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# Implementation of the Policy on the Elimination of Outsourcing in Indonesia: Impact on Employment and Employers

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## ABSTRACT

The abolition of the outsourcing system has become a demand among Indonesian workers, because it is considered that, in its implementation, there has been inequality, uncertainty about work status, and weak legal protection for the fulfillment of workers' normative rights. The outsourcing system was originally regulated in Articles 64, 65, and 66 of Law No. 13/2003 on Labor. However, after the enactment of the Job Creation Law and its derivative regulations, especially Government Regulation No. 35 of 2021, articles 64 and 65 were abolished, while article 66 was amended, so that the expansion of the outsourcing system is considered to exploit and marginalize the humanity of workers. The hope of creating justice for workers has experienced a setback. As a result, the guarantee of the fulfillment of workers' rights has decreased, and the certainty of permanent work will certainly not be realized in Indonesia. This writing uses a normative legal method with a statutory approach, and data is obtained through a literature study in analyzing the problematic regulation of outsourcing after the Job Creation Law was enacted, the regulation triggers the practice of modern slavery.

## KEYWORDS

Outsourcing System;  
Regulation;  
Employment;  
Employer



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## INTRODUCTION

Labor arrangements in Indonesia remain a persistent issue in the world of work.<sup>1</sup> Government policies must be implemented effectively to provide optimal protection for labor. The goal is to ensure that the basic rights of workers are guaranteed as part of efforts to achieve Indonesia's overall human development.<sup>2</sup> This is expected to improve the dignity and self-esteem of Indonesian workers, as well as create a prosperous, just, and equitable society, while taking into account the development of the progress of the business world (Article 27 paragraph 2 and Article 28 D paragraph 2 of the 1945 Constitution).

One of the issues that is still in the spotlight in the world of labor in Indonesia today is the emergence of a narrative to abolish the outsourcing system. This has sparked a heated discussion in various circles, generally motivated by the desire to strengthen the protection of workers' rights. This is because the outsourcing system is considered to be a practice of labor exploitation (modern slavery) in the form of, among other things, uncertainty over employment status, lack of clarity over career paths, vulnerability to termination, weak social security protection, and the difficulty of forming trade unions.<sup>3</sup> In addition, wage issues need to be a concern for outsourced workers because they often receive lower wages and do not receive additional benefits such as health insurance or pension insurance.<sup>4</sup>

The provisions concerning outsourcing in Law No. 13/2003 on Labor are set out in Articles 64, 65, and 66. Article 64 states that a company can hand over part of the execution of work to another company through 2 (two) types of outsourcing, namely job supply or labor supply.<sup>5</sup> Furthermore, Articles 65 and 66 regulate in more detail the implementation of work contracting and worker/labor service providers, including the types of supporting work that can be contracted, as well as the conditions that must be carried out by companies providing worker/labor services. These two articles also regulate the provisions for the transition of employment relations between workers/laborers and companies receiving contracting or companies providing worker/labor services under certain conditions regulated by laws and regulations.

Furthermore, the Indonesian government has enacted Law Number 11 of 2020 concerning Job Creation, which was later updated with the birth of Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation with the status of "conditionally constitutional". The purpose of enacting this law is an effort by the government to unify or harmonize various existing regulations into one legal umbrella (omnibus

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<sup>1</sup> Indra Utama Tanjung, "Kritik Terhadap Implementasi Omnibus Law dalam Sistem Hukum Indonesia: Analisis dari Perspektif Hukum Tata Negara" (2024) 1:1 *Juris Sinergi* J 1-8.

<sup>2</sup> Indra Utama Tanjung, Mhd Syahnan & Akmaluddin Syahputra, "Political and Legal Reconstruction of the Urgency That Forces the Issuance of PERPPU in Indonesia Based on Fair Benefit Values" (2024) 23:3 *Pena Justisia Media Komun Dan Kaji Huk* 1065-1079.

