

Legal Basis for the Protection of Workers' Rights and Employment Contracts in the Startup Ecosystem of the Flexible Work Era

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ABSTRACT

This study analyses the legal aspects of employment in start-up companies, including issues of employment contracts, protection of workers' rights, and the implementation of flexible working regulations. Using normative legal methods and qualitative literature synthesis, it is explained that the Manpower Act, Job Creation and its derivative regulations have provided a legal basis for startups to implement modern work patterns while still prioritizing worker protection. The main findings include potential contract violations due to informal work culture, challenges in implementing BPJS, and a lack of legal education in the startup environment. The enforcement of workers' rights to minimum wages, social security, working hour structures, and the right to unionize are important issues that need to be continuously monitored by the government and industry players. This study recommends standardizing employment contracts, digitizing administration, and active collaboration between the government, startups, and workers to create a fair and sustainable startup employment ecosystem.

INTRODUCTION

The rapid development of digital transformation has influenced the dynamics of employment in the technology start-up sector in various parts of the world. Start-up companies now offer adaptive organizational models with a tendency towards flexible work cultures. These adaptive organizational models reflect the concept of strategic flexibility, which Kiley et al. (2015) have studied as an advantage in responding to the dynamics of change. This type of work environment has triggered changes in industrial relations, particularly in terms of employment contracts, recruitment mechanisms, and the fulfilment of workers' rights (Alon-Barkat & Busuioc, 2022). Startups generally operate in a dynamic business landscape, requiring adequate contract arrangements and labor protection to prevent inequality between employers and workers.

Indonesia has also experienced growth in the number of startup companies over the past ten years, which has led to the emergence of non-conventional forms of employment. As a result, many startup workers are employed on fixed-term contracts, outsourced, or freelance; this pattern raises a number of issues when confronted with national labor law mechanisms that were originally designed for

conventional companies. This reality tests the effectiveness of labor legislation, both in providing flexibility for business actors and in strengthening the protection of workers' rights (Rachmawati, 2021).

The problem is further exacerbated by the emergence of the gig economy and hybrid work, which have various implications for the legal status of startup workers. The distinction between permanent and non-permanent workers is becoming increasingly blurred in practice, while digital-based recruitment processes tend to optimize efficiency but leave gaps in protection, for example in terms of social security or the right to rest periods. The low level of employment law literacy among startup players, including founders and young workers, increases the risk of violations of minimum working standards regulated by law, which is prone to industrial conflicts (Menegatti, 2022).

The unique nature of startup companies in human resource management is also closely related to the need for operational efficiency, technological adaptation, and high business competitiveness. Issues of flexible working hours, workload adjustments, and the digitization of reporting processes drive the need for progressive legal regulations that remain grounded in the principles

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of fairness and legal certainty. The phenomenon of global technological recession and the trend of mass layoffs in start-up companies underscore the urgency of discussing employment contract systems and the governance of workers' rights in compliance with labor norms in this country (Laksmana & Permana, 2023).

The use of fixed-term employment contracts and flexible working mechanisms is often chosen as a solution for adapting the start-up business model to the needs of innovation and market uncertainty. However, these solutions often ignore the mandatory provisions regarding the form and substance of employment agreements according to Law No. 13 of 2003 concerning Manpower and its amendments, as well as Government Regulation No. 35 of 2021. The inconsistent implementation of employment contracts in startup legal entities has resulted in workers having a weak bargaining position regarding their normative rights, such as minimum wages, social security, leave, and protection against termination of employment (Asyhadie et al., 2019).

Startups generally adopt flexible staffing structures to accelerate decision-making and quickly adapt to business needs. However, excessive flexibility has the potential to place workers in vulnerable working situations: with minimal guarantees of stability and legal protection. Issues such as wage uncertainty, outsourcing without clear regulations, and working standards below the national minimum are often major concerns among startup workers.

The introduction of new regulations such as the Job Creation Law further highlights the importance of adapting regulations to the needs of today's world of work while maintaining the principle of worker protection. However, in practice, differences in the interpretation of provisions and weak supervision mean that the implementation of worker protection in start-ups often falls short of expectations. The clarity of workers' rights in the digital-based ecosystem is a major concern, especially in terms of working hours, contracts, human rights, and occupational safety (Asyhadie et al., 2019).

