



**RIGHTS OF FIXED-TERM EMPLOYMENT CONTRACT WORKERS IN  
A DISMISSAL (STUDY OF SUPREME COURT DECISION NUMBER 175  
K/PDT.SUS-PHI/2020)**

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**Abstract**

*Indonesia is listed as one of the most densely populated countries in the world. Hard competition in the world of work, low education levels and high population growth rates supported by minimal employment opportunities which are not followed by very rapid population growth rates are the background of the gap between human resources that meet company qualifications and job seekers. Trying their luck as a laborer/worker in the PKWT system is a step often taken by job seekers so as not to be unemployed and to make ends meet. As was the case with 2 (two) marketing workers at PT Sinarmas Multifinance Yogyakarta Branch, who worked with PKWT status. Declared that they did not reach their target, both of them had to swallow the bitter pill that they were 'kicked' from the company without getting the rights that both of them should have. However, as far as the research conducted by the author, the author found several irregularities that escaped the attention and consideration of the Panel of Judges. In this study, the authors will re-analyze the Yogyakarta District Court Decision No. 35/Pdt.Sus-PHI/2019/PN.Yyk. as a decision at the first level, Supreme Court Decision No. 175 K/Pdt.Sus-PHI/2020 as a decision at the cassation level, by applying the relevant laws and regulations as well as decisions from several similar cases.*

**Keywords:** *Dismissal, PKWT, Worker, Court Decision*

**I. PRELIMINARY**

**A. Background**

Not only as an archipelagic country that stretches from left to right, Indonesia holds the title of the fourth most populous country after China, India and the United States.<sup>1</sup> Based on population

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<sup>1</sup> Mathius T. dan Atum B., Pokok-Pokok Perjuangan Hukum Ketenagakerjaan Jilid 2, (Jakarta: LPHKI, 2011), hal. 11-12.



alignment data from BPS 2020 and the Ministry of Home Affairs, as of December 2020 the total population in Indonesia reached 271,349,809 people. This is inseparable from the increase in the population of 3.26 million people in the period from 2010 to 2020 each year. Hard competition in the world of work, low education levels and high population growth rates are supported by minimal employment opportunities which are not followed by very rapid population growth rates which are the background of the gap between human resources that meet company qualifications and job seekers.<sup>2</sup>

Work holds an essential meaning for human life, namely as a source of income and a form of self-actualization in society. Trying their luck as a laborer/worker in the PKWT system is a step often taken by job seekers so as not to be unemployed and to make ends meet.<sup>3</sup> Every worker in any sector and wherever based on the principles of democracy, justice, equal rights and anti-slavery, is obliged to receive protection and guarantees for their human rights by the state. In accordance with Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia: "Every Indonesian citizen has the right to work and live a decent life for humanity."

The Constitution of the Republic of Indonesia guarantees the right for every citizen to work and receive honorarium and treatment that is proper and equivalent in the employment relationship that binds them in Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia: "Everyone has the right to work and receive fair and proper compensation and treatment in a work relationship."

The Indonesian government has basically formed legal instruments that regulate employment, which is basically the hope of

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<sup>2</sup> Sudibyo A.N.B. dan Mario S. A. P., "Implementasi Pemutusan Hubungan Kerja (PHK) Terhadap Pekerja Status Perjanjian Kerja Waktu Tertentu (PKWT) Pada PT X di Kota Malang", *Jurnal Studi Manajemen*, V. 9 N. 2 (2015), hal. 202.

<sup>3</sup> Alwi I., "Akibat Hukum Terhadap Pekerja Perjanjian Kerja Waktu Tertentu (PKWT) yang Mendapatkan Pemutusan Hubungan Kerja (PHK) Secara Sepihak Oleh Perusahaan", *Jurnal Ilmu Hukum Dinamika*, V. 26 N. 17. (2020), hal. 1990.



the legislators to create regulations in the field of manpower in order to minimize and eliminate mistakes in every step that will be taken either by law enforcers, companies, as well as workers/labourers (das sollen). One of these legal instruments is the Labor Law (UUK) with several changes in its substance through the Job Creation Law (UU CK), along with its derivatives, namely PP PKWT, Outsourcing, Working Time and Rest Time, and Termination of Termination (PP 35/2021). The legality or enforceability of UUK is still the same as before, except for the provisions of certain articles that are amended and/or deleted by the employment cluster of UU CK.

