Reflecting on Van Omstandigheden's Misbruic Problems in Certain Time Employment Agreements Post The Entry of The Employment Creation Law

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Abstract

Manpower has a strategic function in the progress of the business world, this is because the workforce is the motor in ensuring the continuity of the business world and national development. The sum of the compensation arrangements and the expiry of the work agreement for a certain time shows that the protection of labor rights is not yet comparable to the needs of the business world for workers. This paper aims to analyze and describe the weaknesses in setting work agreements for a specified time in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law) which resulted in Misbruik van Omstandigheden in work agreements for a certain time after the enactment of the Law. Job Creation. This writing uses a post-positivism paradigm with empirical research types. Based on the studies conducted in this paper, it is known that the existence of Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation and Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Specific Periods, Outsourcing, Working Time and Break Time, and Termination of Relations Work, in fact, has not been able to guarantee freelancers from misbruik van omstandigheden carried out by employers. This fact shows that there is a need for reformulation related to the implementation of supervision and protection for workers for a certain time in real terms, accompanied by strict sanctions against employers in a certain time agreement who misbehave van omstandigheden.

I. Introduction

Manpower can not only be seen as a complement in the continuity of the business world and industry. Far from that, labor should be seen as an important asset in the business circle. The position of the workforce is so important in the business world because the workforce is the engine of the business world.[1] According to Sayuti Hasibuan, humans are an important component in organizations including corporate organizations that will move and carry out activities to

[1] Sayuti Hasibuan, *Manajemen Sumber Daya Manusia : Pendekatan Non Sekuler* (Surakarta: Muhammadiyah University Press, 2000).

achieve goals. The success of an organization is determined by the quality of the people in it. Sayuti's organizational view shows that the workforce is the spirit in determining the achievement of company goals as an organization that has its goals. Sayuti's view shows that through quality human resources a company will be able to run the cycle of the industrial world and this directly or indirectly also makes the wheels of the national economy grow. Deputy for Economic Affairs of the Ministry of National Development Planning/Bappenas Amalia Adininggar Widyasanti in the Indonesia Development Forum (IDF) IDEA Series: Innovate in Batam said:[2]

> *Industrialization reinforced by innovation and technology is an important key to achieving Indonesia's economic growth above 5.5 percent, and to realize this industrialization growth, it is necessary to increase the quality of competitive human resources in the current era of global industrialization.*

Labor does not only contribute to the development of industry and the national economy through its role in developing the business world, more than that, labor from the point of view of citizenship also contributes to national economic development through the taxes paid. The International Labor Organization, Organization for Economic Co-operation, and Development World Bank Group in their paper for the G20 Labor and Employment Ministers' Meeting delivered in ankara, Turkey, from 3 to 4 September 2015, stated clearly that:[3]

Evidence suggests that in most countries migrants pay more in taxes and social contributions than they receive, and contribute substantially to destination countries' economies by providing the labor and skills needed in critical occupations and sectors. This view of the International Labor Organization, Organization for Economic Co-operation, and Development of the World Bank Group can be seen from the data from the statistics center regarding data on realization of state revenue sources below:[4]

[2] Bappenas, "Bappenas: Indonesia Andalkan Industri Untuk Capai Pertumbuhan Ekonomi," Bappenas, 2022, https://www.bappenas.go.id/id/berita/bappenas-indonesia-andalkan-industri-untuk-capai-pertumbuhan-ekonomi-bmPfm.

[3] International Labour Organisation, Organisation for Economic Co-operation and Development, and World Bank Group, "Paper for G20 Labour and Employment Ministers' Meeting," in *The Contribution of Labour Mobility to Economic Growth*, 2015, 1.

[4] Badan Pusat Statistika Republik Indonesia, "Realisasi Pendapatan Negara (Milyar Rupiah), 2021-2023," Badan Pusat Statistika Republik Indonesia, 2023, https://www.bps.go.id/indicator/13/1070/1/realisasi-pendapatan-negara.html.