<sup>3</sup> Arifuddin Muda Harahap, *Pengantar Hukum Ketenagakerjaan* (Malang : Literasi Nusantara, 2020) at hlm.19.

<sup>4</sup> Ahmad Zaky, *Penerapan Hukum Dan Penyelesaian Masalah Pengupah Bagi Pekerja Outsourcing CV Nusa Indah Lestari Pada Instansi Pemerintah* Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta.

<sup>5</sup> Nugroho Habibi et al, "Memperkuat perlindungan pekerja outsourcing: Analisis implementasi kebijakan" (2024) 1:1 *J Soc Movements* 85-97.



law) with several strategic reasons related to the need to encourage national economic growth after the Covid-19 pandemic,<sup>6</sup> as a result of increased investment and competitiveness at the global level, reforms to fragmented regulations in the fields of environment, taxation, licensing to labor are needed to create legal certainty, regulatory effectiveness, and a conducive business climate.<sup>7</sup> Article 64 and Article 65 in Law No. 13/2003 on Manpower have been abolished by the Job Creation Law, as well as changing Article 66 to regulate the working relationship between outsourcing companies or “outsourcing” with labor workers who are employed without any division regarding the type of work contracting or the type of provision of worker/labor services.

In the outsourcing system, there are 2 (two) types of agreements, namely Worker Service Provider Agreements and Work Agreements.<sup>8</sup> Worker Service Provider Agreement is an agreement between an employer company and a worker service provider company, where the worker service provider company (outsourcing company) will place workers to the employer company for certain jobs and within a certain period, by obtaining compensation in the form of a fee.<sup>9</sup> This provision is further regulated in Government Regulation Number 35 of 2021 concerning Fixed-Term Agreements (PKWT) and Indefinite-Term Agreements (PKWTT), Outsourcing, Working Time and Rest Time, and Termination of Employment (PHK). However, this regulation is considered to be inconsistent with the norms of the constitution as stipulated in Article 1, paragraph 3 of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states “that Indonesia is a state of law”. This provision contains normative consequences where the state, especially the legislature, must form laws and regulations to ensure legal certainty based on justice for the protection of workers' constitutional rights.<sup>10</sup> Then it is further regulated in Article 6 of the Manpower Law, which states that “every worker/laborer has the right to receive equal treatment without discrimination from employers”. Furthermore, Article 33 of the 1945 Constitution states that the economy is based on a family system.

## METHOD

This research uses a constructivist paradigm approach, which in social science serves as a critique of the positivist paradigm. According to this approach, the social reality observed by a person cannot be generalized to all people, as is usually done

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<sup>6</sup> Bambang Sadono & Lintang Ratri Rahmaji, “Pro Kontra Terhadap Prosedur dan Substansi Omnibus Law Rancangan Undang-Undang Cipta Kerja” (2021) 51:3 J Huk Pembang 601–620.

<sup>7</sup> Kumala Kencanawati, Wiwik Sri Widiarty & Binoto Nadapdap, “Pengaruh Omnibus Law Cipta Kerja Terhadap Struktur Hukum Perusahaan di Indonesia” (2025) 5:6 J Sos Teknol.

<sup>8</sup> Intan Mayasari Hutabarat, Martono Anggusti & Christina N M Tobing, “Tanggung Jawab Perusahaan Alih Daya Terhadap Pekerja Outsourcing Yang Terkena Pemutusan Hubungan Kerja Dimasa Pandemi Covid-19 (Studi Dokumen Perjanjian Penyedia Jasa Di Pt Ntu)” (2021) Nommensen J Leg Opin 55–79.

<sup>9</sup> Heru Sugiyono & Jeremy Pardede, “Perlindungan Hukum Terhadap Hak-Hak Pekerja Outsourcing Atas Tindakan Pemutusan Hubungan Kerja Oleh Perusahaan Penyedia Jasa Pekerja” (2021) 19:2 Al Qodiri J Pendidikan, Sos Dan Keagamaan 453–472.

