

## The Existence of Workers' Rights to Job Loss Insurance in the Event of Termination of Employment Due to Violation of Collective Agreements

Lini Wijayanti<sup>1</sup>, Asri Wijayanti<sup>2</sup>, Fajar Rachmad Dwi Miarsa<sup>3</sup>

<sup>123</sup>Faculty of Law, Legal Studies, Maarif Hasyim Latif University, Sidoarjo, Indonesia

**Abstract:** The Job Loss Insurance Program is a social protection program aimed at workers who lose their jobs due to termination of employment (PHK). The benefits of this program include cash assistance, job training, and job market information, and are regulated by Law No. 6 of 2023 and Government Regulation No. 37 of 2021, which was amended to Government Regulation No. 6 of 2025. This study aims to analyze the existence of the right to Job Loss Insurance for workers who experience termination of employment due to violations of collective labor agreements, which, in practice, lack clear legal certainty. The method used in this study is a normative legal approach based on legislation and conceptual analysis. The findings reveal disparities in legal protection and normative uncertainty, which may impact workers' access to unemployment insurance benefits. Therefore, harmonization of policies and regulations is necessary to provide legal certainty and inclusive, fair protection for all workers.

**Keywords:** Employment, Job Loss Insurance (JKP), Legal Certainty, Termination of Employment (PHK), Worker Protection.

### 1. Introduction

An employment relationship is a legal relationship between an employer and an employee based on an employment agreement, either individually or collectively through a Collective Labor Agreement (CLA). In this relationship, employees give their time and energy to get paid, while employers have to fulfill the employees' legal rights, including the right to social protection when there's a termination of employment (TOE). One of the key instruments in this social protection is unemployment insurance (UI), as regulated in Law No. 11 of 2020 on Job Creation, which was amended into Law No. 6 of 2023 (Torm & Oehme, 2024).

Job loss insurance is a new form of protection in Indonesia's social security system for workers, aimed at providing benefits in the form of cash payments, access to labor market information, and job training for workers who experience termination of employment. This insurance not only reflects the state's role in ensuring the livelihood of workers affected by termination of employment but also constitutes a concrete implementation of the principle of social justice in the labor market (Nguyen, 2020).

However, the right to unemployment insurance (JKP) is not always easy to realize, especially if the termination of employment occurs due to violations by workers of the contents of the collective labor agreement (Rezvorovych et al., 2023). In practice, these violations are often open to interpretation, subjective, and susceptible to manipulation to terminate employment unilaterally without a fair verification process. This situation raises a crucial question: do employees deemed to have violated the Collective Labor Agreement still have the right to Unemployment Insurance (Estlund & Liebman, 2021).

This reality reveals the potential for inequality between workers and employers, particularly in terms of access to justice and protection of rights. When workers face termination of employment due to alleged violations, their bargaining position often becomes very weak, especially if the evidence-gathering mechanisms in the termination process are not transparent and accountable. Therefore, it is important to explore the forms of

#### Correspondence:

Lini Wijayanti

lini\_wijayanti@student.umaha.ac.id

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legal protection available to workers in this context. Additionally, it is necessary to examine the legal avenues workers can pursue to claim their rights to unemployment benefits. Under Indonesia's labor law system, workers have the right to file a lawsuit against an unfair termination of employment through industrial relations dispute resolution mechanisms, including mediation, conciliation, or industrial relations court. However, the effectiveness of such legal actions is often questioned, given the time-consuming and costly nature of the process, as well as the need for adequate legal representation (Martinez-Gil, 2023).

This issue is highly relevant for research, especially in the context of implementing inclusive and non-discriminatory social security. If workers who experience termination of employment due to violations of reporting requirements regarding the status of the termination of employment automatically lose their right to unemployment insurance without going through a fair legal process, this has the potential to undermine the fundamental principles of protection of workers' rights guaranteed by the constitution (Diharjo et al., 2024).