Table of State Revenue Relations:

Source of Revenue – Finance	State Revenue Realization (Billion Rupiah)		
	2021	**2022**	**2023**
I. Reception	2006334.00	2435867.10	2443182.70
Tax Revenue	1547841.10	1924937.50	2016923.70
Domestic Tax	1474145.70	1832327.50	1960582.50
Income tax	696676.60	895101.00	935068.60
Value Added Tax and Sales Tax on Luxury Goods	551900.50	680741.30	740053.60
property tax	18924.80	20903.80	31311.00
Land and Building Rights Acquisition Fees	0.00	0.00	0.00
Excise	195517.80	224200.00	245449.80
Other Taxes	11126.00	11381.40	8699.50
International Trade Tax	73695.40	92610.00	56341.10
Import duty	39122.70	43700.00	47528.50
Export Tax	34572.70	48910.00	9012.70
Non-Tax Revenue	458493.00	510929.60	426259.10
Acceptance of Natural Resources	149489.40	218493.10	188744.80
Revenue from Separated State Assets	30496.80	40405.30	44068.10
Other Non-Tax Revenue	152504.00	149013.40	110429.80
Revenue of the Public Service Agency	126002.80	103017.70	83016.40
II. Grant	5013.00	1010.70	409.40
Amount	2011347.10	2436877.80	2443592.20

Source: Central Bureau of Statistics

The Central Statistics Agency data above shows that one of the largest sources of state revenue in Indonesia comes from income tax, where one source of income tax is obtained through labor wages in each company. The various narratives and data above show how important the existence of workers or laborers is in Indonesia. The importance of the existence of labor in Indonesia both in the variable dimensions in the business system and in the variable dimensions in the national economic system, necessitates transparent, clear and fair national labor law politics. This is a guarantee of fair game rules where the employment relationship is no longer in the private sphere between workers and companies, but more than that, the working relationship between companies and workers becomes a public issue where the government can get involved in the affairs of

the employment relationship. A balanced and fair working relationship is an important tool in guaranteeing labor rights. This is not yet evident in the world of employment today.

Arrangements regarding work agreements were originally regulated in the Civil Code in Chapter VIIA concerning work agreements which are included in the third book which regulates engagements. Article 1601a of the Civil Code in Chapter VIIA states that "a work agreement is an agreement that the first party, namely the worker, binds himself to surrender his power to another party, namely the employer, with wages for a certain time". Along with the development of the times, arrangements regarding work agreements were then renewed with the issuance of the Republic of Indonesia Law Number 13 of 2003 concerning Manpower (Law of Employment), the provisions of the Republic of Indonesia Law Number 13 of 2003 concerning Manpower were then renewed with the Republic of Indonesia Law. Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law) which carries the concept of the Omnibus Law. The Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law), which carries the concept of the Omnibus Law, has received a lot of rejection due to various juridical weaknesses.

One of these weaknesses can be seen in terms of arrangements related to Specific Time Work Agreements. One of the reasons for the rejection of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law) is the issue of a Fixed Time Work Agreement. The most obvious problem is related to the time limit of the work agreement, not all work can be used as the object of the work agreement for a certain time, but only certain jobs, namely: work that is completed once or is temporary in nature, work whose completion is estimated at a maximum of three years , seasonal work, and work related to new products, new activities, or additional products that are still in trial or exploration. This is different from the reality, in fact many companies employ workers with a Fixed Time Work Agreement that exceeds the agreed time limit. This situation is exacerbated by the calculation of wages which only follows the agreed working time limit, meanwhile workers do not get wages if they do work beyond the agreed time.[5]
This situation can clearly result in the birth of "exploitation de long par long" or "human colonization of other humans". [6]This is also clearly contrary to the mandate of Pancasila and the Fourth Paragraph of the Preamble to the 1945

[5] KEMENKO PMK, "Tantangan Tenaga Kerja Indonesia Di Era Industri 4.0," KEMENKO PMK, 2021, https://www.kemenkopmk.go.id/tantangan-tenaga-kerja-indonesia-di-era-industri-40.
[6]Berdikari, "Bung Karno: Revolusi Indonesia Menuju Sosialisme!," 2013, https://www.berdikarionline.com/bung-karno-revolusi-indonesia-menuju-sosialisme/.

Constitution of the Unitary State of the Republic of Indonesia. in the field of employment and industrialization in the country. The absence of strict sanctions and supervision against employers who violate workers' rights with a Specific Time Agreement can create an increasingly exploitative work system for workers.