The massive development of the startup ecosystem in Southeast Asia, including Indonesia, has accelerated the transformation of work flexibility and the use of fixed-term contracts. These dynamics necessitate critical research to bridge the gap between the need for accelerated innovation and the protection of labor rights under applicable law. Global experience shows the importance of adaptive legal responses to maintain the investment climate and protect workers' rights,

especially amid economic uncertainty and the crisis caused by the pandemic.

Legal challenges and dilemmas in startup companies make this issue central to the discourse on business and labor law, where highly innovative business activities tend to disrupt labor patterns, requiring policy designs that do not neglect workers' rights to justice. This study aims to analyse labor law regulations related to employment contracts, workers' rights, and flexible working arrangements in startups by referring to all applicable regulations in Indonesia, in order to provide a theoretical contribution to the interpretation of modern employment relationships and a practical contribution in the form of proposed improvements to the employment contract system and the protection of workers' rights in a legally valid startup ecosystem.

RESEARCH METHOD

This study uses a normative juridical method with a qualitative literature review approach to examine labor law regulations in start-up companies. The literature review covers national legislation, court decisions, scientific journals, and relevant books published in the last two decades. Thematic synthesis was chosen as the analysis strategy to collect, group, and compare expert opinions and empirical data that enrich the understanding of employment contracts, workers' rights, and work flexibility regulations. Thus, legal theory and doctrine are harmonized with field practice through a clear and systematic thematic framework (Soekanto, 2014).

The data source search strategy was carried out using academic databases such as Sinta, Google Scholar, JSTOR, and the national catalogue for books on labor law and industrial relations. The inclusion criteria included scientific literature discussing startup labor regulations in Indonesia, recent legal changes, and analyses of employment contract construction. Exclusion criteria apply to unverified sources, non-academic references, and regulations that have been revoked. Furthermore, the coding process was carried out by assigning thematic categories to quotations, jurisprudence, and expert opinions. Quality assurance was carried out by increasing source triangulation, cross-checking literature, and validating bibliographic sources (Creswell, 2013).

The results of the qualitative literature synthesis were grouped based on major themes formulated from the problem formulation, including (1) employment contract law and startup work

flexibility regulations, and (2) protection and challenges in implementing workers' rights in startups. Data processing was carried out by reading, identifying, marking, and consolidating the material to obtain evidence-based conclusions that could be scientifically verified. The principles of transparency of analysis and strategic replication were the basis for ensuring that the research results could be easily verified by other academics (Creswell, 2013).

RESULT AND DISCUSSION

Employment Contract Arrangements and Startup Work Flexibility in Employment Law

The application of labor laws in startup companies in Indonesia refers to a number of key regulations that govern the relationship between employers and employees. Law No. 13 of 2003 concerning Manpower, as the legal basis for employment relations, regulates the types of employment agreements, namely PKWT (Fixed-Term Employment Agreement) and PKWTT (Indefinite-Term Employment Agreement). PKWT is commonly used by startups that require flexibility in human resource management in short-term project cycles, while PKWTT is intended for permanent employment relationships (Suparno, 2017). Under this law, startup workers are still guaranteed their rights, such as wages, reasonable working hours, leave, and access to social protection, regardless of their employment status.

Law No. 11 of 2020 concerning Job Creation (Omnibus Law), which was confirmed by Law No. 6 of 2023, reformulated the provisions of PKWT to provide greater flexibility to employers, particularly regarding the duration of PKWT, which can be extended up to five years, and looser outsourcing system regulations (Adriani, 2020). For startups facing market uncertainty and the need for rapid workforce adaptation, this flexibility is relevant to accommodate changes in business scale while still paying attention to the formal legal aspects of employment relationships (Laksmiana & Permana, 2023). The Job Creation Law also adjusts the provisions on severance pay and compensation for contract workers, making it more realistic for companies with rapid growth models.