## 2. Materials and Methods

This study uses normative legal research, which is a legal research method that aims to explore and assess the conformity between positive legal regulations and legal norms that apply in society (Hamzani et al., 2023). This approach focuses on analyzing legal documents, including laws, government regulations, court decisions, and other legal literature (Isman & Muttaqin, 2024). In this case, the researcher emphasizes the analysis of the written legal substance by interpreting legal provisions and examining their relevance to the principles of justice in John Rawls' theory of justice from Rawls' perspective. Justice is not only about punishment but also about providing protection for the weak (in this case, workers who have lost their livelihoods). The right to unemployment insurance can be a manifestation of the difference principle to protect workers from the uncertainty of life after termination of employment. Gustav Radbunch's theory of legal certainty in its implementation states that in a job loss insurance program, insurance will not be provided to workers who experience termination of employment due to company violations. This decision is a manifestation of legal certainty. Jeremy Bentham's theory of utilitarianism, when applied in this context, does not provide job loss insurance to all workers who lose their jobs, including those who commit minor violations, which can create social suffering.

This research is highly relevant in the context of reviewing the Job Loss Insurance program, as it aims to understand and assess the effectiveness of the regulations governing the implementation of the program, including the extent to which existing regulations are able to provide optimal legal protection for workers who experience termination of employment (Assaad & El-Adaway, 2021). The author employs two primary approaches in this study: first, the Statute Approach, which involves analyzing and interpreting the applicable positive legal provisions. Second, the Conceptual Approach is used to explore the principles, doctrines, and legal theories that have developed in national and international legal literature. The data in this study is secondary in nature, consisting of three main groups, including: Primary Legal Materials consist of the 1945 Constitution of the Republic of Indonesia, Law No. 6 of 2023, Law No. 13 of 2003 on Labor, Law No. 40 of 2004 on the National Social Security System, Law No. 24 of 2011 on BPJS, Government Regulation No. 86 of 2013, Government Regulation No. 45 of 2015, Government Regulation No. 46 of 2015, Government Regulation No. 60 of 2015, Presidential Regulation No. 109 of 2013, Government Regulation No. 6 of 2025, which amends Government Regulation No. 37 of 2021 on the Implementation of the Job Loss Insurance Program. Additionally, secondary legal materials include legal literature such as books, journals, scientific articles, papers, theses, and relevant previous research findings, supplemented by tertiary legal materials (Nomishan & Sani, 2023). These materials include legal dictionaries, legal encyclopedias, and language dictionaries that help explain the legal concepts used in the research.

The collection of legal materials in this study was conducted through two main methods: library research and internet access. The author then conducted an analysis in the study using a descriptive analytical method, which involved describing the legal materials obtained and then analyzing them to answer the research questions. This analysis was carried out continuously throughout the research process, until after the collection of legal materials. To strengthen validity, the researcher also used relevant legal case studies, particularly cases involving layoffs and the implementation of the JKP program, to examine the gap between legal texts and on-the-ground realities (Putri et al., 2024).

### 3. Results and Discussion

3.1 *Legal Protection for Workers Terminated for Breaching Their Employment Agreement* Termination of employment (PHK) is one of the crucial issues in industrial relations in Indonesia. Termination of employment is not only related to economic aspects but also directly impacts the livelihood of workers and their families (Paul et al., 2021). In practice, termination of employment can occur for various reasons, one of which is a breach of the employment contract by the worker. However, a fundamental issue arises: whether workers terminated for breaching the employment contract still receive legal protection.

Amidst demands for industrial flexibility, the state still has a constitutional responsibility to ensure that the principles of justice and protection of workers' rights are not neglected, even if workers are found guilty of violating work regulations. This article will comprehensively analyze the forms of legal protection that can still be obtained by workers who are dismissed for violating their employment agreements (Syed, 2023).

#### 3.1.1. Preventive in nature

Preventive legal protection is intended to prevent violations of workers' rights before termination of employment occurs. Some forms of preventive protection include.

- **Obligation to Conduct Bipartite Negotiations**

Before employers carry out layoffs, they are required to engage in bipartite negotiations with workers or labor unions to find a fair solution. This is stipulated in Article 151 of Law No. 13 of 2003 on Manpower (as amended by the Job Creation Law). If no agreement is reached, the matter is referred to mediation or the Industrial Relations Court (PHI) (Nurcahyani, 2023).