Before this writing was made, there had been several writings and studies discussing the Specific Time Work Agreement, with the title including: Implementation of the Specific Time Work Agreement (PKWT) according to Law no. 13 of 2003 concerning Employment by Taufiq Yulianto, Juridical Analysis of Specific Time Work Agreements Based on Labor Laws and Agreement Laws by Apri Amalia et al., Implementation of Specific Time Work Agreements (PKWT) in Employment Relations in Indonesia by Fithriatus Shalihah, Some Problems with Agreements Specific Time Work and Solutions by Sunarno, and Application of the Specific Time Work Agreement System in Indonesia by Falentino Tampongangoy. However, between this writing and research there are no specific topics that discuss arrangements regarding work agreements for a certain time after the Job Creation Law was enacted along with new problems that later arose.

Through this paper the author wants to analyze and describe the weaknesses in the regulation of Work Agreements for a Specific Time in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law) which resulted in Misbruik van Omstandigheden in work agreements for a certain time after the birth of the Law Job Creation Act.

2. Research Method

The paradigm in this paper is Post-Positivism, this paradigm sees law as an object of interpretation which is not value-free. The epistemology in this paradigm sees the researcher and the object of research as two different and distant things, in this case law is a research object that stands on the outside the construction of the researcher's thinking which is then subjectively interpreted without any value aspects influencing it.[7] The post-positivism paradigm generally uses this type of empirical research, this also includes writing, using empirical research, empirical research sees problems in a study as real problems of law enforcement in society, but still does not change the goals and standard textual forms of legislation existing, so that empirical research with a post-positivism paradigm does not rely

[7] Erlyn Indiarti, "Diskresi Dan Paradigma: Suatu Telaah Filsafat Hukum. Inauguration Speech for Professor of Diponegoro University" (Semarang, 2010).

on the subjectivity of the logic of researchers broadly, but is contextualized based on the purpose of the birth of a legal regulation.[8]

3. Results and Discussion

1. Development of the Formulation of a Specific Time Work Agreement in Indonesia

a. Work Agreement for a Specified Time Period of the Civil Code

Work agreement for a certain time before the birth of Law no. 13 of 2003 concerning Manpower is regulated in the Civil Code. The employment relationship will be legal if there is a work agreement between the worker and the employer, this work agreement is based on the provisions of the Civil Code regarding engagement. Arrangements regarding engagements are specifically regulated in the Civil Code Book II in the general section from Chapter I to Chapter IV, for example the rules regarding how the birth and termination of the agreement, the types of agreements and so on. Article 1313 of the Civil Code stipulates that the meaning of an agreement is an act by which one or more people bind themselves to one or more other people. According to Subekti, an agreement is an event where someone promises to another person or where two or more people promise each other to do something. From this event arises a relationship between these people which is called an engagement. The agreement establishes an agreement between the people who make it. In its form, the agreement is in the form of a series of words containing promises or commitments made in writing or orally.[9]

Based on Article 1319 of the Indonesian Civil Code, agreements can be grouped into two types, namely agreements which by law are given a special name or named agreements and agreements which in law are not known by a certain name or agreements without a name. Thus, the work agreement can be said to be a named agreement, because the law has given a special name to the work agreement.[10] The work agreement which was developed as a variant of the agreement, currently has provisions that are sui generis in the Manpower Law, where in Article 1 point 14 of the a quo law it is stated that a work agreement is an agreement between workers/laborers and employers. or the employer which contains the terms of work, rights and obligations of the parties. The provisions

[8] B Bungin, *Penelitian Kualitatif* (Jakarta: Prenada Media Group, 2007).
[9] Israbeta Putrisani, "ANALISIS PENGALIHAN KREDIT PEMILIKAN RUMAH DI BAWAH TANGAN," *Mimbar Keadilan*, 2018.
[10] Ayunita Nur Rohanawati, "Kesetaraan Dalam Perjanjian Kerja Dan Ambiguitas Pertimbangan Hukum Mahkamah Konstitus," *Jurnal Yudisial* 11, no. 3 (2018): 267.

