The implementation of the Agreements of time (PKWT) on the basis of Act No. 13 of 2003 On Labor On private companies in the city of Bengkulu

ABSTRACT
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The existence of job sharing with PKWT and PKWTT is initiated from the availability of job that requires certain time in implementing it. PKWT, based on Article 56 (2), is stated that, as meant in Article 56 (1), PKWT is based on a certain period of time or the accomplishment of a certain job. Of the two kinds of jobs, PKWT based on period of time brings implication to the workers. This implication is caused by the recognition of PKWT based on period of time which brings an interpretation that the job which is not based on its kind, nature or temporary activity can be put into agreement based on period of time. This interpretation is surely not in line with Article 59 (2) stating that PKWT can be applied for a permanent job. Even, in Article 59 (7) it is stated that violation of Article 59 (2) can turn PKWT, for the sake of law, into PKWTT. In relation to the above condition, the problems discussed in this study are about how PKWT is regulated in the regulation of legislation in the sector of manpower, the concurrence on the form of PKWT regulation in the work agreement between the employer businessman and the worker with the regulation of legislation and legal protection for the workers bound to PKWT. This study was carried out based on the empirise juridical approach. The data obtained through library research and interviews were then analyzed based on the legal norms found in the regulation of legislation. This result of this study reveals that regulation of PKWT found in the regulation of legislation brings a different interpretation, PKWT applied by the employer businessman is not in line with the stipulation of legislation in the sector of manpower, with various reasons the workers accept the PKWT although it is against the existing legislation, legal protection for the workers is still limited and inadequate and this is proven to be still found in the work agreement made by the employer because there are still many clauses that inflict loss to the workers. Therefore, the government is suggested to revise Law No. 13/2003 on Manpower especially Article 56 (2a) and Article 59 (2) that have brought inconsistency and different interpretation in the regulation of PKWT.

Key words: Workers, Temporary Work Agreement, Manpower
A. Introduction

Human resources have an important part in the implementation of national development, because the quality and the role of human resources will significantly determine the direction and purpose and the success of national development. Development on employment is part of the development of human resource, in order to run the wheel of development in this beloved country of Indonesia.

The field of employment regulates labor relations between employers and employees, where the employer gives orders of work to be performed by the worker, and the worker will be paid in return for the work he has done.

Work is an attempt performed by one to earn a living in order to meet all his needs. In an effort to earn such income, one would need another person in a relationship of helping each other and mutual exchange of aids in giving what has been owned and receives all what is still needed from others. Someone who lacks of capital or income is the one who will require a job that can provide income to him, at least in a form of ability.\(^1\)

Thing to cause problem is the number of violations in the implementation of the Fixed-Term Employment Contract. Where there have been deviations toward the implementation of Fixed-Term Employment Contract rules which are carried out not in accordance or do not even refer to the Fixed-Term Employment Contract set forth in the Regulation, such as:

(1) Fixed-Term Employment Contract can only be made for specific jobs based on the types and characteristics, or the activities of the jobs will be completed in a certain period of time, such as:

a. Jobs that can be completed at once or those that are temporary;

b. Jobs with the estimated completion of work in the not too long period of time, and maximum of three years;

c. Seasonal jobs;

d. Jobs related to new products, new activities, or additional products that are still in experimental or exploratory.

(2) Fixed-Term Employment Contract cannot be held for a permanent job.

(3) Fixed-Term Employment Contract can be extended or renewed.

(4) Fixed-Term Employment Contract which is based on certain can be held maximum for 2 (two) years and only can be extended once for maximum 1 (one) year period of time.\(^2\)

In the practice in the field, in addition to the implementation of Fixed-Term Employment Contract which is not in accordance with the provision stipulated in Regulations No. 13 Year 2003 about Employment\(^3\), Fixed-Term Employment Contract implemented system is also very detrimental to workers such as the absence of a written employment agreement, wages below the minimum standard, lack of social insurance, and no severance pay by the time of termination of employment\(^4\). For example, many employers who do the violation by using workers of Fixed-Term Employment Contract to do permanent work in their companies.

**B. Methods**

The method used in this study is primarily empirical juridical approach. Juridical empirically identify and conceptualize law as a social institution that is real and functional in living systems are patterned. Juridical approach in this study is the approach in terms of legislation and legal norms in accordance with the existing problems, while the empirical approach is emphasizing research aimed at obtaining empirical knowledge to the road go directly to the object.

**C. Obstacle in the Implementation of Fixed-Term Employment Contract which is not in accordance with the Rules of Legislation against Workers/Laborers**

Some factors inhibiting the implementation of Fixed-Term Employment Contract are:

1. **From Employers Party**
   a. Lack of understanding of the regulations concerning employment in terms of the

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\(^2\) Explanation of Article 59 Act (1-4) Regulations Number 13 Year 2003 about Employment.

\(^3\) Ibid

\(^4\) Loc. Cit.
implementation of Fixed-Term Employment Contract in the company.

b. The element of intent done by the company which is not listed the Fixed-Term Employment Contract to the Government for their fraud in the implementation of the Fixed-Term Employment Contract.

c. Still lack of the functionality of entrepreneurs in creating partnerships, business development, increase employment opportunities, as well as providing welfare to workers/laborers in an open, democratic, and fair environment.