In essence, between employers or companies and workers each binds himself to an employment relationship contained in the form of an employment agreement, namely an agreement between an individual and another party as superior to do a job in order to get compensation.<sup>4</sup> According to Article 1 number 14 UUK: "Agreement between workers or laborers and employers or employers that contain the terms of work, rights and obligations of the parties." Employment agreements are fundamental as a complement to the applicable provisions because Indonesian labor regulations in general do not yet describe in detail the working conditions, rights and obligations of each party.<sup>5</sup>

However, the reality in the world of practice is that sometimes in the employment relationship between workers and companies or employers various problems arise. Problems that often arise outside of wage issues are problems related to Termination of Employment (PHK).<sup>6</sup> Although basically trying to replace the occurrence of

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<sup>4</sup> Wiwoho S., *Hukum Perjanjian Kerja Cetakan 3*, (Jakarta: Rineka Cipta, 1991), hal. 9.

<sup>5</sup> Mohammad I., "Pengambilalihan Dan Penutupan Perusahaan Yang Berdampak Pada Perselisihan Pemutusan Hubungan Kerja Menurut Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan", *Jurnal Ius Constituendum*, V. 3 N. 1 (2018), hal. 109.

<sup>6</sup> Ayu R. H. P., "Perlindungan Hukum Terhadap Hak-Hak Pekerja yang Terkena Pemutusan Hubungan Kerja Akibat Efisiensi Perusahaan berdasarkan Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan di Kota Semarang (Studi Putusan MA Nomor 474/K/Pdt.Sus-Phi/2013)" *Diponegoro Law Review*, V. 5 N. 2 (2016), hal. 2.



dismissals, of course in the world of practice this is unavoidable. The definition of dismissals is contained in Article 1 point 25 of the UUK which stipulates that dismissals are termination of employment due to a certain cause which results in the termination of rights and obligations between workers/laborers and employers/companies.

Of course, it is not uncommon for social impacts to arise which lead to disputes between parties, namely companies and workers, so there is an urgency regarding the formulation of fair regulations so that workers are able to get protection and their rights can be fulfilled as per the applicable law. The law plays a crucial role, namely providing certainty for the protection of workers, to obtain a decent life. In fact, in practice, workers/laborers can easily be sent home through dismissals.<sup>7</sup>

In contrast to unilateral dismissals which often lead to legal problems, such as problems involving PT Sinar Mas Multifinance Yogyakarta Branch and 2 (two) employees, each of whom has served for 2 (two) years 11 (eleven) months and 3 (three) years 3 (three) 3 (three) months with PKWT status, namely Sri Rahayu and Chris Dwi Antoro. PT Sinar Mas Multifinance itself is a subsidiary of the Sinar Mas Group consortium, which is engaged in leasing financing, consumer financing and receivables financing. Both Sri Rahayu and Chris Dwi Antoro each carry out their duties and responsibilities as Sales Agents of Sifino (SAS) who are looking for prospective debtors for conventional financing and sharia financing, which are new products and/or additional products from PT Sinar Mas Multifinance and are currently under development. probationary period or exploratory period as a new type of business activity. Both were kicked out of the company on the grounds that they were unable to perform and did not contribute properly at work without being paid their rights.

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<sup>7</sup> Otti I.K., “Analisis Undang-Undang Cipta Kerja Terhadap Perlindungan Tenaga Kerja Di Indonesia”, *Widya Pranata Hukum*, Vol. 3 No. 2 (2021), hal. 47.



After going through a bipartite and tripartite process provided by the Yogyakarta Manpower Office mediator, Sri Rahayu and Chris Dwi Antoro filed a lawsuit against PT. Sinar Mas Multifinance Yogyakarta Branch to the Yogyakarta District Court which resulted in a Yogyakarta District Court Decision No. 35/Pdt.Sus-PHI/2019/PN.Yyk. Dissatisfied with the verdict of the Yogyakarta District Court judges, Sri Rahayu and Chris Dwi Antoro filed an appeal to the Supreme Court.

### **B. Formulation of The Problem**

Based on the explication of the background, the formulation of the problems to be examined are: “What are the considerations of the judges in determining the MA Decision No. 175 K/Pdt.Sus-PHI/2020?” and “How are the rights of workers/laborers with PKWT status who have experienced dismissals when viewed based on the UUK and UU CK?”

