



Evaluation of the Implementation of Balance in Protecting the Rights of Entrepreneurs, and Workers in the Job Creation Law Post-the Constitutional Court Decision Number 168/PUU-XXI/2023: ASocio-Legal Study

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Abstract

This study aims to evaluate the implementation of the balance of protecting the rights of employers and workers in Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law or the Job Creation Law (hereinafter referred to as Law 6/2023) post-the Constitutional Court or Mahkamah Konstitusi (MK) Decision No. 168/PUU-XXI/2023: a socio-legal study. Literature studies were conducted as a basis for answering various problems in this study. Then, data processing was carried out qualitatively. The results of this study indicate that Law 6/2023, after the Constitutional Court Decision, underlines the importance of normative workers' rights, which have an impact on legal certainty and benefits for workers. Law 6/2023) after the Constitutional Court Decision tends not to affect entrepreneurs. The evaluation results of the implementation of the Job Creation Law after the Constitutional Court Decision indicate that the issue of protecting employers' rights is crucial. Therefore, Law 6/2023, after the Constitutional Court Decision, is expected to be amended not only to address the imbalance in workers' rights but also the rights of employers. Thus, the results of this study are expected to be used by the government and the legislature to form employment laws and ensure fair implementation of the balance between protecting entrepreneurs.' and workers' rights in Law 6/2023 after the Constitutional Court Decision by the constitution, Article 27 paragraph (2), Article 28D paragraph (2), and Article 33 of the 1945 Constitution.

Keywords: *the rights of both entrepreneurs and workers, Law Number 6 of 2023, the Constitutional Court Decision No. 168/PUU-XXI/2023, socio-legal, the 1945 Constitution, Indonesia*

1. Introduction

Entrepreneurship is important for economic development (Prasta & Djastuti, 2024), and the benefits to society will be greater in an economy where entrepreneurs can operate flexibly, develop their ideas, and reap the rewards (Kritikos, 2014; Sagar, 2024). Nwabuatu (2024) & Kritikos (2014) stated that to attract productive entrepreneurs, the government needs to cut bureaucracy, simplify regulations, and improve the quality of administration of labor laws and regulations. According to Hamid & Silvana (2025), labor laws and regulations reflect the national legal commitment to maintain harmony between the needs of the business world and labor protection (Fauzi et al., 2024) so that the benefits can be felt by all parties involved in labor relations in Indonesia (Hardyansah et al., 2024). However, Law Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law or Job Creation Law (hereinafter referred to as Law 6/2023) following the Constitutional Court Decision No. 168/PUU-XXI/2023, has resulted in a more worker-centered approach. Law 6/2023, previously a government regulation instead of Law No. 2 of 2022, was enacted post - the Constitutional Court Decision No. 168/PUU-XXI/2023. It aims to create a fairer and more sustainable labor market and balance economic growth with worker protection. Furthermore, the government plays a crucial role in creating a conducive environment for entrepreneurship and worker development, for example,

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by providing a supportive regulatory framework and labor law (Nel-Sanders & Thomas,2022). Labor law encompasses individual labor laws and collective labor arrangements by unions and employers at various levels, lending itself to a socio-legal approach (Zahn,2020). According to Zahn (2020), labor law encompasses not only the legal regulation of employment relations but also broader policy choices regarding the nature of society and the distribution of resources.

The scope of labor law refers to employment relations and arrangements (Atkinson,2023). According to Bolton & Thompson (2000), an entrepreneur is someone who is accustomed to creating and innovating to build something of value (Islam et.al.,2025) based on perceived opportunities. An entrepreneur (businessman) is characterized as someone who shows initiative and creative thinking, can organize social and economic mechanisms to utilize resources and situations practically, and accepts risks and failures (Hisrich,1990; Islam et.al.,2025). Meanwhile, a worker is a person or individual who has agreed to carry out any work based on an employment agreement (Hassan,2016). The definition of a worker is characterized by the presence of a subordinate relationship to the employer, regardless of the type of relationship, the actual delivery of services, and the receipt of payment (Ruszel,2020). Entrepreneurs and workers are crucial to a healthy national economy, driving innovation, job creation, and overall economic growth (Rolando et.al.,2024). Entrepreneurs, through their efforts, introduce new products, services, and business models, driving competition and efficiency (Sapiro,2024). On the other hand, the productivity of workers, or labour, with their energy, skills, and ideas, can make a significant contribution to the production of goods and services and drive the economy. The most important economic element in determining wages at a level that allows companies to retain employees and create jobs is labour productivity. Increased productivity results in higher wages and a stronger ability for organisations to build job positions (International Labour Office, 2020).

Furthermore, the synergy and interaction between employers and workers and entrepreneurs and workers are very important for the prosperity and progress of a nation. For example, (1).Interdependence—Entrepreneurs rely on skilled workers to realise their ideas, while workers depend on entrepreneurs to create jobs;(2).Symbiotic Relationship—The success of entrepreneurs often increases the demand for labour and skilled workers to help entrepreneurs innovate and develop their businesses; and (3).Dynamic Economy—Healthy interactions between entrepreneurs and workers create a dynamic economy that is resilient, innovative, and capable of sustainable growth.Socio-legal studies are concerned with understanding the content of labor law as well as the historical, social, political, and economic context in which that law developed and in which its legislation is implemented (Zahn,2020). In this regard, a socio-legal approach can be interpreted as one that integrates social perspectives to analyze how labor law affects workplace rights, to protect the interests of employers and employees, and to emphasize an understanding of the real-world impact of laws and regulations on individuals in the workplace. In this regard, all parties are expected to act responsibly to create a fair and safe work environment, as regulated by the Indonesian labor law framework, an ideal and progressive positive legal framework that balances the protection of the rights of entrepreneurs and workers in Indonesian labor law. The focus of Law 6/2023, following the Constitutional Court Ruling, is on worker welfare, aiming to ensure fair wages, reasonable working hours, and job security, as well as addressing concerns about outsourcing and potential exploitation. Therefore, Law 6/2023, following Constitutional Court Ruling No. 168/PUU-XXI/2023, is likely to address some of the initial concerns about workers' rights and promote a more balanced and sustainable labor market in Indonesia. Furthermore, Law 6/2023, following the Constitutional Court Decision, is designed to improve workers' welfare and encourage a more balanced work environment through strengthening law enforcement and supervision, which includes the re-implementation of sectoral minimum wages, restrictions on



fixed-term work contracts, provisions for two days off, and dispute resolution mechanisms as follows:

1. Reinstatement of Sectoral Minimum Wages: The Constitutional Court ruling reinstated sectoral minimum wages, which are often higher than regional or provincial minimum wages. This ensures that workers in certain industries receive more appropriate wages based on the economic conditions of their sector.
2. Limited Fixed-Term Employment Contracts: This law initially allowed for more flexible and extended fixed-term employment contracts, which could potentially lead to job insecurity. The Constitutional Court ruling limited the duration of these contracts, providing greater stability for workers.
3. Two-Day Weekend Provision: The previous Job Creation Law stipulated one rest day for every six workdays. The Supreme Court ruling reinstated the two-day weekend provision, aligning it with the previous Manpower Law and ensuring adequate rest time for workers.
4. Improved Dispute Resolution Mechanism: The Supreme Court clarified the industrial dispute resolution process, emphasizing that termination of employment can only occur after a legally binding court decision, even after failed bipartite negotiations. This provides a more structured and fair process for resolving disputes and protecting workers' rights.