<sup>10</sup> Ahmad Hunaeni Zulkarnaen, *Hukum Publik, Sarana-sarana, Tujuan, Fungsi, Teori Keadilan, Sistem Hukum Hubungan Industrial Indonesia dan Perjanjian Kerja Bersama-Jejak Pustaka* (Jejak Pustaka, 2023).



by positivists. This research also uses descriptive-analytical research methods, namely methods that aim to describe and seek answers fundamentally regarding cause-and-effect relationships by analyzing the factors that cause the occurrence or emergence of a particular phenomenon or event.<sup>11</sup> In addition, this research uses a socio-legal approach method, which is supported by secondary legal materials in the form of writings of experts and legal policies, so that the real reciprocal relationship between law and other social variables can be studied and studied.

## RESULT & DISCUSSION

### I. Weaknesses in the Policy on the Elimination of Outsourcing in Indonesia

Law plays a role in forming a law-aware society.<sup>12</sup> In legal science, there is an adage that everyone is considered to know the law when the law is declared effective (Article 5 of Law No. 12/2011), so logically, the law can be applied after the regulation is declared effective. Laws are made to be implemented; the law is no longer called a law if it is not applied in society.<sup>13</sup>

Labor management, especially the outsourcing system, is part of the government's authority in the regulation of labor relations. Although outsourcing is important for company efficiency, this practice raises legal issues related to the uncertainty of employment status, lack of social security, and protection of workers' rights.<sup>14</sup> The use of outsourced workers for core functions in government and private institutions has been criticized for contradicting the principle of legal justice. For that reason, the abolition of outsourcing has become the focus of policy to ensure legal certainty and worker protection. In practice, the implementation of the policy to eliminate outsourcing still faces various challenges in the community. This raises questions about the effectiveness of the law in creating legal awareness, especially among business actors and workers.<sup>15</sup> If the law is made to be implemented, then the policy to eliminate outsourcing should be consistently enforced. However, if its implementation does not occur in the community, then the question arises: does the law really function as a law or is it merely a written norm without implementative power?

According to Maurice F. Greaver II (1999), outsourcing is not simply the transfer of work execution, but is a structured business strategy, which includes the transfer of routine internal activities and the delegation of decision-making rights to third parties who have certain competencies, based on contractual agreements.<sup>16</sup> The purpose of this strategy is to improve operational efficiency (cost of

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<sup>11</sup> Muhaimin Muhaimin, "Metode Penelitian Hukum" (2020) in S Dr Muhaimin, *Metod Penelit Hukum*, Mataram-NTB Mataram.

<sup>12</sup> Surya Wira Yudhayana & Arya Salman Aziz, "Pentingnya Kesadaran Hukum Dalam Dinamika Sosial Di Masyarakat" (2024) 9:1 *Leg J Ilm Ilmu Huk* 79-96.

<sup>13</sup> Indra Utama Tanjung, "Eksistensi Komisi Yudisial dalam Pengawasan Hakim (Tinjauan Yuridis dan Hukum Islam terhadap Undang-Undang No. 18 tahun 2011)" (2021) 15:2 *Al-Fikru J Ilm* 65-77.

<sup>14</sup> Arifuddin Muda Harahap, "Analisis Undang-undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan Di Tinjau dalam Kajian Politik Hukum" (2019) 10:2 *J Penelit Medan Agama Vol.*

<sup>15</sup> Solihan Makruf et al, "Teori hukum dan filsafat hukum: Membangun responsivitas terhadap perubahan ekonomi dan sosial" (2025) 10:1 *Al-Muamalat J Huk dan Ekon Syariah* 94-112.

