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# Legal Protection for Workers in Non-Standard Employment Relationships

**Nazaruddin Al-Farisi**[1*]

[1] Universitas Muhammadiyah Yogyakarta, Yogyakarta, Indonesia

## Abstract:

Changes in work patterns have led to the development of non-standard employment relationships, distinct from permanent and full-time employment relationships. This study aims to analyze the existence of non-standard employment relationships in Indonesia, both legally and empirically, and to examine their relationship to the feasibility of work and the protection of workers' rights. The study uses a juridical-empirical approach, incorporating a literature review of laws and regulations, court decisions, legal doctrine, academic literature, and supporting empirical sources. These are then analyzed qualitatively through a legislative approach. The results of the study indicate that temporary work and outsourcing have a regulatory basis in Law Number 13 of 2003 concerning Manpower and its implementing regulations, but part-time work, on-call work, and disguised employment relationships still face gaps or limited protection. These conditions impact job security, wages, social security, and workers' bargaining power. Therefore, strengthening regulations is necessary to ensure labor market flexibility remains in line with the principles of decent work and fair and sustainable worker protection for all parties in the dynamics of the Indonesian labor market.

## Keywords:

Employment Relations; Employment; Outsourcing; Legal Protection; Workers.

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## 1. Introduction

Employment relationships in the labor system were initially built primarily through standard employment patterns that brought together workers and employers through work agreements. These relationships were characterized by work, wages, and orders as the main elements, as stipulated in Law Number 13 of 2003 concerning Manpower. Standard employment patterns were generally full-time, permanent, and based on agreements between workers and employers (International Labour Organization, 2015). However, changes in economic structures and companies' need for workforce flexibility have led to an increasingly diverse range of employment patterns.

These changes have given rise to non-standard forms of employment, which differ from conventional employment patterns. The International Labour Organization (ILO) classifies non-standard employment relationships into temporary employment, multi-party employment relationships, part-time and on-call work, disguised employment relationships, and dependent self-employment. These forms indicate that employment relationships can last for a specific period, involve multiple parties, utilize flexible working hours, or formally position a person as a non-worker despite the existence of economic dependence and control over the work.

In Indonesia, various forms of non-standard employment relationships have developed through Fixed-Term Employment Agreements (*Perjanjian Kerja Waktu Tertentu*/PKWT) and outsourcing. These arrangements allow for flexibility in employment relationships while establishing requirements to protect workers. Research on PKWTs indicates that legal protection remains necessary because the limited employment status can impact the certainty and fulfillment of workers' rights (Sari et al., 2020). In outsourcing relationships involving workers, user companies, and labor providers, clarity regarding responsibilities for fulfilling workers' rights is necessary (Parinduri, 2019; Nursalim & Suryono, 2020).

The issue of protection becomes increasingly important when flexible employment relationships are not accompanied by certainty about basic worker rights. Contract workers can face uncertainty about job continuity, while outsourced workers can face questions about who is responsible in the event of a dispute or termination. Protection for outsourced workers should include job security and the fulfillment of rights when the employment relationship ends (Prabhaputra et al., 2019; Yuliardi & Santoso, 2022). Similar conditions can arise in part-time and on-call jobs, which offer flexibility but potentially lead to uncertainty about income, working hours, and social protection.

The development of the digital economy has also expanded forms of employment relationships that are difficult to place within traditional categories. Disguised employment relationships and dependent self-employment can occur when someone is formally categorized as independent but, in practice, relies on a specific company. This phenomenon is increasingly relevant in the gig economy, where work is performed on a task-based or on-demand basis through digital platforms. Therefore, legal protection needs to consider the substance of the relationship, the economic dependence, and the control that occurs in the execution of the work.

Based on these conditions, regulations are needed to ensure that flexible employment relationships do not become a means of reducing worker protections. Certainty of status, protection of rights, and employer responsibilities are essential elements in creating fair industrial relations (Sugiyono & Pardede, 2021; Andani, 2022). This study examines non-standard employment relationships from both legal and empirical perspectives, while assessing their implications for workers' employability.

Based on this background, this study formulates two research questions: RQ1: How does the existence of non-standard employment relationships exist legally and empirically in the Indonesian labor law system? RQ2: How does the regulation of non-standard employment relationships relate to the work eligibility of workers in such relationships? These two questions serve as the basis for analyzing the development of non-standard employment relationships and the ability of Indonesian labor law to provide protection for workers.

## 2. Methods

This study uses an empirical legal research method that combines a study of legal norms with the evolving conditions in the practice of non-standard employment relations in Indonesia. This approach is used to obtain an overview of the existence, regulation, and implementation of non-standard employment relations in the Indonesian employment system. The research not only examines applicable legal provisions but also considers how these provisions relate to workers' conditions in practice.

The research data was obtained through a literature review using secondary data as the primary source. This data includes laws and regulations related to employment, provisions regarding employment relations, employment agreements, outsourcing, and the protection of workers' rights. In addition to laws and regulations, the research also utilized court decisions, books, legal doctrine, scientific journal articles, and previous research findings relevant to non-standard employment relations. These sources were used to build a conceptual and legal foundation for analyzing the research problem.