Subsequently, Law 6/2023 has sparked significant controversy, particularly from legal experts as well as workers and labor unions in Indonesia (Doaly, 2023), who are concerned about their rights as follows:

1. The Job Creation Law (Law 6/2023) is problematic from a constitutional perspective – Critical commentators, such as Mahy (2025), consistently characterize Law 6/2023 as a symptom of Indonesia's democratic decline. They point to the dominance of business-political elites during President Joko Widodo's second term and the inability of large-scale public protests to prevent its passage. Relatedly, the law has been branded as autocratic legalism due to its use of legal loopholes to achieve political goals, and it has also been criticized for blurring the lines between legislative and executive roles, thereby weakening the separation of powers. In particular, the enactment of the combined package of Law 6/2023 and its implementing regulations appears to deliberately relocate several key provisions lower down the legal hierarchy. This places matters that were initially legislative in nature in the hands of the executive branch of government and, at the same time, outside the jurisdiction of the Constitutional Court for judicial review (Mahy, 2025). Furthermore, several provisions in Law 6/2023 contradict existing labor laws and the Constitution. These conflicts systematically undermine workers' constitutional rights, including the right to job security, a decent income, and social protection, which are essential to ensuring their well-being. Although Law 6/2023 aims to promote economic growth, it raises significant concerns regarding the erosion of workers' constitutional rights in Indonesia (Akhyar et al., 2024).
2. Much of the material in Law 6/2023 reduces workers' rights by creating flexible employment relationships, raising the issue of legalizing modern slavery, which is contrary to human rights. Amendments to Law 6/2023 and its implementing regulations that eliminate and reduce workers' rights and make employment relationships more flexible could violate workers' human rights. For example, changes in workers' rights, particularly regarding wages, fixed-term employment agreements, outsourcing, and severance pay from a human rights perspective (Tobing et al., 2023). According to Aquina (2024), Law 6/2023 has the potential to reduce the protection of workers' rights and facilitate the termination of employment. This raises concerns that Law 6/2023 has the potential to reduce the protection of workers' rights and facilitate termination of employment, thereby increasing job insecurity and vulnerability among workers. These concerns have prompted various

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parties to file a judicial review with the Constitutional Court, hoping to restore or balance workers' rights deemed at risk under this law (Aquina,2024).

Referring to various issues related to Law 6/2023, the Constitutional Court granted a judicial review of 21 (twenty-one) norms in this law, which were deemed problematic from a constitutional perspective. This decision addressed 7 (seven) main issues, including the use of unauthorized foreign workers, fixed-term employment agreements, outsourcing, leave rights, wage provisions, severance pay provisions, and termination of employment. This Constitutional Court decision not only granted the Labour Party's request but also reaffirmed the importance of protecting workers' rights in the Indonesian legal and constitutional system. Subsequently, on October 31, 2024, the Constitutional Court of the Republic of Indonesia issued Decision Number 168/PUU-XXI/2023, which granted part of the judicial review request for Law 6/2023. This petition was filed by the Labour Party, along with several labor federations, such as the Indonesian Metal Workers Federation, the All-Indonesian Trade Union Confederation, the Confederation of United Indonesian Trade Unions, and the Confederation of Indonesian Trade Unions. They argued that several provisions in Law 6/2023 were in direct conflict with the 1945 Constitution of the Republic of Indonesia. The Constitutional Court of the Republic of Indonesia partially granted this petition.

Based on the foregoing discussion, a socio-legal study is needed to provide a deeper understanding of the position of Law 6/2023 following Constitutional Court Decision No. 168/PUU-XXI/2023 within the context of Indonesian law, particularly regarding the balance between protecting the rights of entrepreneurs and workers in Law 6/2023 following Constitutional Court Decision No. 168/PUU-XXI/2023 as a socio-legal study. Socio-legal is the concept of power that plays a central role, influencing the dynamics of the legal system and social structure (Singh,2024). According to Singh (2024), power manifests in various forms, from institutional authority to interpersonal influence, and profoundly shapes the interactions between law, society, and individuals through the creation, interpretation, and enforcement of legal norms. Meanwhile, socio-legal studies is an interdisciplinary field of research that examines law as a social phenomenon related to legal ideas, practices, and institutions within their social and historical contexts, which shape and enforce law (The University of Sydney, n.d.).

According to The University of Sydney (n.d.), socio-legal studies aim to understand how legal ideas, practices, and institutions are influenced by or function within cultural, economic, historical, political, and social contexts. This serves as the basis for theoretical, conceptual, and methodological approaches. Referring to the issues surrounding Law 6/2023 following Constitutional Court Decision No. 168/PUU-XXI/2023, a socio-legal study is needed to balance the protection of employer and worker rights under Indonesian labor law. As is well known, the majority of research across various disciplines has found empirical evidence of the positive impact of entrepreneurs and the entrepreneurial sector on the macroeconomy (Neumann,2021). On the other hand, experts agree that workers significantly influence the national and local economy, particularly labor productivity (Choi et al.,2013). Labor productivity can be defined in terms of labor as a relative measure of labor efficiency in nominal currency (Bernstein, 2003). Based on these understandings of the importance of entrepreneurs and workers in the national macroeconomy, it is hoped that provisions governing the balance between protecting the rights of employers and workers in Indonesian labor law are in place.

Thus, a socio-legal study is needed to evaluate the implementation of Law 6/2023 following the Constitutional Court Decision Number 168/PUU-XXI/2023 regarding the balance of rights between entrepreneurs and workers. This study aims to examine how the Constitutional Court decision affects national labor regulations and to highlight the need for regulatory