<sup>16</sup> Richardus Djokopranoto & Richardus Eko Indrajit, "Konsep Manajemen Outsourcing".



production), allow the company to focus on core business activities, and optimize the quality of products and services in order to compete effectively in the market.<sup>17</sup> In practice, this efficiency is realized, among other things, through a reduction in production costs, especially costs related to human resources. Thus, outsourcing is a form of contracting out, which is the transfer of certain work outside the company's main activities to an outside provider for a certain period of time, as a solution for user companies in addressing the dynamics and problems of employment.<sup>18</sup>

The process of abolishing the outsourcing system cannot be done suddenly. Juridically and conceptually, this policy requires a fair, measured, and comprehensive approach so as not to cause negative impacts, especially in the form of social and economic turmoil, such as mass layoffs that are detrimental to workers. The discourse on the abolition of outsourcing is also inseparable from aspects of legal substance, especially about the process of forming and formulating legislation. In this case, the implementation of labor policy supervision is the responsibility of the central government, constitutionally under the authority of the Ministry of Manpower, which is tasked with ensuring that policy implementation is carried out effectively, fairly, and in line with the principles of the rule of law.<sup>19</sup>

The government's recent steps in the development of a policy to eliminate outsourcing have shown a tendency to be carried out, especially in core sectors that are directly related to the production process. This policy is based on the need to build a more equitable and sustainable working relationship through a direct working system between employers and workers, without the involvement of a third party as a labor service provider, including the following:<sup>20</sup>

- a. Protection of normative labor rights;
- b. Improving the quality of harmonious and democratic industrial relations; and
- c. Creation of legal certainty and improvement of workers' welfare.

Normatively, this policy is expected to be realized in a fair, inclusive, and productive manner. Because the elimination of outsourcing is believed to support the creation of a stable and professional work relations climate and ultimately contribute to increasing the competitiveness and efficiency of the workforce at the national level referring to Article 33 paragraphs 1 and 4 of the 1945 Constitution emphasizing that the economy is structured as a joint effort based on the principle of kinship, and that national development must prioritize the welfare of the people.<sup>21</sup> The outsourcing system in Indonesia is not only difficult to abolish because of economic factors alone, but also because of its legal position, which has been

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<sup>17</sup> Fitri Lukiastuti & Setyo Pantawis, *Peran Strategi Operasi Terhadap Pengembangan Daya Saing UKM Bandeng Presto di Tambakrejo Semarang* (2019).

<sup>18</sup> Bernat Panjaitan, "Outsourcing (Alih Daya) dan Pengelolaan Tenaga Kerja pada Perusahaan (Tinjauan Yuridis terhadap Undang-undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan)" (2016) 4:1 *J Ilm Advokasi* 12–24.

<sup>19</sup> Muhammad Asri Rajani Maha & Arifuddin Muda Harahap, "Analisis peraturan pemerintah pengganti undang-undang nomor 2 tahun 2022 tentang cipta kerja terkait ketentuan waktu istirahat bagi pekerja/buruh" (2023) 9:1 *J Educ J Pendidik Indones* 346–352.

<sup>20</sup> Harahap, *supra* note 3.

<sup>21</sup> Maha & Harahap, *supra* note 19.



expressly accommodated and regulated within the framework of the legal system and national policy.<sup>22</sup>

The following presents substantive reasons from a legal and policy perspective that explain why the practice of outsourcing has been maintained on an ongoing basis. First, legally, the practice of outsourcing has gained legitimacy through a number of statutory regulations that explicitly regulate the mechanism and scope of its implementation. Law No. 13/2003 on Manpower is the main legal basis that recognizes the existence of outsourcing, with provisions that regulate the types of work that can be outsourced. Furthermore, Law No. 11 of 2020 (Job Creation) was established to increase investment competitiveness and the efficiency of outsourced labor as a legal instrument for the operational efficiency of companies, including in the manufacturing and service sectors, Government Regulation (PP) No. 35 of 2021 is a derivative of the Job Creation Law to clarify the mechanism of outsourcing work agreements allowed for all types of work, as long as workers are protected by a valid Fixed-Term Work Agreement (PKWT) or Indefinite-Term Work Agreement (PKWTT).<sup>23</sup> Even the Constitutional Court (MK) itself has examined the “constitutionality of the outsourcing system” and has never completely annulled the practice of outsourcing as contrary to the 1945 Constitution, as reflected in MK Decision No. 27/PUU-IX/2011 and MK Decision No. 168/PUU-XXI/2023. This shows “that the state recognizes outsourcing as constitutionally legitimate”, provided that it is accompanied by adequate legal protection for workers.