regarding agreements regulated in the Civil Code also apply to employment agreements, as long as the laws governing employment agreements do not provide a separate arrangement that deviates from the general provisions in the Civil Code, so that the principle applies lex specialis derogat legi generali, including work agreements for a certain time.[11]

b. Work Agreement for a Specific Time Period Law No. 13 of 2003 concerning Manpower

There are two types of work regulated in the provisions of Law Number 13 of 2003, these two types of work include Work Agreements for a Specified Time (PKWT) and Work Agreements for an Unspecified Time (PKWTT). PKWT is regulated in Article 56 to Article 62 of Law Number 13 of 2003. The work agreement is based on the time period or the completion of a particular job. This type of agreement is made in writing and must use the Indonesian language written in Latin letters. Based on the explanation, it is clear that there are three things that must be considered, namely in writing, in Indonesian, and in Latin letters. If the work agreement is made in Indonesian and a foreign language, if later there is a difference in interpretation between the two, the work agreement made in Indonesian will apply. And if this work agreement is made unwritten or written but uses other letters, then the agreement is declared null and void and as a result the work agreement changes to PKWTT. This work agreement also does not require a probationary period. If a probationary period is required in the work agreement, the required probationary period is null and void by law. PKWTT can only be made for certain jobs which, according to the type and nature or activities of the work, will be completed within a certain time, namely work that is completed once or is temporary in nature, work that is estimated to be completed in not too long time and a maximum of three years, work that is seasonal, and work related to new products, new activities, or additional products that are still in trial or exploration.[12]

c. Work Agreement After the Birth of Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law)

[11] Sunarno, "BEBERAPA MASALAH PADA PERJANJIAN KERJA WAKTU TERTENTU DAN SOLUSINYA," *Wacana Hukum* VIII, no. 2 (2009): 20–21, https://media.neliti.com/media/publications/23529-ID-beberapa-masalah-pada-perjanjian-kerja-waktu-tertentu-dan-solusinya.pdf.

[12] Sunarno, "BEBERAPA MASALAH PADA PERJANJIAN KERJA WAKTU TERTENTU DAN SOLUSINYA," *Wacana Hukum* VIII, no. 2 (2009): 20–21, https://media.neliti.com/media/publications/23529-ID-beberapa-masalah-pada-perjanjian-kerja-waktu-tertentu-dan-solusinya.pdf.

The provisions that have been amended a lot in the employment policy after the enactment of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law) are provisions related to work agreements for a certain time. Provisions related to Specific Time Work Agreements are regulated in Chapter IV Employment from Article 56 to Article 59 of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law). Article 56 of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation states that:

(1) Work agreements are made for a specified time or for an unspecified time.
(2) The work agreement for a certain time as referred to in paragraph (1) is based on:
    a. time period; or
    b. completion of a certain job.
(3) The period or completion of a particular job as referred to in paragraph (2) is determined based on a work agreement.
(4) Further provisions regarding work agreements for a certain time based on a period of time or the completion of a certain job are regulated in a Government Regulation.

Article 57 of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation then states that:

(1) A work agreement for a certain time is made in writing and must use the Indonesian language and Latin letters.
(2) If a work agreement for a certain time is made in Indonesian and a foreign language, if later there is a difference in interpretation between the two, the work agreement for a certain time made in Indonesian will apply.

2. Misbruik Van Omstandigheden in the Work Agreement for a Specific Time After the Birth of the Job Creation Law

a. Weaknesses in the Regulation of Work Agreements for a Specific Time After the Issuance of Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (Job Creation Law)

As a product of the government, the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation is also inseparable from various kinds of weaknesses, including in terms of arranging agreements with a certain time. The following are the intended weaknesses:

a. Weaknesses in Regulations or Weaknesses in Legal Substance

Based on the work agreement arrangements for a certain time in the provisions of Article 56 to Article 59 in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation, several things do not regulate, namely:

1) Compensation Arrangements for Workers with a Specific Time Agreement After the Expiration of the Work Agreement are not clear

   Compensation is regulated in Articles 15 to Article 17 of Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment. Article 15 states that

   (a) Entrepreneurs are required to pay compensation money to workers/laborers whose work relationship is based on PKWT.
   (b) Payment of compensation money is carried out at the end of the PKWT.
   (c) Compensation money as referred to in paragraph (1) is given to Workers/Labourers who have had continuous service for at least 1 (one) month.
   (d) If the PKWT is extended, compensation money is given at the end of the PKWT period before the extension and for the PKWT extension period, the next compensation money is given after the PKWT period extension ends or ends.
   (e) The provision of compensation money does not apply to foreign workers employed by employers in Employment Relations based on PKWT.