### **C. Research Method**

The type of research used in this research is normative legal research. The nature of this research is done descriptively. The approaches in this research are the statute approach and the case approach. The type of data used consists of primary, secondary and tertiary legal materials. Data collection techniques were carried out by library research. The analysis of the study of legal materials was carried out by means of qualitative analysis.

## **II. STUDIES**

### **A. Employment Agreement**

In practice, there are two parties who bind themselves in a work relationship, namely the employer – in this case the entrepreneur and/or company – and the worker/labourer. As an employer, Entrepreneurs are parties that run their own companies or other parties, domiciled in the territory of Indonesia or outside the territory of Indonesia. Company is every form of business, whether legal entity or non-legal entity, owned by an individual, partnership or legal entity,



private or state owned, which provides jobs to workers/laborers by providing compensation in the form of wages or in other forms. Meanwhile Worker/Labourer is each individual who works for the employer by receiving compensation in the form of wages or other forms.<sup>8</sup>

As a concrete form of this working relationship, a work agreement is formed between the Employer and/or the Company as the employer and the Worker/Labourer. Article 1601a of the Civil Code defines a work agreement as an agreement made by and binding on one party (worker/labourer) to do a certain job for a certain time under the orders of another party (employer and/or company). In UUK, work agreements are defined as agreements between workers/labourers and employers that contain working conditions, rights and obligations between the parties.

The connection between the legal terms of a work agreement cannot be separated from the legal terms of the agreement itself. Article 1320 of the Civil Code has provided these conditions, namely:

- a. Their agreement that binds him;
- b. The ability to make an engagement;
- c. A certain subject matter;
- d. A cause that is lawful / not forbidden.

Provisions regarding the validity of a work agreement have been regulated in Article 52 paragraph (1) of the UUK contained in Chapter IX concerning Employment Relations, that a work agreement is created on the basis of:

- a. Agreement of the parties who bind themselves in a work agreement, meaning that the agreement made by the parties is made on the basis of unanimous consent without any coercion or pressure from any party;

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<sup>8</sup> Maimun, *Hukum Ketenagakerjaan Suatu Pengantar*, (Jakarta: PT Pradnya Paramita, 2003), hal 14.



- b. Ability or ability to carry out a legal action, meaning that the parties making a work agreement are people who are not under guardianship and/or mentally disturbed, and are not less than 18 (eighteen) years old;
- c. There is an agreed job; and
- d. The agreed work does not conflict with public order, decency, and applicable laws and regulations.

The provisions in points a and b above are subjective terms of the work agreement, which is attached to Article 52 paragraph (2) of the UUK that a work agreement made by the parties can be canceled if it conflicts with these provisions. Meanwhile, the provisions of letters c and d are objective requirements of a work agreement, which is attached to Article 52 paragraph (3) of the UUK that a work agreement made by the parties is null and void if it conflicts with these provisions, which means that the work agreement is considered from the outset. never existed.<sup>9</sup>

## **B. Termination of Employment**

Quoting Article 1 number 25 UUK, termination of employment or better known by its abbreviation, namely Termination of Employment is the termination of the employment relationship that binds workers/laborers with employers and/or companies due to a certain matter which causes the end of rights and obligations between the parties. In line with this statement, experts also draw conclusions regarding the meaning of dismissals, namely as follows:

- a. Moekijat provides a definition that dismissal is the termination of the employment relationship between a worker and a company organization.<sup>10</sup>

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<sup>9</sup> Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia*, (Badung: PT.Citra Aditya Bakti, 2014), hal 50.

<sup>10</sup> Sri Zuhartati, "Pengaruh Pemutusan Hubungan Kerja Terhadap Karyawan Perusahaan", *Jurnal Pendidikan Sosiologi dan Humaniora*, Vol. 1 No. 1 (2010), hal. 81.





- b. Halim Ridwan believes that termination of employment is a step to end the employment relationship between workers and employers due to certain matters.<sup>11</sup>
- c. Siswanto Sastrohadiwiryo defines termination of employment as the process of terminating cooperation between a company and an employee, either at the request of the employee himself or in accordance with company policy that the employee is deemed incompetent or because the company does not allow him to.