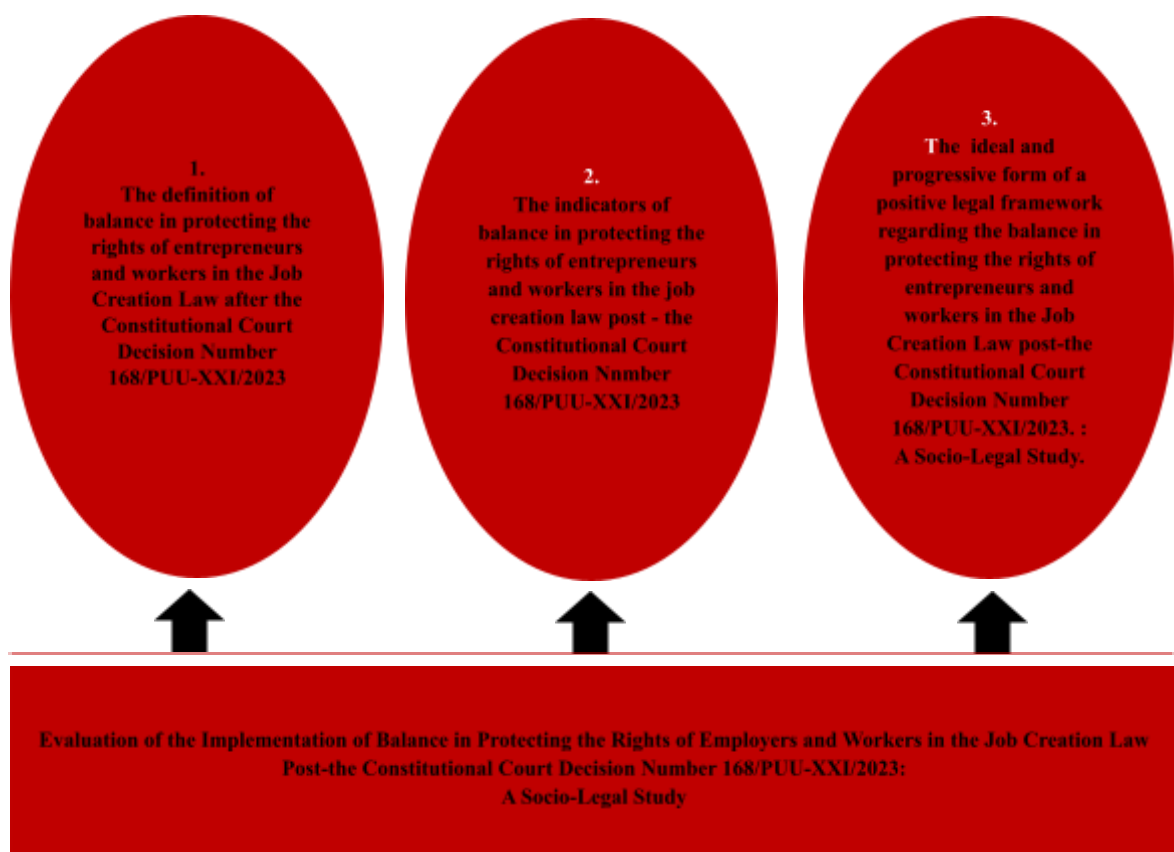


harmonization and legal protection for both employers and workers. This study is expected to help clarify and understand the socio-legal implications of the decision for a fair and balanced employment environment. This article will sequentially discuss as follows: (1). The definition of balance in protecting the rights of entrepreneurs and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023; (2). The Indicators of balance in protecting the rights of entrepreneurs and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023; and (3). The ideal and progressive form of a positive legal framework regarding the balance in protecting the rights of entrepreneurs and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023. : A Socio-Legal Study.

Therefore, this article is entitled "*Evaluation of the Implementation of Balance in Protecting the Rights of Entrepreneurs and Workers in the Job Creation Law Post-the Constitutional Court Decision Number 168/PUU-XXI/2023: A Socio-Legal Study*", with the formulation of this research problem formulated as follows:

1. What is the definition of balance in protecting the rights of entrepreneurs and workers in the Job Creation Law after the Constitutional Court Decision Number 168/PUU-XXI/2023?;
2. What are the indicators of balance in protecting the rights of entrepreneurs and workers in the job creation law post - the Constitutional Court Decision Number 168/PUU-XXI/2023? , and
3. What is the ideal and progressive form of a positive legal framework regarding the balance in protecting the rights of entrepreneurs and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023: A Socio-Legal Study?

Then, this article ends with conclusions and suggestions as described in Figure 1 below:



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**Figure 1. Evaluation of the Implementation of Balance in Protecting the Rights of
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Furthermore, the results of this study are expected to be used by the government and the Indonesian House of Representatives as an evaluation of the implementation and impact of the Job Creation Law post - the Constitutional Court Decision 168/PUU-XXI/2023 from the perspective of entrepreneurs using a socio-legal study approach at present and in the future in Indonesia.

2. Methodology

The research methodology used is normative law with a socio-legal study approach, and the discussion of the problem is analyzed using doctrinal legal research methodology, normative and non-doctrinal juridical approaches or empirical legal approaches or socio-legal approaches (Irianto, 2017). According to Irianto (2017), normative or doctrinal legal research is a view that conceptualises law as: (1). Universal principles of morality or justice; (2). Positive rules that apply generally in certain areas in abstracto (national law/state law); and (3). Judges' decisions created in concreto. Doctrinal research is research on law and legal concepts (Hutchinson & Duncan, 2012). According to Benur & Azhar (2020), doctrinal legal research methodology explains legal issues based on previous legal doctrines or opinions relevant to the legal issues discussed. This study aims to evaluate the implementation of the balance between protecting the rights of entrepreneurs and workers in Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law or the Job Creation Law (hereinafter referred to as Law 6/2023) post - Constitutional Court Decision No. 168/PUU-XXI/2023: A Socio-Legal Study.

Therefore, this study will discuss legal issues regarding the definition of balance in protecting the rights of entrepreneurs and workers, what indicators of balance in protecting the rights of entrepreneurs and workers are, and what an ideal and progressive positive legal framework should look like regarding the balance in protecting the rights of entrepreneurs and workers in the Job Creation Law (Law 6/2023) post - Constitutional Court Decision No. 168/PUU-XXI/2023 using a socio-legal study approach. Then, literature study is used as a basis for answering various problems in this research. The data used in this research is secondary data, which comes from the results of the literature search conducted. Data collection in the preparation of this journal is carried out by literature research using document studies, the data sources of which are obtained from: (1). Primary legal materials, binding legal materials in the form of journals related to research methods and doctrinal legal concepts, as well as other legal documents related to legal research; (2). Secondary legal materials that provide explanations regarding primary legal materials such as the results of previous research related to research methods and doctrinal legal concepts; and (3). Tertiary legal materials or supporting legal materials such as legal dictionaries and other materials outside the legal field that are used to complete the research data. Then, data processing is carried out qualitatively. Descriptive, critical, where the written legal materials that have been collected are classified according to the problems that have been identified and systematic content analysis is carried out on the legal material documents.

3. Discussion

3.1. The definition of balance in protecting the rights of employers and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023



In employment law, balance generally refers to the process of establishing and maintaining a fair and equitable relationship between entrepreneurs and employees. This involves creating a legal framework and mechanisms that protect the rights and interests of both parties, particularly within the employment relationship. The goal is to prevent exploitation, ensure fair treatment, and foster a stable and productive work environment. Social dialogue, collective bargaining, and dispute resolution are key tools used to achieve this balance, ensuring that employers (entrepreneurs) and employees (workers) can express themselves safely and that the interests of both parties are taken into account. Ultimately, it is about creating a workplace that allows both employers and employees to thrive. The employment relationship is a widely discussed phenomenon in organizational management and human resources, encompassing a set of shared rights, responsibilities, and obligations between the main parties in the employer-employee relationship (Sparrow and Cooper, 2004). The employment relationship emphasizes the crucial need to ensure that all employees have access to their employment-related rights and benefits in the areas of employment law and social security, and in turn, this relationship obliges employees to work in the best interests of the employer (Bingham, 2016).