Article 17 Government Regulation of the Republic of Indonesia Number 35 of 2021 Concerning Work Agreements for Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment Relations then states that:
In the event that one of the parties terminates the Employment Relations before the expiration of the period specified in the PKWT, the Employer is obliged to provide compensation money as referred to in Article 15 paragraph (1) the amount of which is calculated based on the PKWT period that has been carried out by the Worker/Labourer.

Even though the amount of compensation for workers with a certain time agreement has been regulated in Article 16 of the Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning

Work Agreements for Specific Time, Outsourcing, Working Time and Break Time, and Termination of Employment, however, in Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Specific Periods, Outsourcing, Working Time and Break Time, and Termination of Employment as well as the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation do not stipulate sanctions for entrepreneurs who violate the mandate of Article 15 of the Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Specific Periods, Outsourcing, Working Time and Rest Time, and Termination of Employment.

Arrangements Regarding the Expiration of a Specific Time Work Agreement

Work agreements for a certain time based on the Labor Law have special requirements, especially regarding the term of the agreement and the type of work agreed upon. This is clearly seen in Article 56 paragraph (3) of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation which states that "the period or completion of a particular job as referred to in paragraph (2) is determined based on a work agreement".

The expiration of work agreements for a certain time is also regulated in implementing regulations for Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation, namely Article 8 of Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment which states that:

(1) PKWT based on the period referred to in Article 5 paragraph (1) can be made for a maximum of 5 (five) years.
(2) In the event that the PKWT period as referred to in paragraph (1) is about to end and the work being carried out has not been completed, then the PKWT can be extended for a period according to the agreement between the Employer and the Worker/Labourer, provided that the entire PKWT period and its extension are no more than than 5 (five) years.
(3) The working period of Worker/Labourer in the case of an extension of the PKWT period as referred to in paragraph (2) shall still be counted from the time the Employment Relations based on the PKWT took place.

Article 9 Government Regulation of the Republic of Indonesia Number 35 of 2021 Concerning Work Agreements for Specific Time, Outsourcing, Working

Time and Rest Time, and Termination of Employment Relations then states that

1) PKWT is based on the completion of a certain job as referred to in Article 5 paragraph (21) based on the agreement of the parties set forth in the Employment Agreement.
2) The agreement of the parties as referred to in paragraph (1) contains:
   a. The scope and boundaries of a work are declared complete; And
   b. The length of time for completing work is adjusted to the completion of a job.
3) In the event that certain work agreed upon in the PKWT can be completed faster than the agreed timeframe as referred to in paragraph (2) letter b, then the PKWT is terminated by law when the work is completed.
4) In the event that certain work agreed upon in the PKWT cannot be completed according to the agreed timeframe as referred to in paragraph (2) letter b, then the PKWT period shall be extended to a certain time limit until the work is completed.
5) The working period of Worker/Labourer in the event of an extension of the PKWT period as referred to in paragraph (4) shall still be calculated from the date the Employment Relations based on the PKWT took place.

Various arrangements regarding the limitation period for the expiration of work agreements for a certain time have been regulated both in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation and Article 8 of the Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for a Specific Time, Outsourcing, Working Time and Hours Rest, and Termination of Employment, however, this regulation is not equipped with arrangements regarding supervisory instruments and sanctions if the employer or entrepreneur or company defaults.

b. Weaknesses in Operational Legal Regulations or Weaknesses in Legal Structures

   Various legal voids in setting work agreements for a certain time in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation and Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for a Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment , in its development resulted in confusion in the sector of law enforcement related to work agreements for a certain time. This is because every labor law institution does not have a clear legal basis, especially in maintaining and protecting workers' rights with a certain time agreement, especially the right to receive

compensation and the right to be free from abuse of circumstances related to the expiration of a work agreement for a certain time.