In addition to wage issues, dismissals are a thorny issue in the employer-employee relationship. Dismissals basically cut off sources of income for workers/laborers and their families, which is the beginning of the loss of the worker's livelihood. So it's no wonder dismissals are a frightening spectre for all workers because they and their families are at risk of not being able to carry on their lives as before and suffer the consequences of dismissals. Given the fact that finding a job is not as easy as imagined. With increasingly fierce competition, a growing workforce and a constantly changing business landscape, it is not surprising that workers are anxious and afraid of the threat of dismissals. If you look at the definitions above, it can be concluded that dismissals are the end of an employment relationship that binds workers and employers with certain causes and reasons which form the basis of terminating the employment relationship in two directions, meaning that it can come from the employee. or the employer himself.

Termination of employment by the court can be caused by a court judge's decision at the request of the applicant, it can come from the worker/laborer or employer or company to cancel the work agreement for certain reasons. The intended court is a special court that was established and is still within the scope of the district court which has the authority to examine, try and decide disputes in the realm of

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<sup>11</sup> Abdul K., *op cit.* hal. 178.





industrial relations.<sup>12</sup> Types of industrial relations disputes have been regulated in the PPHI Law, which include:

- 1) Disputes over rights, due to non-fulfillment of normative rights, which have been regulated in differences in the implementation or interpretation of statutory provisions, work contracts, company regulations or collective labor agreements;
- 2) Disputes over interests, because there is no conformity of opinion in terms of making and/or changing working conditions stipulated in work contracts, company regulations or collective labor agreements;
- 3) Disputes over dismissals, due to the lack of conformity of opinion in terms of termination of employment by one of the parties;
- 4) Disputes between trade unions/labor unions, because there is no conformity in understanding in terms of membership, implementation of the rights and obligations of the union.

If the dispute is caused by the above matters, then both the worker/laborer and the entrepreneur and/or the company are obliged to continue carrying out their respective obligations as long as a decision has not been made by the industrial relations settlement institution.

### **C. Judge's Considerations in Dropping Decision No. 175 K/Pdt.Sus-PHI/2020**

Verdict No. 175 K/Pdt.Sus-PHI/2020 is a cassation level decision which is the authority of the cassation level court or *judex juris*, namely the Supreme Court (MA). The Supreme Court has the authority to try at the cassation level regarding decisions given by courts of first instance in all jurisdictions under the Supreme Court. The Supreme Court only examines the implementation of the law against the facts determined by the *judex factie*. In contrast to the first level where the *judex factie* judge is the authority holder, at the cassation level, the *judex juris* court only examines whether the rule of

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<sup>12</sup> Eko Wahyudi, dkk., *Hukum Ketenagakerjaan*, (Jakarta: Sinar Grafika, 2016), hal. 72.



law applied by the *judex factie* judge is correct and whether the application of the rule of law used by the *judex factie* judge is correct. So at the cassation level, the *judex juris* is no longer examining facts like a *judex factie* judge.

In the settlement process at the cassation level with the case register number 175 K/Pdt.Sus-PHI/2020, the Plaintiffs at the first level are in the position of Cassation Petitioners accompanied by their attorneys, namely M. Yaumi Nurahman, S.H.I., M.H., and his friends as Advocates at PHBI Yogyakarta. Thus making the Defendant - PT Sinarmas Multifinance Cab. Yogyakarta – as the Cassation Respondent.

MA reads and considers letters related to the dispute between the parties. considering that previously the Plaintiffs in the first instance had filed a *petitum* lawsuit with the primary:

1. Accept and grant the Plaintiffs' lawsuit in its entirety;
2. Declare the termination of the working relationship between the Plaintiffs and the Defendants;
3. Punish and order the Defendant to pay Short Wages, Processing Wages, 2 times severance pay, Long Service Rewards and Compensation of Rights with a total value of Rp. 77,963,012.75,- (seventy seven million nine hundred sixty three thousand and twelve Rupiah and seventy five cents).

Whereas in the subsidiary section, the Plaintiffs requested that if the chairman of the PHI District Court, then give a fair decision (*ex aequo et bono*).

Whereas regarding the lawsuit for industrial relations disputes between the parties with the registered case number 35/Pdt.Sus-PHI/2019/PN.Yyk. a decision has been issued by the competent *judex factie* judge with the reading of the verdict on August 29, 2019 with the sound of the verdict:



