 years of service are entitled to 7 months of earnings. Employment duration of 21 years or more but less than 24 years, resulting in the accrual of 8 months of earnings; For 24 years or more, receive ten months' salary.

Determining the Compensation Fee, as stipulated in Article 40, paragraph (4) of Government Regulation Number 35 of 2021, encompasses: Unused and unexpired annual leave. Travel expenses for the Worker/Laborer and their family members to return to the location of employment; Additional elements delineated in the Employment Agreement, Company Policy, or Collective Bargaining Agreement Judicial Remedies Jaja Sujana, S.Ap., M.Si, Young Expert Mediator of Industrial Relations at the Cirebon City Manpower Office, stated that in cases of layoffs due to disciplinary infractions or urgent circumstances, no prior warning is issued to employees. They may still be directly impacted by the SP (Warning Letter). In instances not involving disciplinary infractions, the

Company often issues a warning letter, permitting employees to submit objections. However, if the employees disregard the warning letter, the situation may persist until the Company's layoff decision is made. In the event of an issue concerning employment termination, the employee may confer with the Company. Employees may seek assistance from the company's labor organization or consult a legal representative if a consensus is not reached. A worker in a vulnerable situation who has been unilaterally dismissed and has not asserted his rights may seek assistance from the Legal Aid Institute (LBH), which can initiate legal proceedings on his behalf.

In accordance with Law number 6 of 2023, Article 81 number 40, which addresses the creation of Government Regulations in lieu of Law Number 2 of 2022 concerning Job Creation, it has been stated that Employers, Workers/Laborers, Trade Unions, and the Government must strive to avert Employment Termination. Consider a situation in which the cessation of employment is inevitable. In such cases, the employer must convey the reasons and purpose of the termination to the employees and/or the labor union. Assume the Worker has recognized the information but refuses to accept the Termination of Employment.

The resolution must transpire via bipartite discussions between the Employer, the Worker/Laborer, and/or the Trade Union. Should the bipartite discussions fail to achieve consensus, the resolution may advance to the next stage under the Industrial Relations Dispute Settlement Procedure.

The bipartite approach involves discussions between employees and employers over relevant issues. If bilateral conversations fail to reach a compromise, the parties may settle the issue through mediation, conciliation, or arbitration. If the parties choose mediation or conciliation without resolution, they may escalate the issue to the Industrial Relations Court (PHI). If arbitration is chosen, the ensuing agreement will be recorded in a peace deed, serving as an arbitration award that must be submitted to the District Court.

## **CONCLUSIONS AND RECOMMENDATIONS**

This study analyzes the legal protections for employees about the consequences of employment termination, specifically addressing Termination of Employment (PHK) due to illness, which grants the impacted individual the right to compensation. This compensation includes severance pay equal to double the sum specified in Article 40, paragraph (2), a service duration award corresponding to the provisions of Article 40, paragraph (3), and supplementary compensation as detailed in Article 40, paragraph (4) of Government Regulation No. 36 of 2021 concerning Fixed Time Agreements, Outsourcing, Working Hours and Rest Periods, and Employment Termination. Prior to the worker exceeding 12 months, and upon submission of a medical certificate as proof of illness, the worker is entitled to remuneration in accordance with Article 93, paragraph (3) of Law No. 13 of 2003 concerning Manpower. All employers, employees, laborers, trade unions, and the government must strive to prevent the termination of employment. Jaja Sujana, S.Ap., M.Si, asserts that the implementation of the Labor Law encompasses the dissemination of the

Manpower Law to employers and employees, offering guidance to organizations and workers concerning the Law, and enabling both direct and online consultations with the labor office for companies and employees.

If employment termination is unavoidable, the process must be executed through a bipartite (including both parties) and tripartite (mediated by a third party) discussion method. Notwithstanding the legal frameworks in Indonesia that regulate the layoff process, mandating thoughtfulness and transparency, violations of these stipulations continue to occur in practice. Employers continue to terminate employees arbitrarily, especially those considered unproductive due to illness. Some firms require employees to sign a resignation letter to avoid the obligation of providing severance pay.

These facts illustrate that the mere presence of legal regulations is inadequate. Consistent governmental law enforcement requires supervision. To address such difficulties, supervision must be carried out by a continuous employment oversight body. A mutual understanding of the rights and obligations of employees and employers about Labor Law is essential. The government may use associated agencies to enhance awareness of the rights and responsibilities of workers and employers, especially with employment termination, ensuring they are knowledgeable of the law and their individual rights and duties.

#### **ADVANCED RESEARCH**

Future research should examine how effectively the legal protections under Government Regulation No. 36 of 2021 and Law No. 13 of 2003 are implemented in practice, especially in cases of termination due to illness. Studies can focus on whether affected employees are aware of their rights and able to access severance pay and legal remedies. Interviews with workers, unions, and legal experts could help identify common barriers, such as lack of legal knowledge or fear of retaliation, which prevent fair resolution.

In addition, research should evaluate the performance of labor supervision bodies and the effectiveness of bipartite and tripartite mechanisms in addressing disputes. This includes assessing whether labor inspectors have sufficient resources to enforce compliance. Comparative analysis with international practices may also offer insights for strengthening Indonesia's labor protections, ensuring that legal safeguards translate into real-world justice for workers.

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