This can be seen in cases involving a worker with a certain time agreement, where the worker is terminated after one month of work, and this happens where the company orders the worker to sign a letter of resignation so that the worker does not receive compensation. This is then uploaded On social media, uploads or tweets with narration with the status of a work agreement for a certain time (PKWT) for one year but the contract is terminated halfway so that you cannot claim compensation are busy on social media. The tweet was shared by a netizen via the base account, @worksfess on Friday (17 February 2023. It was written that the reason for not being able to claim compensation was because the PKWT contract period had not yet reached one year. The worker was also asked to fill out a resignation letter.[13]

In this case it is clear that the worker has experienced Misbruik Van Omstandigheden which his company committed through coercion to sign the resignation. Various related institutions could not do much in this case and seemed silent. This is becoming an increasingly dilemmatic given the increasing number of workers with PKWT status in this country.

Based on data reported from the data portal of the Ministry of Manpower for 2016-2020 the number of workers with Fixed Time Work Agreements (PKWT) has increased quite significantly, where in 2020 there were at least 17,839,458 workers who fall into that category.[14]

c. Misbruik Van Omstandigheden In a Work Agreement for a Specific Time After the Birth of the Job Creation Law

Sumiritas in compensation arrangements and the absence of oversight and sanctions related to cases of default in the agreement ending the working period for a certain time both in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation and Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for a Specific Time, Transfer Power, working time and rest time, and

[13] Dandy Bayu Bramasta, "Ramai Twit Pekerja PKWT 1 Tahun Diputus Kontrak Setelah Jalan 6 Bulan Hingga Berujung Tidak Bisa Klaim Kompensasi, Ini Kata Kemnaker Artikel Ini Telah Tayang Di Kompas.Com Dengan Judul "Ramai Twit Pekerja PKWT 1 Tahun Diputus Kontrak Setelah Jalan 6 Bulan," *Kompas*, 2023, https://www.kompas.com/tren/read/2023/02/18/203500165/ramai-twit-pekerja-pkwt-1-tahun-diputus-kontrak-setelah-jalan-6-bulan.

[14] Disnakerpmptsp, "Jumlah Pekerja PKWT Meningkat," *Disnakerpmptsp*, 2020, https://disnakerpmptsp.malangkota.go.id/?p=6940.

termination of employment have a high chance of causing a van omstandigheden incident committed by the employer or entrepreneur or company. Employers can take advantage of conditions related to bargaining power in determining the rules of the game in a work agreement with a certain time, while workers who have been known together have low bargaining power in determining their fate in each work agreement and work relations often become objects of abuse of circumstances. Abuse of the state consists of:[15]

1) Straying (dwaling);
2) Coercion (dwang);
3) Fraud (bedrog).

If you look at the two cases above, it can be seen that van omstandigheden mischief which is often carried out in work agreements for a certain time can be in the form of coercion and fraud where employers have great bargaining power often contain rights that are greater than the rights of workers in work agreements, this is then also supported with a system that is coercive, namely a system that makes workers have no choice, where workers cannot fight for their rights in a certain time agreement due to a dismissal system that is far from the concept of balanced Termination of Employment. The absence of clear sanctions for employers who commit misbruik van omstandigheden in its development continues to injure workers' rights, especially workers with a certain time agreement.

3. Conclusion

Manpower is an asset in the business world and national economic development, because labor or workers are the motor in the development of the business world and national economic development. The position of workers who are so important has not been matched by the existence of a real guarantee system for protecting the rights of workers. Mainly workers with a certain time agreement, the existence of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation and Government Regulation of the Republic of Indonesia Number 35 of 2021 concerning Work Agreements for a Specific Time, Outsourcing, Working Time and Break Time, and Termination of Employment in reality have not been able to guarantee freelancers from misbruik van omstandigheden committed by employers. This fact shows that there is a need for reformulation related to the implementation of supervision and protection for

[15] Henry P. Panggabean, *Penyalahgunaan Keadaan (Misbruik van Omstandigheden) Sebagai Alasan (Baru) Untuk Pembatalan Perjanjian (Berbagai Perkembangan Hukum Di Belanda)* (Yogyakarta: Liberty, 1991).

workers for a certain time in real terms, accompanied by strict sanctions against employers in a certain time agreement who misbehave van omstandigheden.

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