Derived from the Job Creation Law, Government Regulation No. 35 of 2021 regulates in more detail the mechanisms for drafting PKWT, the use of outsourcing, working hours, and rest periods. The maximum duration of PKWT is set at five years without strict restrictions on the type of work. In addition, part-time work and shift systems are fully accommodated, expanding the options for startups

in running operations that demand a quick response to the market. On the other hand, this PP also stipulates the right of PKWT workers to receive end-of-contract compensation, so that the guarantee of rights remains intact (Fitriani, 2022).

The startup sector often utilizes non-permanent workers through outsourcing. The outsourcing regulations in PP 35/2021 are quite lenient, allowing startups to easily outsource non-strategic work, for example in the fields of technology, digital marketing, or administration. However, despite its flexibility, companies must pay attention to the maximum PKWT limit, the protection of workers' normative rights, and the settlement of compensation in the event of termination of employment before the contract period ends (Fitriani, 2022).

Startups are also required to respect the rights of workers to establish or become members of trade unions/labor unions as stipulated in Law No. 21 of 2000. This provides space for collective advocacy for startup workers, even though they are generally dynamic and fast-moving. Labor unions serve as an instrument of dialogue between workers and management, given that startups are prone to conflict due to aggressive business changes (Takdir, 2018). The presence of labor unions effectively facilitates structured communication channels to minimize potential disputes and ensure the effective channeling of workers' aspirations. Through union mechanisms, workers can jointly negotiate the fulfillment of normative rights and adjustments to working conditions in the event of changes to business processes. Active worker participation in unions increases legal awareness of rights and obligations, which in turn has an impact on the comprehensive protection of workers' interests. In addition, the existence of labor unions encourages the creation of fair industrial relations while maintaining company stability amid competitive dynamics. Finally, the recognition of labor unions in the startup environment is an indicator of the maturity of an employment system oriented towards the principles of participation, fairness, and respect for human rights in the modern workplace.

Apart from protection through employment agreements and the right to organize, startups as employers are obliged to comply with the provisions of Law No. 24 of 2011 concerning BPJS. The obligation to register workers in the BPJS Employment and BPJS Health programmers is a form of social protection that must still be provided even though the work system is flexible. This is in line with the findings of Darmawan et al. (2022),

which reveal that BPJS patients' satisfaction with Puskesmas services is influenced by service quality, reflecting that this registration obligation must be accompanied by guaranteed access to quality health services. In health services, which are one of the components of BPJS, protection for service recipients is a key principle, as reflected in a study on patient autonomy rights and the legal responsibilities of health service providers by Feriadi et al. (2023). This principle of protection becomes even more critical in emergency situations, as analyzed by Zuhri et al. (2023) regarding patient rights and medical responsibilities in emergency conditions based on Law No. 17 of 2023. The scope of protection also covers vulnerable groups such as people with mental disabilities, as examined by Wuryani et al. (2023) regarding government legal measures to ensure the rights of patients with mental disorders in social security programmers. This confirms that workers' fundamental rights to social security should not be lost in modern work patterns (Mahpud et al., 2020).

The implementation of comprehensive social protection contributes to an increased sense of security and motivation among workers to contribute to startups. The existence of social security effectively reduces the risk of uncertainty due to work incidents or health problems that have the potential to reduce productivity. Systematic efforts by employers to fulfil these obligations reflect the integrity and responsibility of companies towards the human resources they manage. The proportional implementation of the BPJS programmed also increases workers' trust in the work environment and strengthens the company's image in the eyes of the public and other stakeholders. Ultimately, the implementation of social security based on legislation reinforces the position of workers as strategic assets who are entitled to comprehensive protection in various work situations in the startup sector.

In practice, the implementation of PKWT in startups must not violate the principles of minimum protection in national labor policy regulations. Workers' rights to minimum wages, maximum working hours, leave, and the right to compensation for contract termination remain as guaranteed by law. Violations of written agreements or abuse of outsourcing are subject to sanctions in accordance with Articles 59 and 66 of Law 13/2003, as updated by the provisions of Law No. 11/2020 and its implementing regulations (Rusdi, 2021).

The flexibility of work provided by the law has been responded positively by startups as a space for innovation in human resource management.