The research also considers empirical information related to the development of employment patterns in Indonesia. This information is used to assess the alignment between normative regulations and the conditions of employment relationships in practice, particularly regarding work flexibility, worker status certainty, wage protection, social security, and the sustainability of employment relationships. Thus, the analysis goes beyond understanding the regulatory text and also considers issues arising from changing work patterns.

Data analysis was conducted qualitatively using a statute approach. The legal materials and information obtained were classified based on the research issue and then compared to determine the regulatory patterns and forms of protection available. Each relevant legal material was then analyzed and linked to the concept of legal protection and the principles of decent employment relations. The results of this analysis were used to answer two research questions: the existence of non-standard employment relations in the Indonesian employment system and their relationship to workers' workworthiness. The analysis was conducted systematically to illustrate the relationship between the development of work patterns, legal certainty, and the fulfillment of workers' rights as a whole. Conclusions were drawn based on the analysis of legal norms and facts found in the literature, as well as employment practices.

## 3. Results and Discussion

### *3.1. The Existence of Non-Standard Employment Relationships in the Indonesian Employment System*

Research findings indicate that non-standard employment relationships have become part of employment practices in Indonesia, both through forms already recognized in regulations and new work patterns that develop in response to economic changes. Normatively, non-standard employment relationships can be found through Fixed-Term Employment Agreements (PKWT), outsourcing, part-

time work, and other forms of flexible employment. The existence of these forms indicates that employment relationships no longer only occur in permanent, full-time employment patterns between an employee and a single employer. PKWT provides companies with flexibility to meet workforce needs based on the specific characteristics of the job, but at the same time creates uncertainty for workers because the employment relationship is limited by a time period.

Sari et al. (2020) show that workers under PKWT still require legal protection because the contract status can affect the certainty of the employment relationship and the fulfillment of rights. Similar issues are found in outsourcing involving workers, labor supply companies, and user companies. This system allows companies to use labor through third parties, but the relationship structure involving multiple parties can raise questions regarding the status of workers and responsibilities for fulfilling their rights. Parinduri (2019) explains that legal protection for outsourced workers is necessary to ensure that the use of outsourcing systems does not diminish workers' rights. Nursalim and Suryono (2020) also point out that outsourcing employment relationships can raise issues regarding the protection and certainty of workers' rights.

Furthermore, developments in the labor market demonstrate the increasing prevalence of part-time and on-call work. These forms provide flexibility regarding working hours but can lead to uncertainty regarding the number of jobs and income. Changes in digital technology have also given rise to work patterns that are increasingly difficult to classify as traditional employment relationships, including platform-based work, disguised employment relationships, and dependent self-employment. A person may be formally classified as an independent worker, but in fact, they are economically dependent and under the control of a particular party.

These conditions demonstrate that the existence of non-standard employment relationships is not only related to variations in contract forms but also to changes in the structure of the relationship between workers and employers. Thus, the answer to RQ1 indicates that non-standard employment relationships have developed significantly in the Indonesian employment system. Its existence can provide flexibility for companies and open up alternative employment opportunities, but this development also poses challenges to the certainty of worker status, rights, and protection. Therefore,The existence of non-standard employment relationships needs to be seen based on the substance of the employment relationship, not just based on the formal form of agreement used by the parties.

### *3.2. Legal protection for workers in non-standard employment relationships*

The research findings indicate that non-standard employment relationships must be accompanied by adequate legal protection to prevent flexibility from becoming vulnerable to workers. This protection is constitutionally based in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which provides the basis for the right to work and fair and proper treatment in employment relationships. Therefore, differences in the form of employment relationships should not be a reason to eliminate workers' basic rights. In PKWT (Fixed Term Work Agreements), protection is needed to ensure that the use of the contract is in accordance with the character of the job and is not used to avoid company obligations.

Workers still have the right to receive certainty regarding the contents of the agreement, the length of employment, wages, and other rights during the employment relationship. Sari et al. (2020) demonstrate the importance of legal protection for workers in fixed-term employment agreements. In outsourcing, the

need for protection becomes more complex because there are provider companies and user companies. Prabhaputra et al. (2019) explain that the outsourcing system is part of industrial relations that requires clear regulations to ensure the position of workers remains protected. Company responsibility is also an important issue when disputes or termination of employment occur.

Yuliardi and Santoso (2022) demonstrated that outsourcing companies have a responsibility to protect workers in various aspects. Sugiyono and Pardede (2021) also identified the protection of outsourced workers' rights as a crucial issue when employment is terminated by the service provider. This means that employment relationships involving third parties must not result in workers losing certainty regarding the party responsible for fulfilling their rights. Protection also needs to be applied to part-time workers, on-call workers, and workers in disguised employment relationships. In these relationships, the worker's formal status does not always reflect the actual conditions of the work.

Therefore, protection must consider the nature of the work, level of dependency, instruction patterns, payment mechanisms, and the form of control exercised by the company. Andani (2022) emphasized the importance of legal protection for outsourced workers in the outsourcing system in Indonesia. Based on these findings, legal protection for non-standard workers is not sufficient in the form of written regulations alone but must be realized through supervision, contract certainty, fulfillment of rights, and access to dispute resolution. Thus, RQ1 on the protection aspect shows that the Indonesian legal system has provided a basis for protection for non-standard workers, but its effectiveness is largely determined by the implementation and supervision of the employment relationship.