- In the Exception: rejecting the Defendant's exception in its entirety (which in essence the Defendant's exception contains questioning the validity of the legal position of the Plaintiffs' power of attorney)
- In the Principal Case:
  1. Granted the Plaintiffs' lawsuit in part;
  2. Declare that the working relationship that binds the Plaintiffs and the Defendants has been broken since December 31, 2018;
  3. Sentenced the Defendant to pay the Plaintiffs' rights due to dismissals with a total nominal value of Rp. 15,303,800,- (fifteen million three hundred three thousand eight hundred Rupiah) with details of:
    - Plaintiff I (Sri Rahayu) with a nominal value of Rp. 1.779.000,- (one million seven hundred and seventy nine thousand Rupiah); and
    - Plaintiff II (Chris Dwi Antoro) with a nominal value of Rp. 13,542,800,- (thirteen million five hundred twenty four thousand eight hundred Rupiah);
  4. Charge a court fee of Rp. 456,000,- (four hundred fifty six thousand Rupiah) to the state;
  5. Rejecting the plaintiffs' lawsuit other than and the rest.

The judex juris court considered the Special Power of Attorney dated September 11 2019 submitted by the Cassation Petitioners accompanied by a memorandum of cassation received at the PHI Yogyakarta District Court on September 26 2019. With the agreement between the provisions of the time limit and the prescribed procedures, the judex juris considered the application cassation can be formally accepted.

In the memory of the cassation, the Cassation Petitioners requested that:

- Receive and grant in its entirety the petition of the Cassation Petitioners;



- Asking for a decision at the first level, namely Decision Number 35/Pdt.Sus-PHI/2019/PN.Yyk. corrected so that the warning reads:
  1. Accept and grant in full the Plaintiffs' lawsuit;
  2. Declare that the working relationship between the Plaintiffs and the Defendants has been terminated since it was decided in a deliberation meeting of the panel of judges and pronounced in a session open to the public;
  3. To punish and order the Defendant to pay the wages and rights of the Plaintiffs due to dismissals:

	Plaintiff I	Plaintiff II
Severance Money	2 x (4 x Rp. 1.779.070,00) = Rp. 14.232.560,00	2 x (8 x Rp. 1.712.000,00) = Rp. 27.392.000,00
Time of Service Award Money	2 x Rp. 1.779.070,00 = Rp. 3.558.140,00	3 x Rp. 1.712.000,00 = Rp. 5.136.000,00
Rights Replacement Money	15% x (Rp. 14.323.560,00 + Rp. 3.558.140,00) = Rp. 2.668.692,75	15% x (Rp. 27.392.000,00 + Rp. 5.136.000,00) = Rp. 4.879.200,00
Lack of Wages	Rp. 1.429.070,00	Rp. 1.412.000,00
Process Fees	Rp. 1.779.070,00 x 9 months = Rp. 16.011.630,00	Rp. 1.712.000,00 x 9 months = Rp. 15.480.000,00
Total	Rp. 14.232.560,00 + Rp. 3.558.140,00 + Rp. 2.668.692,75 + Rp. 1.429.070,00 + Rp. 16.011.630,00 = Rp. 39.966.092,75	Rp. 27.392.000,00 + Rp. 5.136.000,00 + Rp. 4.879.200,00 + Rp. 1.412.000,00 + Rp. 15.480.000,00 = Rp. 54.299.200,00
Accumulated Rights of the Plaintiffs	Rp. 39.966.092,75 + Rp. 54.299.200,00 = Rp. 94.265.292,75	



Whereas in the absence of a counter cassation memory filed by the Cassation Respondent, the *judex juris* examines the cassation memorandum filed by the Cassation Petitioners and then correlates it with the legal considerations of the *judex factie* in applying law to resolve industrial relations disputes between the Cassation Petitioners/Plaintiffs and the Cassation Respondent /Defendant, then *judex juris* considering the following matters:

- Whereas in relation to the working relationship between Plaintiff I, there was no mistake by the *judex factie* in applying the law. Because the working period of Plaintiff I was less than 3 years, namely only 2 years and 11 months, this does not conflict with the provisions of Article 59 paragraph (1) letter b UUK. The rights obtained by Plaintiff I are in accordance with the provisions of Article 62 UUK. If there is a dismissal with PKWT worker status, then one of the parties initiating the dismissal must pay compensation in the amount of the worker's wages until the end of the PKWT completion time to one other party - in this case the Defendant/Respondent of Cassation who is obliged to provide compensation to Plaintiff I/ Appellant for Cassation I - namely the lack of wages for Plaintiff I in December 2018 of Rp. 1.779.000,- (one million seven hundred and seventy nine thousand Rupiah). Therefore, it is true that Plaintiff I/Petitioner for Cassation I is not entitled to 1 time Severance Payment Article 156 paragraph (2) UUK, 1 time Service Period Award Article 156 paragraph (3) UUK, and Compensation Money Article 156 paragraph (4) UUK.
- Whereas in relation to the termination of the working relationship between Plaintiff II/Petitioner for Cassation II and the Defendant/Respondent for Cassation which was originally a PKWT and then with all the considerations of the *judex factie* judge by law it changed to PKWTT as a result of the working relationship between Plaintiff II/Cassation Petitioner II and the