However, the relaxation of regulations must still be balanced with strict supervision from the government and a clear understanding from business actors so as not to result in the loss of workers' rights. The strengthening of regulations on working hours, including remote and hybrid work, as well as clarity in the wage structure, must remain within the corridor of the law (Takdir, 2018).

The affirmation of protection aspects is the spirit of labor regulation reform in the era of digital disruption. Employers, in this case startups, cannot use the excuse of flexibility to obscure the basic rights of workers. Every employment contract must guarantee workers' access to social security, compensation, and the right to organize as a means of balancing labor relations (Mahpud et al., 2020). Legal certainty for workers can also foster strong trust in industrial relations, enabling constructive collaboration between workers and employers. Adherence to the principle of protecting workers' rights is also necessary to prevent exploitative labor practices and ensure that dispute resolution mechanisms are fair and transparent. In addition, recognition of workers' basic rights supports the operational stability of companies, which ultimately supports more sustainable national economic growth.

The national legal framework is very open to new partnership models as long as they do not violate basic labor principles. State supervision of the implementation of PKWT, outsourcing, and social security must be effective so that the goal of protecting workers in the startup ecosystem is realized in accordance with international and national standards (Rusdi, 2021). The effectiveness of regulations is highly dependent on consistent law enforcement so that any violations of workers' rights can be minimized optimally. The establishment of a periodic labor audit mechanism can increase the accountability of startup companies in complying with laws and regulations. In addition, collaboration between the government, the business world, and civil society can strengthen education on labor rights and encourage responsible business practices. The use of information technology in reporting and monitoring employment relationships can accelerate the detection of non-compliance and strengthen administrative transparency in the startup sector. The success of state supervision in the modern work environment is largely determined by the active involvement of all relevant actors in order to achieve a fair, productive, and competitive labor system.

The implementation of regulations in the field requires continuous adaptation from two sides:

start-up actors must understand and apply regulations correctly, while workers are expected to actively demand their rights through advocacy or trade unions. The challenges in implementing these labor regulations were also highlighted by Suyuti et al. (2023) in their analysis of the impact of the Job Creation Law on workers' constitutional rights, which revealed the complexity and potential friction in the process of adapting to these laws. Without a combination of regulatory education, supervision, and effective social dialogue, the success of developing an ethical and fair startup business ecosystem will not be optimal. Constructive participation from all actors in the startup value chain will strengthen corporate governance so that potential rights violations can be minimized. The systematic dissemination of information related to labor regulations provides a strong foundation for all parties in formulating accountable internal policies. With the creation of open communication between management and workers, the problem-solving process in the work environment will be more responsive and solution-oriented, thereby supporting the creation of sustainable industrial harmony.

Indonesian startups are at a crossroads between business expansion and worker protection, where organizational efficiency must not compromise workers' minimum rights. The implementation of competency-based strategies (Hariani, 2023) must be in line with labor standards, consistent with the findings of Mardikaningsih (2021), which show a significant correlation between worker welfare and the success of industrial relations as the foundation for long-term organizational stability. Balancing business growth and worker protection enhances the global competitiveness of startups, builds a positive reputation in the eyes of investors and talent, and creates a stable work environment that supports productivity. Therefore, progressive managerial orientation in the startup sector must be based on social justice and legal compliance to ensure business sustainability without creating structural vulnerabilities.

Core regulations are expanding as the main pillars of a healthy and competitive startup work ecosystem: Law 13/2003, which forms the foundation of labor relations; Laws 11/2020 and 6/2023 as refinements to work flexibility; Government Regulation 35/2021 which regulates the details of the implementation of employment contracts; Law 21/2000 which protects the right to organize; and Law 24/2011 as an umbrella for social protection. Together, these laws form a legal framework that

allows startups to innovate creatively while protecting the welfare of their workers.