According to Bingham (2016), the reciprocal nature of the relationship between employees and employers is the primary criterion for determining the degree and nature of rights and interests based on formal and legal structures and ethical values related to justice. In the context of the Job Creation Law (Law No. 6/2023) and Constitutional Court Decision No. 168/PUU-XXI/2023, balancing the protection of the rights of employers and workers means ensuring a fair and equal relationship in which neither party is exploited. This includes protecting workers' rights while recognizing the need for business flexibility and economic growth. Constitutional Court Decision No. 168/PUU-XXI/2023 emphasizes that employment policies must be implemented with due regard for workers' human rights, particularly in cases such as termination of employment, ensuring fair compensation and due process, which includes:

1. Worker protection in the form of the following: (a). Fair compensation: workers have the right to fair compensation, including severance pay, in cases of termination of employment, especially for those with fixed-term employment contracts; (b). Legal Process: Constitutional Court decision Number 168/PUU-XXI/2023 clarifies the termination process, emphasizes negotiation and dispute resolution, and ensures that termination of employment is not arbitrary and that all legal avenues have been exhausted before workers are dismissed; (c). Decent Working Conditions, including fair wages, social security, and access to decent working conditions, as well as the right to organize and negotiate through trade unions; (d). Priority for Indonesian Workers: The court decision highlights the importance of prioritizing Indonesian workers in employment, requiring employers to justify the recruitment of foreign workers; and (e). Protection of Fixed-Term Workers: The court decision on the five-year limitation of Fixed-Term Employment Agreements or *Perjanjian Kerja Waktu Tertentu* (PKWT) aims to protect workers from exploitation and provide clarity on their employment status, especially when the agreement is violated.
2. Employer Flexibility and Business Needs as follows: (a). Flexibility in Employment Relations: The Job Creation Law, as interpreted by the courts, seeks to balance worker protection with the need for business flexibility, allowing employers to adjust their workforce based on changing business needs; (b). Priority of Indonesian Workers: While prioritizing Indonesian workers, the ruling also recognizes the need for foreign investment and the potential for knowledge transfer, which may require the recruitment of foreign workers; and (c). Clarity on Outsourcing: The Constitutional Court ruling provides clarity on the types of work that can be outsourced to reduce potential conflicts between companies and workers.
3. The Role of the State is as follows: (a). Ensuring Fair Implementation: the state, through its institutions and legal framework, is responsible for ensuring that the Job Creation Law and the Constitutional Court ruling are implemented fairly and equally; and (b). Encouraging



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Public Participation, this Constitutional Court ruling underscores the importance of public participation in policymaking, ensuring that laws are not passed without adequate input from all stakeholders, including workers and employers.

4. Key Aspects of the Constitutional Court Decision (Decision No. 168/PUU-XXI/2023) - The termination process is as follows:(a).The Constitutional Court clarified that termination of employment can only occur after a final and binding court decision, ensuring due process and preventing unilateral termination of employment;(b).Emphasis on Bipartite Negotiation: This Constitutional Court decision emphasizes the importance of negotiation and building consensus between employers and workers in resolving labor disputes;and (c).Minimum Standards: This Constitutional Court decision provides clarity on minimum standards for wages, leave, and severance packages but allows employers to offer higher benefits.
5. Holidays as follows: This Constitutional Court decision restores the provision of two days of rest per week for a five-day work week, as previously stipulated in the LaborLaw.

Referring to the previous explanation, the Job Creation Law (Law No. 6/2023) and Constitutional Court Decision No. 168/PUU-XXI/2023 concerning balance in protecting the rights of employers and workers mean ensuring a fair and equal relationship. In other words, the concept of balance in the context of the Job Creation Law, as interpreted by the Constitutional Court, essentially aims to create a work environment that allows both employers and workers to thrive, with fair and equal treatment, while simultaneously encouraging economic growth and development. Therefore, the definition of balance in the context of protecting the rights of entrepreneurs and workers under the Job Creation Law, specifically Constitutional Court Decision No. 168/PUU-XXI/2023, is crucial for maintaining a fair and sustainable employment relationship. This definition of balance is crucial because it ensures that, in addition to entrepreneurs/employers having the freedom to manage their businesses and contribute to economic growth, the rights and welfare of workers are also protected, preventing exploitation and promoting social justice.

The Constitutional Court's ruling essentially refines the interpretation of the Job Creation Law, emphasizing the need for a balanced approach that considers both economic development and the protection of workers' rights. The reasons why this balance and the Constitutional Court's ruling are so important are as follows:

1. Addressing Power Imbalances—The Job Creation Law, while intended to stimulate the economy, has faced criticism for potentially favoring employers over workers. Constitutional Court rulings, particularly in cases related to termination of employment, emphasize that workers' rights must be prioritized and protected during the termination process. These rulings also emphasize the need for negotiation and dispute resolution processes to be completed before termination of employment to ensure workers have a fair opportunity to assert their rights.
2. Ensuring Legal Certainty and Clarity—The Constitutional Court rulings provide clarity on several aspects of the Job Creation Law, including fixed-term employment agreements, outsourcing, and severance pay. This clarity helps reduce legal uncertainty and potential conflicts between employers and workers. For example, these rulings clarify the maximum duration of Fixed-Term Employment Agreements (PKWT), addressing concerns about the potential exploitation of workers through indefinite contract extensions.
3. Upholding Workers' Constitutional Rights—The Constitutional Court's ruling affirms the importance of protecting workers' constitutional rights, such as the right to a decent living and social security. This ruling emphasizes the need for fair and humane treatment of workers, especially during layoffs. It also highlights the importance of providing adequate



- severance pay and other forms of support to laid-off workers to ensure they are not left in a vulnerable position; and
4. Promoting Social Justice and Economic Stability—By balancing the interests of employers and workers' rights, the Job Creation Law can contribute to a more just and equitable society. This balanced approach can result in a more stable and productive workforce, as workers feel more secure and motivated. Ultimately, this can contribute to long-term economic growth and social stability.

Therefore, the Constitutional Court's ruling on the Job Creation Law is crucial because it reinforces the principle of balance, ensuring that economic development and job creation are achieved without sacrificing the fundamental rights and well-being of workers. This balance is vital to creating a sustainable and equitable employment landscape. Constitutional Court Decision No. 168/PUU-XXI/2023 requires a balance in the Job Creation Law to protect the rights of employers and workers. This balance is crucial because the Constitutional Court's ruling mandates the involvement of labour unions in wage negotiations. The goal is to ensure fair wages and working conditions, prevent exploitation, while still enabling business continuity. Socio-legal studies emphasise this balance by examining how the law impacts various social groups, particularly in terms of access to justice and economic security. This is crucial for mitigating potential conflict and creating a fair work environment.

According to Aquina (2024), the Constitutional Court's ruling validated 21 provisions of the Job Creation Law deemed constitutionally problematic. The ruling primarily addresses seven main issues, detailed as follows:

**Table 1. Description of the Norms of the Articles in the Job Creation Law (Law 6/2023)
Chapter IV: Employment and Changes to the Norms of the Articles of Law 6/2023
Post - The Constitutional Court Decision Number 168/PUU-XXI/2023**

No	Norms of the Articles in Law 6/2023 (Job Creation Law), Chapter IV: Employment	Changes to Article Norms Post - The Constitutional Court Decision Number 168/PUU-XXI/2023
1	Article 42 paragraph (1) in Article 81 number 4 of the Job Creation Law "Every employer who employs foreign workers is required to have a foreign worker utilization plan that is approved by the central government."	"Every employer who employs foreign workers is required to have a foreign worker utilization plan approved by the minister responsible for manpower affairs, in casu the Minister of Manpower."
2	Article 42 paragraph (4) in Article 81 number 4 of the Job Creation Law "Foreign workers may be employed in Indonesia only in employment relationships for certain positions and for a certain period of time and must have competencies in accordance with the position they will occupy."	"Foreign workers may be employed in Indonesia only in employment relationships for certain positions and for a certain period of time and must have competencies appropriate to the position they will occupy, with due regard to prioritizing the use of Indonesian workers."
3	Article 56 paragraph (3) in Article 81 number 12 of the Job Creation Law "The time period or completion of a particular job as referred to in paragraph (2) is determined based on an employment agreement."	The time period for completing a particular job is not to exceed a maximum of 5 (five years), including if there is an extension."
4	Article 57 paragraph (1) in Article 81 number 13 of the Job Creation Law "A fixed-term employment agreement must be made in writing and must use Indonesian and the Latin alphabet".	"A fixed-term employment agreement must be made in writing using Indonesian and the Latin alphabet."
5	Article 64 paragraph (2) in Article 81 number 18 of the Job Creation Law "The government	"The Minister determines part of the implementation of the work as referred to in paragraph (1) in