Defendant/Defendant Cassation is proven to have violated the provisions of Article 59 paragraph (1) letter b UUK which requires that PKWT can only be carried out within a maximum period of 3 years, while the working period of Plaintiff II/Petitioner for Cassation II to the Defendant/Respondent for Cassation is 3 years and 3 months from the month September 2015 until the dismissal occurred in December 2018. Thus the consideration of the *judex factie* judge in determining the dismissal between Plaintiff II/Request Cassation II was based on Article 161 of the UUK, which states that dismissals occur as a result of workers violating the provisions stipulated in the work agreement, company regulations or collective work agreement is entitled to 1 time Money Severance pay Article 156 paragraph (2) UUK, 1 time Service Reward Money Article 156 paragraph (3) UUK, and compensation money for Article 156 paragraph (4) UUK. So it is very reasonable if the *judex juris* states that there is no mistake by the *judex factie* in applying the law.

Thus, the *judex juris* considerations came to a decision that the cassation memory of the Cassation Petitioners could not be accepted and should have been rejected because the *judex factie* judge was in his considerations in deciding the case with register number 35/Pdt.Sus-PHI/2019/PN.Yyk. this is not against the laws.

In imposing court costs, the *judex juris* considered that because the value of the lawsuit filed by the Cassation Petitioners was under Rp. 150,000,000.- (one hundred and fifty million Rupiah), then the provisions of Article 58 of the PPHI Law apply. The disputing parties are not subject to court fees so that case costs are borne by the state.

Taking into account the regulations applied by the *judex juris* in considering this decision, such as UUK, PPHI Law, Judicial Power Law, Supreme Court Law, and other relevant laws and regulations, Ruling Decision Number 175 K/Pdt.Sus-PHI/2020 reads:



1. Rejecting the cassation application from the Cassation Petitioners;
2. Burdening court costs to the state.

#### **B. Rights of PKWT Workers in the Event of Dismissal Based on UUK**

Whereas related to the rights of PKWT workers in the event of dismissals based on the UUK, the author will first provide an explanation of the history of the formation of the UUK and also the ratio legis, namely the reflection/reflection of thinking from the lawmakers (the law makers) in forming the UUK.

UUK is legislation that regulates various matters related to employment in Indonesia, in which these regulations cover: the foundation, principles and objectives of employment development; manpower planning and employment information; equal opportunity and treatment for all workers; work training; placement of workers; the use of foreign workers; fostering industrial relations; institutional development and industrial relations facilities; worker protection, including basic rights; and labor supervision/inspection. The UUK was ratified by the then President, Megawati Soekarnoputri, on March 25, 2009.

The history of labor law in Indonesia is inseparable from the history of slavery in the country that was then called the Dutch East Indies. After the slave period, a decree was issued regarding the registration of slaves in 1819. In 1820 the Dutch East Indies government issued a decree obliging slave owners to pay taxes. Then in 1829 there was a rule that prohibited the transport of child slaves. After that, in 1839, the registration of slaves and the renaming of slaves was regulated. Previously, in 1825, regulations regarding slaves and the slave trade were enacted.

An order for the abolition of slaves was issued in 1854. Then, on January 1, 1860, it was declared abolished altogether, although in practice many people were still slaves and slave owners after 1860. The term slave began to dwindle after 1860. The term slave was heard





less and less , but replaced with other terms, namely slavery and slavery.

In 1880 a workers' ordinance was published. The employees are called Koeli and the rules are Koeli Ordonantie. Next, the spotlight came to Koeli's regulations and usage of the term worker started to change from koeli to worker. Before the defeat of the Dutch government in Indonesia, this regulation was abolished. The pinnacle of the history of Indonesian labor law is the independence of the country, where the labor law that has been in effect since then and in the future has always been based on the 1945 Constitution and Pancasila.