Therefore, despite calls from various trade unions to abolish the outsourcing system, this move could exacerbate labor problems in Indonesia. Without the outsourcing system, many companies that are unable to maintain their employment structure may be forced to cut their workforce. This could potentially increase the unemployment rate significantly. According to data from the Ministry of Manpower, the total labor force in Indonesia in February 2025 reached 145.77 million people, an increase of 3.57 million people compared to the previous year. Even so, the open unemployment rate also rose to 7.28 million people, an increase of 83,450 people compared to last year.<sup>24</sup> With a significant workforce, the outsourcing system also opens up job opportunities for those without higher education or specialized skills, making it an entry point into the formal workforce.

Thus, the complete abolition of the outsourcing system without a planned and measured transition strategy could have a broad negative impact on the stability of the national labor market. In the context of the Indonesian economy, which is still facing challenges in providing adequate formal employment, the outsourcing system acts as a mechanism for labor flexibility that allows companies to remain competitive while absorbing large numbers of workers, especially those with middle to lower education. Therefore, a more constructive approach is to reform the practice of outsourcing by strengthening regulations to ensure the protection of workers' rights, monitoring the implementation of work contracts, and improving

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<sup>22</sup> M Faishal Aminuddin & Wahyu Prasetyawan, *Pasang Surut Demokrasi: Refleksi Politik Indonesia 1999-2019* (LP3ES, 2022).

<sup>23</sup> PKWT Hak Pekerja, “Hak Pekerja Dalam Perjanjian Kerja Waktu Tertentu (Pkwt) Pasca Diundangkannya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja” (2020).

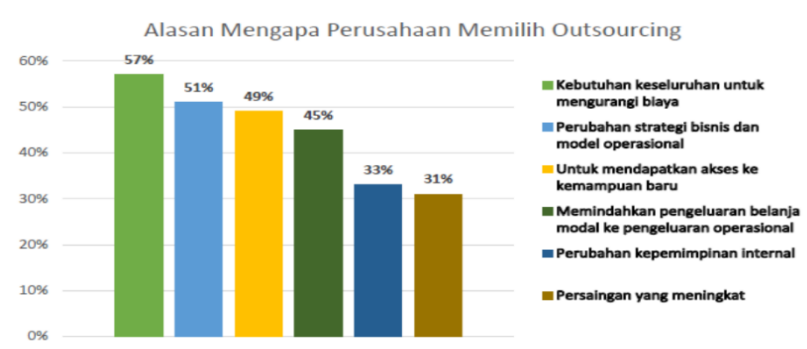
<sup>24</sup> Bobby Rasyidin, *Sumber Daya Korporasi: Jawaban untuk Indonesia Emas 2045* (Elex Media Komputindo, 2024).



the quality of training and certification for outsourced workers. This approach not only maintains the continuity of employment opportunities but also encourages a sustainable improvement in the quality of the national workforce.