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	determines part of the implementation of the work as referred to in paragraph (1)."	accordance with the type and field of outsourcing work agreed in the written outsourcing agreement."
6	Article 79 paragraph (2) letter b in Article 81 number 25 of the Job Creation Law "The rest period as referred to in paragraph (1) letter a must be provided to Workers/Laborers, including at least: b. a weekly rest of 1 (one) day for 6 (six) working days in 1 (one) week	." "The rest period as referred to in paragraph (1) letter a must be provided to Workers/Laborers, including at least: b. a weekly rest of 1 (one) day for 6 (six) working days in 1 (one) week or 2 (two) days for 5 (five) working days in 1 (one) week."
7	Article 79 paragraph (5) in Article 81 number 25 of the Job Creation Law "In addition to the rest period and leave as referred to in paragraph (1), paragraph (2), and paragraph (3), certain companies may provide long breaks as regulated in the employment agreement, company regulations, or collective bargaining agreement."	"In addition to the rest and leave periods referred to in paragraph (1), paragraph (2), and paragraph (3), certain companies provide extended breaks as stipulated in employment agreements, company regulations, or collective bargaining agreements."
8	Article 88 paragraph (1) in Article 81 number 27 of the Job Creation Law "Every worker/laborer has the right to a decent living for humanity."	"Every worker/laborer has the right to a decent living for humanity, including income that meets the needs of a living, which is the amount of income or receipts received by the worker/laborer from his/her work so that he/she is able to reasonably meet the living needs of the worker/laborer and his/her family, including food and drink, clothing, housing, education, health, recreation, and old-age security."
9	Article 88 paragraph (2) of Article 81 number 27 of the Job Creation Law states, "The central government establishes wage policies as an effort to realize the rights of workers/laborers to a decent living for humanity."	"The central government establishes wage policies as an effort to realize the rights of workers/laborers to a decent living for humanity by involving regional wage councils, which include regional government elements, in formulating wage policies that serve as material for the central government in determining wage policies."
10	Article 88 paragraph (3) letter b of Article 81 number 27 of the Job Creation Law states, "Wage policies as referred to in paragraph (2) include: b. wage structure and scale."	"Wage policies as referred to in paragraph (2) include: b. proportional wage structure and scale."
11	Article 88C of Article 81 number 28 of the Job Creation Law states, "(1) The Governor is obliged to determine the provincial minimum wage. (2) The Governor may determine the district/city minimum wage."	"The Governor is obliged to set sectoral minimum wages for the province and may also set them for districts/cities."
12	Article 88D paragraph (2) of Article 81 number 28 of the Job Creation Law states, "The formula for calculating the minimum wage as referred to in paragraph (1) takes into account the variables of economic growth, inflation, and certain indices."	"The formula for calculating the minimum wage as referred to in paragraph (1) takes into account the variables of economic growth, inflation, and certain indices. (Explanation: Certain indices are variables that represent the contribution of labor to the economic growth of a province or district/city, taking into account the interests of companies and workers/laborers, as well as the principle of proportionality to meet the decent living needs (KHL) for workers/laborers."
13	Article 88F in Article 81 number 28 of the Job Creation Law states, "Under certain	"Under certain circumstances, the government may establish a formula for calculating the minimum



	circumstances, the government may establish a formula for calculating the minimum wage that differs from the formula for calculating the minimum wage as referred to in Article 88D paragraph (2)."	wage that differs from the formula for calculating the minimum wage as referred to in Article 88D paragraph (2). (Explanation: What is meant by "under certain circumstances" includes, among other things, natural or non-natural disasters, including extraordinary global and/or national economic conditions determined by the president in accordance with statutory provisions)."
14	Article 90A in Article 81 number 31 of the Job Creation Law states, "Wages above the minimum wage are determined based on an agreement between employers and workers/laborers in the company."	"Wages above the minimum wage are determined based on an agreement between employers and workers/laborers or trade unions in the company."
15	Article 92 paragraph (1) in Article 81 number 33 of the Job Creation Law states, "Employers are required to establish the structure and scale of wages in the company by taking into account the company's capabilities and productivity."	"Employers are required to establish the wage structure and scale in the company by taking into account the company's capabilities and productivity, as well as class, position, length of service, education, and competency."
16	Article 95 paragraph (3) of Article 81 number 36 of the Job Creation Law: "Other rights of workers/laborers as referred to in paragraph (1) shall be paid in priority over all creditors, except creditors holding property security rights."	"Other rights of workers/laborers as referred to in paragraph (1) shall be paid in priority over all creditors, including preferred creditors, except creditors holding property security rights."
17	Article 98 paragraph (1) of Article 81 number 39 of the Job Creation Law: "To provide advice and considerations to the central government or regional governments in formulating wage policies and developing wage systems, a wage council shall be established."	"To provide advice and considerations to the central government or regional governments in formulating wage policies and developing wage systems, a wage council shall be established that actively participates."
18	Article 151 paragraph (4) in Article 81 number 40 of the Job Creation Law "In the event that bipartite negotiations as referred to in paragraph (3) do not reach an agreement, termination of employment shall be carried out through the next stage in accordance with the industrial relations dispute resolution mechanism."	"In the event that bipartite negotiations as referred to in paragraph (3) do not reach an agreement, termination of employment may only be carried out after obtaining a decision from an industrial relations dispute resolution institution whose decision has permanent legal force."
19	Article 151 paragraph (4) in Article 81 number 40 of the Job Creation Law "In the event that bipartite negotiations as referred to in paragraph (3) do not reach an agreement, termination of employment shall be carried out through the next stage in accordance with the industrial relations dispute resolution mechanism."	"In the event that bipartite negotiations as referred to in paragraph (3) do not reach an agreement, termination of employment may only be carried out after obtaining a decision from an industrial relations dispute resolution institution whose decision has permanent legal force."
20	Article 157A paragraph (3) in Article 81 number 49 of the Job Creation Law "Implementation of the obligations as referred to in paragraph (1) shall be carried out until the completion of the industrial relations dispute resolution process according to its level."	"Implementation of the obligations as referred to in paragraph (1) shall be carried out until the completion of the industrial relations dispute resolution process with permanent legal force in accordance with the provisions of the PPHI Law."
21	Article 156 paragraph (2) in Article 81 number 47 of the Job Creation Law "Severance pay as referred to in paragraph (1) is provided with the following provisions:"	"Severance pay as referred to in paragraph (1) is at least:"

Source: Aquina (2024), Constitutional Court Decision Number 168/PUU-XXI/2023 and other sources (processed)



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Referring to Table 1, it can be interpreted that Constitutional Court Decision Number 168/PUU-XXI/2023, which partially granted the judicial review by revising 21 provisions of the Job Creation Law, was confirmed to focus solely on workers' rights. This decision affirmed that several provisions in the Job Creation Law (Law 6/2023) contradict constitutional principles, particularly those related to the protection of workers' constitutional rights. In response to this decision, the Constitutional Court urged the House of Representatives of the Republic of Indonesia or *Dewan Perwakilan Rakyat Republik Indonesia* (DPR RI) and the Government to immediately draft a new labor law that separates or excludes provisions in the Job Creation Law (Law 6/2023). The Constitutional Court set a maximum timeframe of two years for the DPR RI to finalize the new labor law. The Court also emphasized the need for active participation of trade unions and workers in the law-making process. This decision is expected to serve as a foundation for improving labor regulations and creating a balance between investment interests and the protection of workers' rights.