Following the ratio legis or reflection/reflection of thinking from the legislators (the law maker) in forming UUK, the purpose of its formation are:

1. Strengthen and deploy manpower optimally and humanely;
2. Implementation of employment opportunities and equal distribution of manpower in accordance with the needs of national and regional development;
3. Providing protection to workers in terms of implementing social welfare;
4. Improving the welfare of workers and their families in accordance with human dignity; and
5. Because several laws and regulations in the field of manpower at that time were deemed no longer in accordance with the needs and demands of manpower development.

In the event of a dismissal of a worker with PKWT status, the provisions that apply are based on Article 62 UUK which reads:

"If one of the parties terminates the employment relationship before the expiration of the period specified in the employment agreement for a certain time, or the employment relationship ends not because of the provisions referred to in Article 61



paragraph (1), the party terminating the employment relationship is required to pay compensation to the other party in the amount of wages of workers/labourers until the expiry date of the work agreement period.”

PKWT workers who are laid off by employers are only entitled to compensation in the form of the remaining wages per month until the expiration of the PKWT and are not entitled to compensation in the form of severance pay, compensation money, and long service awards in accordance with the provisions governing the rights of PKWTT workers. when laid off by the Entrepreneur. Unless the work agreement ends due to the worker's death; the expiration of the PKWT due to the period of time; there is a court decision and/or decision or determination of an industrial relations dispute resolution institution that has permanent legal force; or there are certain conditions stated in the employment agreement, company regulations, or collective bargaining agreement which may cause the employment relationship to end.

This certainly has an impact on weak legal protection in terms of upholding the rights of PKWT workers/laborers. As with the opinion of the interviewees interviewed by the authors, it is often found that there are "bad" employers who prefer to employ contract workers/laborers in order to avoid the obligation to pay compensation money for workers/laborers who are laid off by them, or deliberately expel PKWT workers prematurely. 3 years so as not to change their status to PKWTT, or also "rest" PKWT workers for a period of 1 month before being called upon to sign a new PKWT work contract.

### **C. Rights of PKWT Workers in the Event of Dismissal Based on UU CK**

Whereas related to the rights of PKWT workers in the event of dismissals based on the UU CK, the author will first provide an



explanation of the history of the formation of the UU CK and also the ratio legis, namely reflection/reflection of the thinking of the law makers (the law maker) in forming the UU CK.

With the passing of UU CK, the lawmaker hopes that there will be an increase in employment by encouraging investment and providing significant space to strengthen the position of Micro, Small and Medium Enterprises (MSMEs), as well as providing convenience, empowerment and protection in doing business. The UU CK consists of 186 articles, ratified and signed by the then President, Joko Widodo on November 2 2020. The UU CK summarizes 77 laws, divided into 11 clusters, one of which is in the field of employment listed in Chapter IV UU CK. Forms of changes such as amending, removing or establishing new regulations on several provisions stipulated in the UUK in the employment cluster presented in the UU CK are expected to strengthen protection for all workers and promote welfare and the participation of workers/laborers in contributing to the investment ecosystem.

Even though it had caused polemics and controversies among many parties, especially workers/laborers, the UU CK itself provides guarantees and protection for the rights of PKWT workers in the event of dismissals. In contrast to the provisions stipulated in Article 62 of the UUK regarding the position of workers with PKWT status, they are truly vulnerable when faced with the fact that they are laid off by employers and/or companies because there are no provisions governing compensation money, which reads:

*"If one of the parties terminates the employment relationship before the expiration of the period specified in the employment agreement for a certain time, or the employment relationship ends not because of the provisions referred to in Article 61 paragraph (1), the party terminating the employment relationship is required to pay compensation to the other party in the amount of wages of workers/labourers until the expiry date of the work agreement period."*



The UU CK through the insertion of 1 new article into the UUK, namely Article 61A regarding the provision of compensation money for PKWT workers which is regulated in more depth in its derivative regulations, namely PP 35/2021 while maintaining the provisions in Article 62 UUK so that the greater the rights that will be obtained future PKWT workers. Compensation money is intended for workers/laborers who have worked for at least 1 month continuously:

1. Article 15 PP 35/2021

- Broadly speaking, paragraph (1) of this article discusses the obligation for employers to provide compensation money for workers/laborers whose work status is based on PKWT;
- Broadly speaking, paragraph (2) of this article discusses the compensation money that must be given when the PKWT ends;
- Broadly speaking, paragraph (3) of this article discusses giving compensation money to employers for workers/laborers who have worked continuously for at least 1 month;
- Broadly speaking, paragraph (4) of this article discusses the payment of compensation money at the end of the PKWT term before being extended if there is a PKWT extension, and this provision also applies to the next PKWT term extension;
- Broadly speaking, paragraph (5) of this article discusses the invalidity of giving compensation money to TKA with PKWT work status;