- **Administrative Sanctions against Employers**

In the event that an employer unilaterally terminates an employment relationship without going through a bipartite mechanism or mediation/conciliation process, the state may impose administrative sanctions as stipulated in Government Regulation No. 6 of 2025, which amends Government Regulation No. 37 of 2021.

- **Requirement to Prove Violations**

Termination of employment based on a breach of the employment agreement must be proven legally, especially if the violation is considered serious. Employers cannot subjectively assess employee misconduct without a transparent internal investigation process involving a neutral party.

#### 3.1.2. Repressive Legal Protection

If termination of employment has already occurred, then the form of legal protection shifts to repressive, namely through legal mechanisms that give workers the right to fight for justice (Zhou, 2023):

- **Filing a Lawsuit with the Industrial Relations Court (PHI)**

Employees who feel that their termination of employment was unfair can file a lawsuit with the Industrial Relations Court. In this case, the court has the authority to assess whether the termination of employment was carried out in accordance with legal procedures and valid legal reasons. If the court rules that the termination of employment was unlawful, the employee is entitled to restoration of rights, either through reinstatement or payment of severance pay and compensation (Soni, 2024).

- Compensation and Basic Rights of Workers

Even if employment is terminated due to a work violation, workers are still entitled to basic rights such as:

- a. Unpaid wages
- b. Holiday allowance (THR)
- c. Social security (Employment Social Security Agency and Health Social Security Agency)
- d. Job Loss Insurance (JKP) if not included in the category of termination of employment not covered by the program.

### 3.1.3. Workers and Job Loss Insurance (JKP)

To anticipate the impact of termination of employment, the Indonesian government, through Government Regulation No. 6 of 2025 amending Government Regulation No. 37 of 2021, has regulated the Job Loss Insurance Program (JKP) (Helenanto et al., 2023). This program is intended to provide temporary financial protection for workers who lose their jobs not due to personal fault, but due to company conditions or other legally valid reasons. However, in practice, not all workers can enjoy this protection. One issue that has emerged in the field is the misreporting by companies regarding the status of the termination of employment relationships (Byrd & Scott, 2024). In one case, an employee who was terminated by the company was not reported as a victim of termination of employment but rather as a worker whose contract had expired. As a result, the worker could not withdraw the Job Loss Insurance funds from the Social Security Agency for Employment because they were not recorded as a legitimate beneficiary (O'Keefe & Palacios, 2020).

This phenomenon reflects a loophole in the employment reporting system that can be manipulated by companies to avoid administrative responsibilities or obligations to their former employees. However, according to existing regulations, every company is obligated to report the status of employment termination honestly and in accordance with Law Number 13 of 2003 on Labor, as amended by Law Number 6 of 2023, which states: "Employers, workers, labor unions, and the government must strive to prevent employment termination." This emphasizes that termination of employment is not a unilateral process, and the government, through the labor department, must be aware and involved because false reporting hinders government intervention. Government Regulation No. 6 of 2025 is the technical regulation on Job Loss Insurance (Kurniawan et al., 2023). Reports that do not align with the facts may be categorized as administrative law violations, and in certain contexts, may even fall under criminal law. The impact of inaccurate reporting is not only about losing the cash benefits from the Job Loss Insurance program but also undermines the principle of protecting workers' rights, which has been the cornerstone of the national labor system (Galvin, 2024). The state, through the Social Security Administration Agency and the Ministry of Manpower, should strengthen the system for verifying termination of employment status and provide a data correction mechanism for workers who feel aggrieved by one-sided reports from companies.

Furthermore, workers should also be given the opportunity to file legal objections to false reports, either through administrative channels or industrial relations courts (BPJS-TK, 2023). In this way, justice in industrial relations can be upheld, and the Job Loss Insurance program can truly function as it should, namely as a social safety net for workers who lose their livelihoods through no fault of their own. In facing this reality, workers must be equipped with adequate labor law literacy (Kusdarini et al., 2021). They need to know their rights, including the right to sue if there are manipulative actions by the company. The state, on the other hand, must be present not only as a rule-maker but also as an active protector of its working citizens. Therefore, it is important to classify the types of violations committed by workers. The state has an obligation to assess objectively and ensure that workers do not lose all their rights simply because the violation is non-criminal in nature (Dharma, 2022).