Implementation, Challenges, and Protection of Workers' Rights in Startups

The implementation of worker rights protection regulations in start-up companies is taking place amid the growth of a highly dynamic digital ecosystem. Many start-ups still adopt an informal work culture with a simple organizational structure. This has an impact on employment practices, which often disregard the formal procedures stipulated in legislation. In many cases, employment contracts are not put in writing as mandated by Article 54 of Law No. 13 of 2003, but are only verbal communications or agreements via simple electronic media (Padmo, 2019). This is where the problem lies: although electronic contracts can actually be a valid formal solution, as analyzed by Sulaiman et al. (2023) regarding their validity and effectiveness in digital transactions, practices in many startups often do not meet the legal requirements and substantial completeness that guarantee protection for workers. This complexity is further compounded by innovations such as contracts generated by artificial intelligence (AI), whose legal validity has been specifically examined by Maulani et al. (2023). This shows that the legal challenges lie not only in the formality of electronic contracts, but also in the authority and clarity of the parties creating them in an increasingly automated system. As a result, startup workers face a weak bargaining position in demanding their normative rights after the employment relationship ends.

Startup companies generally still prioritize flexibility in managing their workforce. They pursue rapid growth, so they tend to recruit using PKWT contracts even for core jobs, even though regulations have clearly set limits on PKWT jobs. This condition has implications for potential violations of workers' rights, particularly in relation to job security, clarity of status, compensation, and social security (Suhartono, 2020). The challenge is compounded when companies expand outsourcing practices for efficiency, while the government's monitoring system is not yet functioning optimally (Laksmana & Permana, 2023). This phenomenon needs to be addressed because if start-up companies continue to prioritize flexibility without regard for labor protection principles, the impact will be prolonged uncertainty for workers. One real risk is a decline in worker motivation and productivity due to a lack of security in terms of finances and employment status.

In addition, companies' failure to comply with

contractual restrictions stipulated by law can lead to legal consequences and potential collective lawsuits from workers. The existence of uncontrolled outsourcing practices also has the potential to reduce the quality of industrial relations and cause discrimination between core and outsourced workers. Furthermore, the absence of an effective monitoring system from the government will further increase the scope for violations of workers' normative rights. The implementation of a large-scale flexibility-based recruitment system without strict legal mechanisms is prone to giving rise to exploitative practices in the startup world. In addition, this situation can have an impact on the company's reputation, reducing investor confidence and hampering long-term business growth. Finally, the application of such business strategies risks fostering an unhealthy competitive climate between companies, thereby sacrificing the essence of fairness in labor relations.

One of the main obstacles in implementing the protection of startup workers' rights is the limited legal understanding among management. Startups built by young founders with non-legal backgrounds often consider legal aspects to be a secondary priority. Many issues related to contracts, wages, social security, and leave are only considered after the business has grown or disputes have arisen (Christiawan, 2022). The risk of normative rights violations becomes greater under a regime of work flexibility without adequate legal instruments in place.

Further challenges arise in the practice of registering with the Employment Social Security Agency (BPJS Ketenagakerjaan) and the Health Social Security Agency (BPJS Kesehatan). Many startups have not consistently registered their employees, especially those on short-term contracts or remote workers, considering the contribution costs as an additional operational burden. However, Law No. 24 of 2011 stipulates that all employers are obliged to provide social protection for workers, regardless of their status or work pattern (Asyhadie et al., 2019). This shows a gap between normative regulations and implementation in the field. This non-compliance risks weakening the social protection system, which is the main foundation of national employment. If left unchecked, this situation could lead to inequality in access to social security among workers in the startup industry. This disparity in protection could threaten social justice and cause unrest among workers, especially those who are vulnerable due to their employment status. Furthermore, neglecting BPJS administrative obligations could result in

administrative or criminal sanctions for companies in accordance with the applicable law enforcement mechanisms. Ultimately, companies' commitment to fulfilling social protection rights will be crucial in creating a healthy, productive, and legally certain startup work ecosystem.

In terms of wages, although the Manpower Act and Government Regulation No. 35 of 2021 regulate minimum wages, it is common practice in startups to have wage structures that are not transparent or are below the provincial minimum. Some startups argue that they provide compensation in the form of facilities, shares, or performance bonuses without a clear legally recognized scheme. This adds to the obstacles for workers in obtaining their rights, especially in the event of unilateral termination of employment (Suhartono, 2020).