2. Article 16 PP 35/2021

- Broadly speaking, paragraph (1) of this article discusses the system for calculating compensation money with the following provisions:
  - PKWT for 12 (twelve) months continuously, entitled to 1 (one) month wages;



- o PKWT for 1 (month) or more but less than 12 (months), as well as PKWT with a working period of more than 12 (twelve) months, are entitled to a proportion of wages with the formula:

$$\frac{\text{time of service}}{12} \times 1 \text{ (one) month salary}$$

- Broadly speaking, paragraph (2) of this article discusses the use of basic wages and allowance wages as the basis for calculating compensation money as referred to in paragraph (1);
  - Broadly speaking, paragraph (3) of this article discusses wages without benefits which are the basis for calculating compensation money if the company does not use the wage system as in paragraph (2);
  - Broadly speaking, paragraph (4) of this article discusses basic wages as the basis for calculating compensation money when companies use a wage system of base wages and non-fixed allowances;
  - Broadly speaking, paragraph (5) of this article discusses the calculation of compensation money which is calculated until the completion of the work if the PKWT is carried out based on the completeness of a job completed faster than the agreed deadline;
  - Broadly speaking, paragraph (6) of this article discusses the amount of compensation money given by MSE entrepreneurs to workers/laborers which is determined based on an agreement between the parties;
3. Article 17 PP 35/2021
- Broadly speaking, this article discusses the obligation of employers to pay compensation money to workers/laborers if one of the parties decides to end the employment relationship



even though the time period agreed in the PKWT has not ended.

So, in the event that the Employer and/or the Company terminates the employment relationship with the PKWT/contract worker before the working period ends or the agreed work is completed, the Employer and/or Company is obliged to pay compensation and compensation money. The calculation of this compensation money is based on the length of time the PKWT has been carried out by the worker/laborer, provided that:

- 1) PKWT for 12 (twelve) months continuously, entitled to 1 (one) month wages;
- 2) PKWT for 1 (month) or more but less than 12 (months), as well as PKWT with a working period of more than 12 (twelve) months, are entitled to a proportion of wages with the formula:

$$\frac{\text{time of service}}{12} \times 1 \text{ (one) month salary}$$

### III. CLOSING

#### A. Conclusion

In deciding Decision No. 175 K/Pdt.Sus-PHI/2020, the Supreme Court only examines the implementation of the law against the facts determined by the *judex factie*. In contrast to the first level where the *judex factie* judge is the authority holder, at the cassation level, the *judex juris* court only examines whether the rule of law applied by the *judex factie* judge is correct and whether the application of the rule of law used by the *judex factie* judge is correct. So at the cassation level, the *judex juris* is no longer examining facts like a *judex factie* judge.

In Law Number 13 of 2003 concerning Manpower, workers in a specified time employment relationship who experience termination of employment by the employer are only entitled to compensation in the form of the remaining wages per month until the end of the employment



agreement and are not entitled to compensation in the form of severance money. Compensation of Entitlements, and Tenure Rewards in accordance with the provisions governing the rights of an Unspecified Time Work Agreement worker's rights when terminated by the Employer. This certainly has an impact on weak legal protection in terms of enforcing Workers' rights in a Fixed Time Employment Agreement if the employment relationship is terminated by the employer and/or company.

## **B. Recommendation**

In the event that prior to the Termination of Employment, as much as possible efforts were made to ensure that the Termination of Employment did not occur. This can be a lesson for the community, especially as workers, to read and understand the contents of the work agreement and the regulations set by the company, because by signing a work agreement. In accordance with the principle of legal fiction, the parties are considered to understand and agree to carry out the rights and obligations that bind themselves to other parties. Give the best performance for the company and it is the right of the workers to receive a copy of the work agreement from the company as future proof when there is a dispute between the workers and the company.

Given the widespread issue of Termination of Employment Relations today, it is better if people are able to be more mature and accept change, able to respond to new things with a cool head, and get used to educating themselves with as much literacy as possible so they don't get 'burnt' easily with the rise of news or oblique tweets through social media. From the writings and research that the author has made, it is hoped that they will become a reference for various parties and be useful for fellow students, especially law students.





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