- The Role of Labor Unions in Legal Protection

Trade unions play a strategic role in protecting their members who face the threat of termination of employment. Trade unions not only function as mediators in dispute resolution, but also as supervisors to ensure that companies do not violate legal procedures. Additionally, labor unions can actively participate in drafting the content of a fair and proportional Collective Bargaining Agreement to prevent clauses that unfairly disadvantage workers. Unions can also provide legal assistance, labor law education, and advocate for cases publicly if there is widespread injustice (Reddy, 2022).

- Constitutional Protection and the Principle of Justice

Ultimately, legal protection for workers affected by termination of employment due to breach of employment agreements cannot be separated from the principle of the rule of law, which upholds human rights, social justice, and protection of vulnerable groups. The Indonesian Constitution, through Article 28D paragraph (2) and Article 27 paragraph (2) of the 1945 Constitution, affirms the right of every citizen to work and a decent livelihood. Based on this constitutional foundation, the state has a duty not only to formally regulate the procedures for termination of employment but also to provide a social safety net ensuring workers maintain a decent standard of living, even under penalty conditions (Laha & Dutta, 2024). Companies that violate reporting obligations or manipulate layoff data in the context of the Job Loss Insurance program may be subject to administrative, civil, or criminal sanctions. These provisions are part of the state's efforts to ensure workers' rights to fair and targeted social protection.

### 3.2. Legal Efforts for Workers' Rights in Job Loss Insurance Claims (JKP)

One of the latest social protection instruments regulated by the government is the Job Loss Insurance Program (JKP), which was introduced through Government Regulation No. 6 of 2023 as part of the implementation of the Job Creation Law. The Job Loss Insurance Program aims to provide temporary economic support for workers who have lost their jobs, as well as help them return to the workforce through training and access to labor market information. However, in practice, not all workers automatically receive the benefits of the Job Loss Insurance Program (Ganong et al., 2020). Many workers face administrative and substantive barriers, particularly in cases of disputed termination of employment (PHK) or those related to violations of reporting requirements inconsistent with the type of termination of employment. This highlights the urgent need to identify the legal avenues available to workers in asserting their rights to claim Unemployment Insurance benefits fairly and lawfully (Arup, 2022).

Unemployment Insurance is a government program provided without additional contributions from workers or employers, as it is funded by the optimization of funds from the Social Security Agency for Employment and the State Budget (Silalahi & Walsh, 2023). Workers' rights to Unemployment Insurance consist of three main benefits: cash payments (for 6 months from the date of termination of employment), access to labor market information, and job training. However, to claim Unemployment Insurance, workers must meet administrative and substantive requirements, including: being an active participant in the Social Security Agency for Employment for at least 12 months out of the past 24 months, and having paid contributions for six consecutive months; the termination of employment must not be due to resignation, retirement, permanent disability, or death. The termination of employment was not due to a serious violation, as referred to in Article 158 of Law No. 13 of 2003 (Hasbullah; Hamid, 2022). The claim for Unemployment Insurance must also be submitted within 3 months after the termination of employment and accompanied by documents such as the termination of employment letter, the social security agency card, and proof of job search.

#### 3.2.1. Employees who are unilaterally terminated due to the expiration of their contract period

Termination of employment based on the expiration of a contract is regulated in the Labor Law, particularly for workers with a Fixed-Term Employment Agreement (PKWT) (Fedryca, 2024). However, this reason is often used to disguise unilateral termination of employment, especially when workers have been continuously employed without

clarity or renewal of their contract. In such circumstances, an initially temporary employment contract may legally transform into an Indefinite-Term Employment Contract (PKWTT). If an employee has worked continuously for more than two years, or if their contract has been extended without interruption and without following legal procedures, their status may be considered that of a permanent employee (Hansen, 2020). In this case, termination of employment cannot be solely based on the expiration of the contract period but must follow the procedures for termination of employment in accordance with Law No. 6 of 2023. One common challenge in asserting rights after termination of employment is the deadline for filing a lawsuit. Many workers believe they only have six months to file a claim, so when internal processes like bipartite negotiations or mediation take more than three months, they feel they've lost their legal opportunity. The Industrial Relations Dispute Settlement Body (PPHI) allows up to one year to file a termination lawsuit with the Industrial Relations Court (PHI). Therefore, even if initial resolution processes like mediation at the Department of Manpower take time, as long as the lawsuit is filed before the one-year deadline, the legal claim can still proceed. Understanding this provision is crucial to ensure workers do not lose their legal rights due to misconceptions about the lawsuit deadline (Guerin, 2022).