2. From Workers Party

Workers receive Fixed-Term Employment Contract despite being opposed to the applied Legislation, for the following reasons:5

a. Ignorance Reason

The existence of interpretation that the Fixed-Term Employment Contract can be contracted by not based on the type, nature or the temporarily activities, caused the practice of agreement between the workers/laborers with employers that do not fit with the aim of Fixed-Term Employment Contract. The things above can be caused by ignorance.

b. Necessity Reason

In addition to ignorance reason above, the basic of life necessities reason is also factor that is not less important when the workers/laborers are faced with the difficulty of jobs and competition in terms of finding jobs.

c. Socialization Towards the Less Able Workers

In general, employment issues were more identified with the problems between workers and employers. That

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5 Explanation from the result of the research on workers from three studied companies.
understanding led to the protection of workers / laborers with Fixed-Term Employment Contract becomes very weak.

3. **From Government Party**
   a. There is still a lack of guidance and supervision from the government to the company.
   b. Limitation of operational vehicles from the government to reach areas of the company (mining).
   c. Furthermore, due to the lack of funds from the budget so that the budget allocation that specializes to conduct activities for promotion and socialization for the companies in the Province of Bengkulu on the company's obligation to implement the Regulations of the Employment.

4. **From Regulation Aspect**
   The absence of strict sanctions in the Regulation No. 13 Year 2003 on Employment and the Ministry of Manpower and Transmigration of Republic of Indonesia Number: Kep.100/ MEN/VI/2004 on the Provision of Implementation of Fixed-Term Employment Contract for violations committed by the company in the implementation of Fixed-Term Employment Contract.

D. **Cover**

1. **Conclusion**
   Based on research by the author authors concluded as follows:
   
   1. That the implementation of the Employment Agreement Specific Time (PKWT) pursuant to Act No. 13 of 2003 on Labour imposed on private companies in the city of Bengkulu many are not in accordance with the rules of Regulations No. 13 of 2003 on Labour and Minister of Manpower and Transmigration Decree No. KEP.100 / MEN / VI / 2004 on provisions on the Implementation of Work Agreement for specific time periods such as in PT. Twins Mitra, PT. Surya work is conformable (SKS) and PT. FertoRejang Bengkulu.
Employers and workers still undergo working relationship erroneous, and resulted in workers as the weaker party have worked many years at the company, but still a certain time workers contrary to Article 59 paragraph (4) and (6) Labor Law. Employers also still set their trial period for workers who hold a working relationship in PKWT and this contravenes Article 58 paragraph (1) Labor Law. PKWT which shall be recorded at the responsible agency in the field of employment are not reported by employers, it is contrary to the rules of Article 13 of the Decree of the Minister of Manpower and Transmigration Decree No. Kep.100 / MEN / VI / 2004 on Provisions on the Implementation of Certain Time Employment Agreement, The protection of the implementation of the Employment Agreement Specific Time (PKWT) which does not comply with these rules, many workers do not get their rights as stipulated in Law No. 13 Year 2003 on Manpower Article 156 (1) "In the event of termination of employment, employers are required to pay severance or gratuity and compensation they should receive "when the employment relationship ends. Warranty protection is one of the rights of a worker in the survival of a company. But in PT. Partners Twins Bengkulu employers are not set on the Social Security protection workers. This is of course contrary to Article 18 paragraph (3) of Law No. 3 of 1992 on Social Security. Given the large wage employers do not comply with the rules of Bengkulu Province Governor Decree No. E.536.XIV 2015 and overtime performed by workers are not borne by the employer. Hours of work in the company is twelve (12) hours with a 2 hour rest
period. This is contrary to Article 77 paragraph (2) No. 13 of 2003 on Labour "working time of 7 (seven) hours 1 (one) day to six (6) working days or 8 (eight) hours 1 (one) day for 5 (five) working days.

2. That the obstacles in the implementation of the Employment Agreement Specific Time (PKWT) that does not comply with the rules of employment, because they lack the knowledge of the parties regarding labor regulations, the absence of strict sanctions, lack of budget budget that specializes to conduct training and socialization of enterprises located in the Bengkulu Province. Lack of government's role in conducting activities in the promotion and dissemination of those companies. And the weakness of the knowledge of the workers of the Employment Agreement Specific Time (PKWT).

2. Suggestions

1. Employers and workers need to know and understand the terms and conditions of Legislation governing Fixed-Term Employment Contract and Unspecific-Term Employment Contract in order to be in line with the principle of balance and there is no employment relationship that went wrong in the company. Employers also should not specify a trial period for workers who hold a working relationship in the Fixed-Term Employment Contract so that workers who worked for many years can develop and progress. It is important to have labor protections intended to guarantee the basic rights of workers and ensure the opportunities and non-discrimination. Social Security and other employment protection as workers' rights should be borne by the employer. Employers must also obey the agreement as agreed by
both parties because the agreement is a Regulation for those who make it. The working hours of workers in the Employment Regulations should also be obeyed by employers in order to create a harmonious working relationship and provide a decent life for humanity, especially fixed-term workers.

2. Governments should always conduct socialization and supervision on the employers and fixed-term employees on a regular basis. The government should also conduct monitoring and evaluations as well as providing strict sanctions in accordance with the legislation applicable to employers or companies that do not heed the rules in labor regulations. In conducting industrial relationship, employers should have the function of creating partnerships, developing business, expanding its employment, as well as providing welfare to workers / laborers in an open, democratic, and fair environment. In conducting industrial relationship, workers / laborers should run the job in accordance with its obligations, deliver the aspirations democratically and develop skills and participate to fight for the welfare of workers / laborers and their families.

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