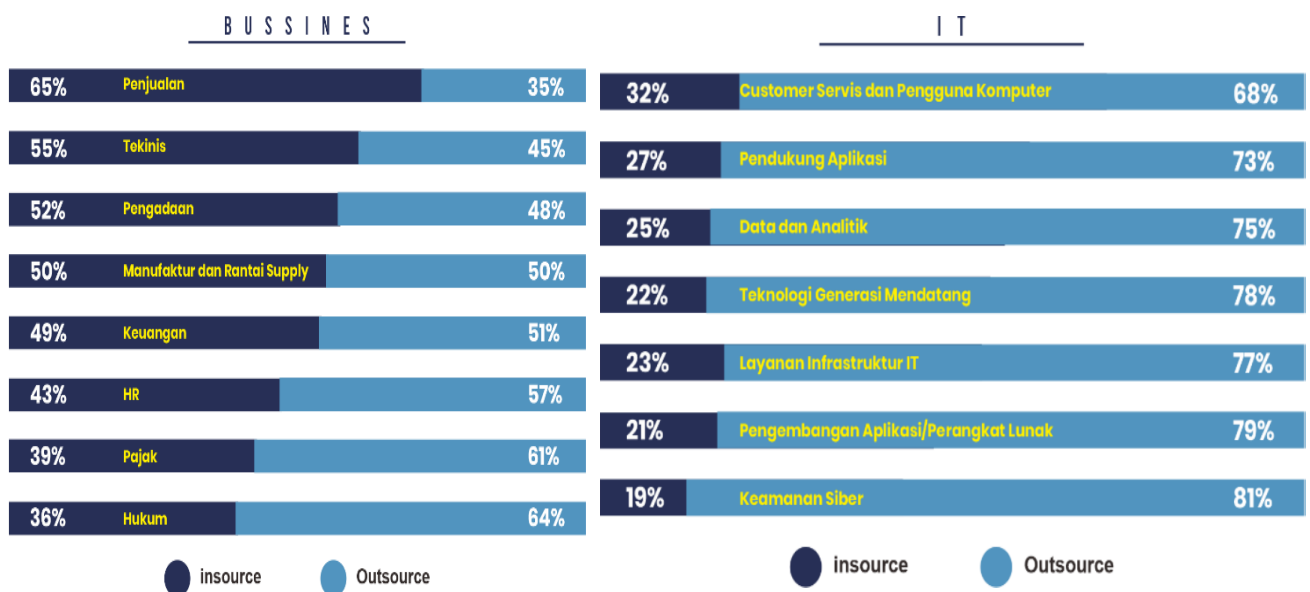
There are a few key reasons why outsourcing remains the best strategy, namely: Up to 70% Cost Savings: Salaries, infrastructure, and benefits can be minimized, Focus on Complex Tasks: Non-core activities are outsourced to third parties, Access Global Talent: Specializations that are hard to find locally can be accessed faster, Faster Time-to-Market: External teams are ready to execute with minimal onboarding, and More Flexible Scalability: Companies can adjust team capacity according to project needs.<sup>25</sup>

**Figure 1.** Why Companies Choose Outsourcing



**Source:** Deloitte Global Outsourcing Survey 2022

**Figure 2.** Job Sectors that Use Outsourced Labor



**Source:** Deloitte Global Outsourcing Survey 2022

<sup>25</sup> Habibi et al, *supra* note 5.



## II. Implementation of the Policy on the Elimination of Outsourcing for Trade Unions and Employers

### a. Outsourced Workers Union

Several labor unions, including the Confederation of Indonesian Trade Unions (KSPI), view the practice of outsourcing as a form of modern slavery that harms workers.<sup>26</sup> KSPI emphasizes that workers are human beings, not just means of production, and therefore have the right to protection and legal certainty in work relations. According to KSPI, the outsourcing system is detrimental to workers because it places them in a position that is not directly related to the company using the service, but through the intermediary of a labor agent, thus reducing the certainty and guarantee of their normative rights.<sup>27</sup> One of the biggest problems is when outsourced workers are laid off.<sup>28</sup> In such situations, workers are often rejected by both the company and the outsourcing company when they demand their rights, such as severance pay. According to KSPI, this creates uncertainty and disadvantages for workers. KSPI also rejects the arguments of capital owners or employers who claim that they use outsourcing to get productive and easily replaceable workers. They emphasize that workers are human beings who want to have a secure future, and they also have the right to protection. Replacing workers easily, without consideration of workers' conditions, is inhumane.<sup>29</sup>

Then, the assumption is that the Ciptaker Law does not strictly regulate the limitations on the types of work that can be outsourced. In this case, they propose that the outsourcing article return to Law No. 13/2003 on Labor because there are still discrepancies made by outsourcing companies by cutting workers' salaries and not by the Provincial Minimum Wage (UMP) or the City/Regency Minimum Wage (UMK).