### *3.3. Non-standard Employment Relations and Eligibility for Workers*

Non-standard employment relationships have a direct impact on the feasibility of work because they relate to job security, income, working hours, social protection, and the continuity of the employment relationship. Research shows that flexibility does not always result in decent work. Under certain conditions, flexibility can actually increase vulnerability if workers have a weak bargaining position and do not receive adequate protection. In PKWT (Fixed-Term Contracts), the issue of feasibility of work relates to limited work periods and uncertainty about job continuity. Workers may perform the same tasks or have a comparable workload as other workers, but contract status results in varying levels of job security. In outsourcing, the issue of feasibility relates to the clarity of the legal relationship and responsibilities of the provider and user companies.

Changes in labor providers or the expiration of contracts can impact job continuity and create uncertainty for workers. These conditions demonstrate that decent work is determined not only by the availability of work opportunities but also by the ability of the job to provide certainty of rights and protection. This issue is increasingly apparent in part-time employment. While part-time work does provide flexibility for workers in managing their time, limited working hours can impact income levels. Rabbani (2019) points to the problem of part-time workers earning wages below the regional minimum wage. These findings demonstrate that flexible working hours can pose a challenge to income sufficiency. On-call work also presents uncertainty because workers only receive work when their employer specifically requires it. As a result, the amount of work and income received are uncertain.

The situation becomes more complex in disguised employment relationships and dependent self-employment, where a person is formally considered independent but is economically dependent on a particular company. In the emerging gig economy,

workers may have flexibility in determining their working hours but remain dependent on platform mechanisms for job acquisition, assessment, and payment. Therefore, the suitability of working in non-standard relationships must be assessed based on the actual circumstances experienced by the worker, not simply based on the contractual label.

The feasibility of working in non-standard employment relationships ultimately depends heavily on the effectiveness of legal protections provided to workers. Research findings show that non-standard employment relationships can still provide decent work if flexibility is accompanied by certainty of rights, income protection, reasonable working conditions, social protection, and access to dispute resolution mechanisms. Conversely, when flexibility is used to reduce company liability, such relationships can create uncertainty and increase worker vulnerability. Therefore, protection should not be differentiated solely based on a worker's formal status. Contract, outsourced, part-time, on-call, and platform-based workers still require protection according to the actual circumstances of the employment relationship. This approach is important because developments in the world of work are blurring the boundaries between permanent, contract, independent, and platform workers. If the law relies solely on formal classifications, there is a risk that workers who are actually dependent on the company will not receive the protection they deserve.

Therefore, assessments of employment relationships need to consider the level of economic dependence, the provision of instructions, payment mechanisms, and work control. Furthermore, companies' need for flexibility must also be recognized, as market and technological changes demand more adaptive forms of workforce management. This flexibility should not be eliminated, but it must be placed within limits that still guarantee workers' rights. Labor inspection is crucial to ensure the effective implementation of existing regulations. Workers also need information about their rights and easy access to complaint and dispute resolution mechanisms. Based on these overall results, the answers to RQ2 indicate that the feasibility of working in non-standard employment relationships is largely determined by the balance between company flexibility and worker protection. The weaker the certainty of status, income, rights, and social protection, the greater the risk that non-standard employment relationships will result in inadequate work. Conversely, if flexibility is accompanied by certainty of rights and effective supervision, non-standard employment relationships can become part of an adaptive employment system without compromising worker protection.

## 6. Conclusion

Non-standard employment relationships have become part of the Indonesian employment system as a result of evolving business needs, economic changes, and technological advances. Research shows that these forms of employment relationships encompass not only Fixed-Term Employment Agreements (PKWT) and outsourcing, but also part-time work, on-call work, disguised employment, dependent self-employment, and digital platform-based work. These conditions indicate that employment relationships are increasingly diverse and no longer strictly follow the pattern of permanent and full-time employment. Therefore, the existence of non-standard employment relationships is a reality that needs to be addressed through employment regulations that can keep pace with developments in the world of work.

Legal protection for non-standard workers must remain based on the principles of protecting workers' rights as guaranteed by the 1945 Constitution of the Republic

of Indonesia and labor regulations. Flexibility in employment relationships should not be a justification for diminishing workers' rights. Certainty of status, wages, work periods, company responsibilities, social protection, and access to dispute resolution are essential elements of worker protection.

Non-standard employment relationships are also closely linked to the right to work. Flexibility can benefit both companies and workers, but without adequate protection, it can lead to uncertainty about income, job continuity, working hours, and social protection. Therefore, regulating non-standard employment relationships requires balancing the interests of company flexibility with the certainty and protection of workers' rights. Supervision and an approach that takes into account the actual conditions of the employment relationship are necessary to ensure that the development of new work patterns remains in line with the principles of decent work.

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The data that support the findings of this study are available from the corresponding author upon reasonable request.