In this context, it can be interpreted that the evaluation of the implementation of the balance protecting employers' rights in the Job Creation Law, following Constitutional Court Decision Number 168/PUU-XXI/2023, is considered to have been neglected by the Constitutional Court in its decision. Therefore, the House of Representatives (DPR RI) and the Government are expected to collaborate with various stakeholders in the employment sector, including entrepreneurs, academics, workers and labor unions, and relevant government institutions, to evaluate the implementation of employers' and workers' rights in the Job Creation Law following Constitutional Court Decision Number 168/PUU-XXI/2023. This can be done simultaneously, as in Constitutional Court Decision Number 168/PUU-XXI/2023, finalizing the new Employment Law in Indonesia based on a balance protecting the rights of employers and workers. This effort is expected to be key to achieving a fair and sustainable employment system in Indonesia, as guaranteed by the constitution.

Several articles in the 1945 Constitution that guarantee the rights of workers and employers include Article 27, paragraph (2), which guarantees the right to work and a decent living, and Article 28D, paragraph (2), which guarantees the right to work and receive fair treatment in employment relations. In addition, Article 33 of the 1945 Constitution regulates the national economy and social welfare, which includes guarantees of protection for the rights of workers and employers. The following are the articles that must be used as per the Constitutional Court Decision, which stipulates a maximum period of two years for the Indonesian House of Representatives to complete the new Employment Law. Several articles are expected to be the basis for employment regulations in Indonesia that are in favor of the interests of the people, including workers and employers, as follows:

1. Article 27 paragraph (2)—States that "Every citizen has the right to work and a decent living standard." This guarantees the right of every citizen to obtain decent work and a living that meets humanitarian standards.
2. Article 28D paragraph (2)—States that "Everyone has the right to work and to receive fair and decent remuneration and treatment in employment." This article affirms the right of workers to obtain work, fair remuneration, and decent treatment in employment; and
3. Article 33, paragraph (1), States that the economy is structured as a joint effort based on the principle of family. Furthermore, Article 33 paragraph (2) states that branches of production that are important to the state and that affect the livelihoods of many people are controlled by the state, and Article 33 paragraph (3) states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.



Based on the previous explanations, the definition of balance regarding protecting the rights of entrepreneurs and workers in the Job Creation Law after the Constitutional Court Decision Number 168/PUU-XXI/2023 is a fair legal protection to balance and ensure the rights of entrepreneurs and workers, especially regarding employment status, termination procedures, and dispute resolution. Therefore, the definition of balance in protecting the rights of entrepreneurs is expected to be regulated through clear regulations and fair legal processes. This means that the Job Creation Law, after the Constitutional Court Decision Number 168/PUU-XXI/2023, is expected to contain provisions to prevent arbitrary actions by both entrepreneurs and workers in industrial relations, the aim of which is for both parties to have access to fair and effective legal resolution, legal terms, and legal conditions. Legal terms and conditions aim to protect the rights of entrepreneurs and include the following: (1) Entrepreneurs have the right to decide how to run a business, including setting wages and carrying out restructuring in certain circumstances; (2) Entrepreneurs have the right to establish workplace policies and procedures and provide legal and reasonable instructions to be followed; and (3) Entrepreneurs have the right to manage performance issues and violations appropriately (including taking disciplinary action if necessary) and to terminate workers following a fair and proper process based on applicable labor law provisions.

Thus, Constitutional Court Decision Number 168/PUU-XXI/2023 significantly changes the balance between employer and employee rights in the Job Creation Law by emphasizing the protection of workers' rights, particularly regarding termination procedures, severance pay, and the priority of Indonesian workers in recruitment. This decision, while not repealing the entire Job Creation Law, requires revision to ensure alignment with the 1945 Constitution and to address concerns about the law's impact on workers, rather than employers. Therefore, an evaluation of the implementation of the balance between protecting not only workers' rights but also employers' rights in the Job Creation Law Post-Constitutional Court Decision Number 168/PUU-XXI/2023: A Socio-Legal Study is needed. This will be important by formulating what indicators of balance protect the rights of employers and workers in the Job Creation Law after the Constitutional Court Decision Number 168/PUU-XXI/2023. As guaranteed in the constitution, the rights of workers and employers include Article 27 paragraph (2), which guarantees the right to work and a decent living, and Article 28D paragraph (2), which guarantees the right to work and receive fair treatment in employment relations. In addition, Article 33 of the 1945 Constitution regulates the national economy and social welfare, which includes guarantees of protection for the rights of workers and employers.

3.2. The Indicators of balance in protecting the rights of entrepreneurs and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023

In the context of employment law, balancing the protection of the rights of employers and employees is a challenge in employment relations. According to Sparrow & Cooper (2004), the challenges faced in employment relations in future organizations address issues of change in employee relations resulting from the impact of factors such as international competitive pressures, technological change, and changes in individual expectations and behavior. In this regard, the challenges in balancing employers and employees include the following: (1) Flexibility vs. Security—Employers may desire flexibility in hiring and firing employees, while employees may desire job security and stability; (2) Technological Advances—New technologies can create new challenges for employers and employees, such as in the areas of data privacy and workplace surveillance; (3) Global Competition—Globalization can pressure employers to reduce costs, potentially leading to lower wages and working conditions; and (4) Discrimination and Inequality—Ensuring equal opportunities for all workers, regardless of gender, race, religion, or other characteristics, is a constant challenge.

According to Ferris et al. (2009), an employment relationship generally refers to a pattern of exchange between two interacting members or partners, whether individuals, groups, or



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organizations, typically directed toward achieving some shared goal or objective. An employment relationship obligates employees to work for the benefit of their employer, regardless of the circumstances. All employees and employers share fundamental interests that they seek to pursue and achieve through their employment relationship (Wilkinson et al., 2019). According to Wilkinson et al. (2019), an employment relationship is necessary to ensure a balance between the interests of employers and employees. Employment relationships are regulated and mediated by the labor market and the state, all of which are governed by a contract, ranging from general contracts to union contracts and public service regulations regarding implied expectations and agreements. An employment relationship is based on a contract and is an agreement between the parties, employer and employee, with mutual obligations to perform and pay for that work (Morris et al., 2009).

According to Morris et al. (2009), an employment relationship must meet the following provisions:

(1). There must be an employment contract. The contract can be made in writing, in standard form, or by letter, but both are not essential, as long as there are mutual contractual obligations. Oral agreements between the two parties remain valid. An employment contract consists of implied provisions (e.g., trust and confidentiality, customs and practices, statutory provisions) and written and oral provisions (commonly known as express provisions), along with parts of a collective labor agreement whose provisions can be integrated into an individual employment contract. Discretionary provisions cannot be considered customs and practices; and (2). Employers have a legal obligation to have a 'dispute resolution procedure,' which, at a minimum, must provide the right to obtain information about the nature of the claim and the opportunity to respond. Therefore, with the existence of an employment relationship, it is necessary to have a balance to protect the rights of employers and workers in socio-legal-based employment law.