### b. Outsourcing Company

In its implementation, there are still many practices that are not in accordance with Law No. 6 of 2023 and PP No. 35 of 2021, especially in outsourcing companies and user companies. The Indonesian Outsourcing Business Association (ABADI) explains that the discrepancy is because outsourcing companies are only formed casually, do not have real offices or only virtual offices, do not have good infrastructure and finances, and are only oriented to get short-term profits from users.<sup>30</sup>

This fact is reinforced by the existence of outsourcing companies that deliberately target users who stand in their territory. ABADI said that these local outsourcing companies were managed by thugs. If there are prospective

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<sup>26</sup> H Zaeni Asyhadie, M Sh & S H Rahmawati Kusuma, *Hukum ketenagakerjaan dalam teori dan praktik di Indonesia* (Jakarta Timur : Prenada Media Group, 2019).

<sup>27</sup> Agus Pancawibowo, *Penerapan Sistem Outsourcing dan Hak-Hak Sosial Ekonomi Tenaga Kerja Outsourcing di Kota Surakarta (Studi kasus di PT. PLN (persero) APJ Kota Surakarta)* UNS (Sebelas Maret University), 2010 [unpublished].

<sup>28</sup> Wiwin Budi Pratiwi & Devi Andani, "Perlindungan Hukum Tenaga Kerja Dengan Sistem Outsourcing Di Indonesia" (2022) 29:3 J Huk Ius Quia Iustum 652–673.

<sup>29</sup> Asyhadie, Sh & Rahmawati Kusuma, *supra* note 26.

<sup>30</sup> Habibi et al, *supra* note 5.



outsourcing workers who want to work with an outsourcing company managed by these individuals, these prospective workers are asked for an initial deposit before entering the company. Users continue to maintain outsourcing companies managed by these unscrupulous thugs so that their business will not be disrupted.<sup>31</sup>

In the long term, the rules on outsourcing need to be strengthened, including: at the time of establishment, a deposit is required as a guarantee that the outsourcing company can pay the salaries of outsourced workers. In addition, a deposit can minimize the existence of deviant practices committed by unscrupulous outsourcing companies. Then, outsourcing companies need to take shelter in or obtain a recommendation from an outsourcing association. This is to strengthen commitment so that the company can be run by the rules, including increasing compliance in providing social security through cooperation with BPJS Ketenagakerjaan.

## CONCLUSION

Policies related to the abolition of the outsourcing system are a multidimensional issue that has a broad impact on labor and the business world in Indonesia. The complexity of this phenomenon demands an integrated approach from legal, social, and economic aspects in order to produce an equitable and sustainable solution. Although the practice of outsourcing is legal and has become part of the dynamics of national employment, reform of this system is an urgent need in order to provide adequate protection for workers while maintaining the competitiveness of the business world.

Outsourcing should not be positioned as a threat to workers, but as an instrument that, if managed with good governance and appropriate regulations, can function as a buffer between unemployment and employment opportunities—especially amid global economic uncertainty. Therefore, the complete abolition of the outsourcing system without a structured replacement strategy has the potential to worsen the national labor situation. What is needed now is not the total abolition of the outsourcing system, but regulatory reform based on the principle of evidence-based policy. The government needs to design a balanced policy that encourages labor market flexibility without sacrificing the protection of workers' rights. With such an approach, the outsourcing system can remain part of the solution to maintain the stability and sustainability of the labor market in Indonesia.

## DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

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None.

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<sup>31</sup> *Ibid.*



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