Protection of working hours and workers' rest rights is also prone to being neglected. Remote or hybrid work patterns allow for blurred working hours and are prone to violations of the maximum working hours stipulated in Article 77 of the Manpower Law. This challenge becomes more complex when startups implement target-based (output-based) work patterns without strict monitoring of actual working hours (Christiawan, 2022). The absence of clear working hour limits tends to disadvantage workers, especially when work demands exceed reasonable health and safety limits.

The right to organize, as stipulated in Law No. 21 of 2000, is not easily implemented in the startup ecosystem. The majority of workers are reluctant to form unions or join labor unions because they are concerned about losing their jobs, limited information, and a lack of collective culture in startups. In fact, unions are very important as a bridge for communication and advocacy between workers and management in a rapidly changing work ecosystem (Padmo, 2019).

In addition to regulatory issues, a corporate culture that emphasizes fast work without prioritizing legal aspects often results in low worker protection, where start-ups tend to resolve disputes informally rather than through formal mechanisms as mandated by law (Asyhadie et al., 2019). This finding is consistent with the analysis of Wibowo et al. (2021) that the enforcement of formal mechanisms is the foundation of legal certainty. This situation creates legal uncertainty that is detrimental to workers, limits their access to justice, and weakens their bargaining power. In the long term, a culture of dispute resolution that is not based on rules can create negative precedents, worsen the industrial relations climate, and reduce the overall quality of

the work environment due to the absence of legal certainty guaranteed by the state.

The implementation of regulations on part-time work and PKWT compensation also faces many technical challenges, particularly in terms of calculating proportional rights and benefits (Suhartono, 2020). Companies often do not pay compensation at the end of a PKWT contract, resulting in workers losing the rights they are entitled to. Similarly, severance pay or insurance facilities are often not clearly accommodated in contracts.

Legal education is a strategic effort that must be strengthened so that both workers and startup management understand and implement legal provisions correctly. It is also important for the government to supervise, involve civil society organizations, and encourage collective initiatives by workers to demand their normative rights outside of litigation (Christiawan, 2022). If this is done consistently, the flexible work regulation model can still be implemented without reducing the essence of workers' basic rights.

Another prominent challenge is the rapid change in business models in start-ups, often accompanied by structural reorganizations, business pivots, and mergers or acquisitions (Laksmana & Permana, 2023). This entire process creates risks of uncertainty regarding the status of workers, especially when not supported by a strong employment administration system. The transfer of workers' rights and obligations must be strictly regulated to avoid further disputes.

Startups need to establish comprehensive and transparent personnel administration systems to prevent legal conflicts and support professional governance. Compliance with documentation and procedural transparency provides legal protection for both parties, supports policy evaluation, and forms the basis of investor confidence. The implementation of worker rights protection depends on the quality of management and regulatory compliance, requiring a shared commitment: the

government in digital oversight and enforcement of sanctions, and startups in the implementation of standard contracts and social security, for the sustainability of a fair business ecosystem.

CONCLUSION

Labor laws in Indonesia's startup sector have been comprehensively regulated through a number of key regulations that are adaptive to the needs of the modern business world. Law No. 13 of 2003, Law No. 11 of 2020 and its derivatives, Government Regulation No. 35 of 2021, Law No. 21 of 2000, and Law No. 24 of 2011 form a legal framework that allows for flexibility in employment without reducing worker protection. In practice, start-up companies must uphold the principle of balance between business innovation and respect for workers' normative rights.

This study highlights the importance of synergy between startup management, workers, and the government in building a fair and resilient employment system. Flexible employment practices can only function effectively if accompanied by clear regulations, transparent personnel administration, and consistent oversight from all stakeholders. Proper implementation of the law will increase public trust, attract investors, and create a sustainable employment climate in the startup sector.

There is a need to strengthen legal education for entrepreneurs and startup workers, standardize employment contracts, and digitize labor supervision so that the implementation of flexible working does not weaken normative rights. The government and industry associations can promote the standardization of labor documents, the provision of means for reporting violations, and the advocacy of workers' rights. Startups must cultivate a culture of law-based human resource administration in order to be able to innovate without violating rules and ethics.

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