Constitutional Court Decision No. 168/PUU-XXI/2023 concerning Law No. 6 of 2023 (the Job Creation Law) has implications for both employers and workers. The ruling declared several sections of the law unconstitutional, particularly those that reduce workers' rights regarding priority wage payments and other entitlements. The Court also mandated union involvement in wage negotiations, indicating a shift toward protecting workers' rights. This is likely to impact employers by potentially increasing labor costs and necessitating greater engagement with unions. Overall, Decision No. 168/PUU-XXI/2023 concerning Law No. 6 of 2023 (the Job Creation Law) aims to ensure that the Job Creation Law (Law 6/2023) does not unduly benefit companies at the expense of workers' rights. This is achieved by clarifying ambiguous provisions, emphasizing the need for fair and transparent practices, and promoting a balanced approach to employment relations.

Therefore, the Constitutional Court Decision Number 168/PUU-XXI/2023 regarding the Job Creation Law is expected to encourage ongoing dialogue and collaboration between employers, workers, and the government to ensure effective legal implementation and protection for all stakeholders. This can be implemented if the Job Creation Law Post-Constitutional Court Decision Number 168/PUU-XXI/2023, as a socio-legal study, has several indicators of balance. In this case, the indicators of balance protecting the rights of employers and workers in the Job Creation Law Post-Constitutional Court Decision Number 168/PUU-XXI/2023 are expected to be formulated and regulated in Indonesian labor law provisions as described in Figure 2 below as follows:

Figure 2. Indicators of Balance in Protecting Employer Rights and Worker Rights

Referring to Figure 2, several indicators of a balance protecting the rights of entrepreneurs and workers include legal terms and conditions, including:



1. Legal terms and conditions to balance the interests of entrepreneurs and workers— Legal terms and conditions that balance the interests of entrepreneurs and workers include efforts to ensure the fulfillment of mutual rights and obligations, as stipulated in employment contracts. This balance can be achieved through mechanisms such as social dialogue, collective bargaining, and dispute resolution processes. These mechanisms facilitate fair treatment and prevent imbalances in the workplace. The legal framework often includes regulations addressing fair wages, working hours, and safe working conditions. The legal framework also includes provisions for resolving conflicts and ensuring that both entrepreneurs and workers comply with their contractual and legal responsibilities. The goal is to create a fair and equitable work environment that takes into account the interests of both parties.
2. Legal terms and conditions to emphasize the need for a clear legal framework and fair application of laws to ensure the protection of the rights of entrepreneurs and workers. Legal terms and conditions are crucial in establishing a clear legal framework that protects the rights of both entrepreneurs and workers. The theory of legal protection underscores the importance of such frameworks, which govern aspects such as employee representation, non-discrimination, and leave entitlements. Effective corporate governance, in turn, relies on compliance with these legal requirements to ensure fair treatment and protect workers' rights. These frameworks typically include laws and regulations that are applied equally to both parties, and the details vary by jurisdiction but generally include contracts, employment laws, and regulations enforced by government agencies. This aims to create a balanced environment that encourages fair practices and protects the interests of all parties involved.
3. Legal terms and conditions to foster a conducive investment climate—Legal terms and conditions that foster a conducive investment climate include legal certainty, transparency, accountability, and equal treatment. These conditions foster a predictable and trustworthy environment for investors. Legal certainty assures property rights, contracts, and dispute resolution. Openness ensures transparency in regulations and procedures. Accountability holds stakeholders accountable for their actions, and equitable treatment ensures that all investors are treated fairly, regardless of their origin or scale. These conditions create a supportive environment for investment to flourish, which fosters economic growth and stability.

Based on the various previous explanations, it can be interpreted that the Constitutional Court Decision Number 168/PUU-XXI/2023 concerning Law Number 6 of 2023 tends to emphasize the protection of normative workers' rights, particularly regarding the right to decent work and livelihood. Therefore, the Constitutional Court Decision Number 168/PUU-XXI/2023 concerning Law Number 6 of 2023 is also expected to highlight the need for balanced indicators to protect both entrepreneurs and workers in a socio-legal context. The Constitutional Court's opinion prior to the amendment of Article 81, number 12 of Law Number 6 of 2023, aims to ensure workers' rights are protected. These indicators are crucial in the implementation of the law, ensuring that the rights of both parties are considered fairly, leading to a more just and equal work environment. Furthermore, the Constitutional Court decision is expected to underscore the legal and social responsibilities to protect both entrepreneurs and workers. Therefore, from a socio-legal perspective, the legal and social responsibility to protect entrepreneurs and workers involves a combination of the legal framework and societal expectations. This requires both parties to fulfill their obligations to ensure their rights are upheld by employment agreements and laws and regulations, which include the welfare, safety, and right to work for both entrepreneurs and workers, as guaranteed by the constitution.

Thus, Constitutional Court Decision No. 168/PUU-XXI/2023 concerning the Job Creation Law highlights the importance of protecting the rights of not only workers but also entrepreneurs. From a socio-legal perspective, the relationship between entrepreneurs and workers is primarily



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determined by the employment agreement, which encompasses work roles, compensation, and hierarchical structures. This relationship, often referred to as industrial relations, is subject to a legal and regulatory framework aimed at protecting both entrepreneurs and workers, including social protection and employment law. Furthermore, the socio-legal perspective examines how this legal framework influences power dynamics and social conditions in the workplace and underscores the need to balance the interests of entrepreneurs and workers, particularly with the objectives of the Constitutional Court ruling. Therefore, the Constitutional Court Decision Number 168/PUU-XXI/2023 concerning the Job Creation Law is expected to reflect a step towards legal certainty and greater protection for both entrepreneurs and workers in Indonesia, while also recognizing the need for an ideal and progressive positive legal framework regarding the balance of protecting the rights of entrepreneurs and workers in the Job Creation Law post - the Constitutional Court Decision Number 168/PUU-XXI/2023.

3.4. The ideal and progressive form of a positive legal framework regarding the balance in protecting the rights of entrepreneurs and workers in the Job Creation Law post-the Constitutional Court Decision Number 168/PUU-XXI/2023. : A Socio-Legal Study

Constitutional Court Decision Number 168/PUU-XXI/2023, although it has addressed some concerns regarding the Job Creation Law, has not fully reduced its negative impact on entrepreneurs' rights from a socio-legal perspective. This law, despite the Constitutional Court's decision, still has the potential to weaken employers' rights due to provisions that may not adequately protect their interests, especially regarding legal certainty and ease of doing business. In addition, the decision's focus on labor/worker rights, although important, can create a perception of policy instability and hinder investment, which impacts entrepreneurs' long-term planning and operations. Referring to socio-legal studies, the Job Creation Law post - the Constitutional Court Decision Number 168/PUU-XXI/2023 from an employer's perspective has the potential to create legal uncertainty and policy instability, such as: (1). Frequent policy changes: the Job Creation Law and even subsequent Constitutional Court decisions have led to frequent regulatory changes, which create uncertainty for employers; (2). Raising concerns among investors, including entrepreneurs. Investors often seek legal certainty and stable policies for long-term investments; and (3). Impacting business confidence. Frequent changes can erode business confidence and hinder domestic and foreign investment.