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### 3.2.3. Available Legal Remedies

Legal steps that can be taken by workers who feel they have been unilaterally terminated include:

- **Bipartite Consultation:** Must be conducted between workers and employers within 30 days of the dispute arising. If no resolution is reached, a report of failure to reach agreement shall be drawn up.
- **Mediation at the Manpower Office:** Workers can submit a request for mediation to the Manpower Office by bringing evidence and a letter of objection. The Manpower Office will summon both parties and issue a written recommendation.
- **Industrial Relations Court (PHI):** If no agreement is reached in mediation, the plaintiff may file a lawsuit with the PHI to seek justice.

- **Reporting to Other Institutions:** In certain cases, such as discrimination or violations of basic rights, reports can also be submitted to the Ombudsman (an independent institution tasked with overseeing the provision of public services) of the Republic of Indonesia or the National Human Rights Commission.

All of these steps require strong evidence such as employment contracts, proof of attendance, pay slips, termination letters, and communication records. This evidence can show whether the employment relationship was permanent and whether the termination procedure was carried out correctly. Although the legal process takes time, workers are still advised to immediately submit a written objection to the company or the Labor Department. This objection letter will serve as evidence that the worker is not passive, and this can be considered in Industrial Relations Court proceedings. Additionally, involvement from labor organizations, trade unions, or legal assistance from the Legal Aid Institute (LBH) can strengthen the worker's legal position. Several precedents have shown that termination of employment based on the grounds of "expired contract" may be deemed invalid if the contract does not comply with the provisions of the Labor Law. In Supreme Court Decision No. 334 K/Pdt.Sus-PHI/2015, the Supreme Court stated that the employment relationship had transformed into a permanent employment contract (PKWTT) because the contract was continuously renewed without a valid break.

#### 3.2.4. continuously without any valid breaks

- Social Security (Article 34 Paragraph (2) Of The 1945 Constitution)
- Fair Wages and Decent Living Conditions (Article 27 Paragraph (2) Of The 1945 Constitution)
- Justice And Law (Article 28D Paragraph (1) Of The 1945 Constitution)

The executive branch (the Indonesian Ministry of Manpower), the legislative branch (policy oversight), and the judiciary (the Industrial Relations Court and the Supreme Court) must collectively fulfill their responsibilities to ensure that the Unemployment Insurance Scheme is not merely a slogan but truly becomes an inclusive, equitable, and worker-friendly social protection system, particularly for vulnerable workers.

## 4. Conclusions

Unilateral termination of employment disguised as the end of a contract period often constitutes a violation of workers' rights if it is not accompanied by a legitimate and transparent process. Labor laws and their various implementing regulations stipulate that every termination of employment must go through procedural stages such as bilateral negotiations and the presence of objective evidence of the worker's fault. Legal protection in this context primarily takes the form of preventive and repressive measures. Preventive protection functions to prevent unilateral termination of employment, while repressive protection provides avenues for workers to recover their rights, including access to the Industrial Relations Court (PHI) and compensation for labor violations. In facing these challenges, workers still have room to fight for their rights. Classification of the Social Security Administration Agency, filing a lawsuit with the industrial relations court, and reporting to the Manpower Office or the Ombudsman of the Republic of Indonesia are the available legal measures. The practice of manipulative reporting by companies regarding employment status clearly constitutes a violation of workers' normative rights and undermines the effectiveness of unemployment insurance, which is based on the principles of inclusivity, transparency, and fairness. Furthermore, collaboration between workers, labor unions, legal aid institutions, and advocates plays a crucial role in enhancing workers' bargaining power. Understanding the deadlines for claims, employment status, and appropriate legal steps is key to safeguarding the normative rights guaranteed by the constitution.

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