The Job Creation Law post – the Constitutional Court Decision Number 168/PUU-XXI/2023, from the perspective of entrepreneurs, has the potential to negatively impact entrepreneurs' rights. Potential negative impacts on entrepreneurs' rights include perceptions of injustice. Entrepreneurs perceive the changes as focusing too much on labor issues, which has the potential to create perceptions of injustice and imbalance in the business environment. In this case, entrepreneurs will find it difficult to adapt to frequent changes, especially those related to labor regulations. This has the potential to hinder their ability to operate efficiently. Furthermore, from a socio-legal perspective, the implementation of the Job Creation Law post – the Constitutional Court Decision Number 168/PUU-XXI/2023 is expected to balance the interests of entrepreneurs and workers. Therefore, a socio-legal approach is essential, for example, requiring ongoing dialogue and collaboration between all stakeholders, including employers, workers, and the government, to ensure a fair and balanced approach to policymaking. This means that further harmonization is urgently needed, particularly regarding the new Labor Law, as the Constitutional Court has recommended the creation of a new Labor Law to harmonize existing laws and address gaps and inconsistencies. Furthermore, a more holistic and balanced approach is needed, with a greater emphasis on legal certainty, policy stability, and active stakeholder engagement, to ensure a sustainable and thriving business environment for all.



The ideal and progressive positive legal framework for balancing the protection of entrepreneurs/employer and workers/employee rights in Indonesian labour law aims to achieve a fair and sustainable balance between the rights of entrepreneurs/employers and workers/employees in the employment relationship by applying the principle of proportionality. The principle of proportionality can be interpreted as requiring material balance and accuracy, emphasising the balance between the burdens incurred (funds used) and the interests assumed (objectives) in implementing the employment relationship. In this regard, employment regulations need to consider the employer's ability to implement established work regulations. Furthermore, it is necessary to reconstruct the definition of the employment relationship and redefine the employment agreement to provide legal protection. Furthermore, implementing the employment relationship requires a multifaceted approach involving the legal framework, social dialogue, effective law enforcement, and a commitment to social justice.

Maintaining a fair balance between the protection of the rights of entrepreneurs and workers is a crucial challenge in Indonesian labour law. A fair balance is crucial for creating a healthy and productive business ecosystem, as well as promoting economic stability and social welfare. Achieving a fair balance between protecting the rights of employers and workers requires careful consideration, including legal and ethical factors (including the specific context of the employment relationship and applicable laws and regulations), which are key aspects related to the balance of employer and employee rights, as outlined in the employment agreement. Therefore, the employment agreement plays a crucial role in the employment relationship between workers and employers in Indonesia. An employment agreement is a legal document that regulates the rights and obligations of both parties and aims to create clarity and legal certainty in the employment relationship (Hanipah et al.,2023).

With an employment agreement, entrepreneurs and workers can clearly understand their respective rights and responsibilities, thereby reducing the potential for future disputes or conflicts. This is crucial, given that uncertainty in the employment relationship can disrupt the smooth operation of the company and impact employee productivity. Furthermore, the employment agreement also serves as a legal protection instrument for both parties. If the agreed-upon provisions are violated, this agreement can be used as a basis for resolving disputes through legal channels (Radiansyah et al.,2024). Several key aspects of the balance of employer and employee rights outlined in the employment agreement include provisions regarding:

1. Protecting Employer Rights – This includes ensuring that employers can manage their businesses effectively, make decisions about staffing and operations, and protect intellectual property and other legitimate interests;
2. Protecting Worker Rights – This includes ensuring fair wages, safe working conditions, protection against discrimination and harassment, and the right to organise and bargain collectively;
3. Conducting Social Dialogue and Collective Bargaining – Engaging employers and workers in discussions and negotiations on workplace issues is essential for building trust and finding mutually agreeable solutions. This can lead to improved working conditions and increased productivity.
4. Legal Framework – Clear and well-enforced labour laws are essential to establishing the rights and responsibilities of both employers and workers. These laws should be reviewed and updated regularly to reflect changing social and economic conditions. and
5. Enforcement Mechanisms – Effective mechanisms for resolving disputes and ensuring compliance with labour laws are necessary to protect workers from unfair practices and to provide a predictable legal environment for employers.

Furthermore, the Constitutional Court Decision (168/PUU-XXI/2023) on the Job Creation Law in Indonesia is expected to foster the need for a more balanced and progressive legal



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framework to protect the rights of employers and workers. This decision, in addition to affirming several aspects of the law, also mandates a separate and more detailed Manpower Law, emphasising the need for greater clarity and protection for workers. An ideal framework should address concerns about flexibility, ensure adequate rest periods for workers, and clarify the role of outsourcing, wages, and the use of foreign labour. Furthermore, the key aspects of an ideal and progressive positive legal framework regarding the balance between protecting the rights of employers and workers in the Job Creation Law post – the Constitutional Court Decision No. 168/PUU-XXI/2023, are expected to include the following regulations:

1. Clearer Regulations – Indonesian Labor Law is expected to provide clearer definitions and procedures for key aspects such as outsourcing, wage determination, and leave policies;
2. Regulations that Balance Flexibility and Protection – Indonesian Labor Law is expected to place greater emphasis on flexibility in employment. In this regard, the framework is expected to ensure flexibility without sacrificing legal protection and guarantees for both employers and workers.
3. Regulations that Strengthen Worker Participation – Indonesian Labor Law is expected to further emphasise and ensure the importance of active participation by trade unions and workers; and
4. Regulations that Address Outsourcing Concerns – Indonesian Labor Law is expected to clearly define the types of work that can be outsourced and ensure that outsourcing agreements are transparent and do not negatively impact workers' rights.

Furthermore, the strategy for implementing an ideal and progressive positive legal framework that balances the protection of the rights of employers and workers in the Job Creation Law post - the Constitutional Court Decision Number 168/PUU-XXI/2023: A Socio-Legal Study is as follows: (1).Strong Legislative Process - The draughting of the new Employment Law must be transparent and inclusive, with meaningful participation from all stakeholders; (2).Clear and Specific Regulations – This law must avoid ambiguity and provide clear guidance for employers and workers on key issues such as wages, leave, and outsourcing;(3).Effective Enforcement – This framework needs to be accompanied by strong enforcement mechanisms to ensure that employers comply with the law and that workers can access their rights;and (4).Continuous Evaluation and Adjustment - The legal framework must be reviewed and adjusted periodically to address emerging challenges and ensure it remains relevant and effective. By addressing these key areas, Indonesia can create a more balanced and progressive legal framework that protects the rights of employers and workers and promotes a healthy and productive work environment.

Based on the foregoing discussion, it can be concluded that the ideal and progressive positive legal framework, related to the balance of protection of employer and worker rights in the Job Creation Law, post - the Constitutional Court Decision No. 168/PUU-XXI/2023, faces significant legal challenges. The Job Creation Law (Law No. 6 of 2023) has been found to have legal issues during its drafting stage, potentially violating the 1945 Constitution of the Republic of Indonesia. The Constitutional Court's role in judicial review highlights the importance of upholding legal certainty and guarantees and addressing potential inequalities in the implementation of the Job Creation Law following Constitutional Court Decision No. 168/PUU-XXI/2023. Therefore, an evaluation of the implementation of the Job Creation Law's balance between protecting the rights of employers and workers is necessary post - the Constitutional Court Decision No. 168/PUU-XXI/2023: A Socio-Legal Study.

Thus, a socio-legal review of the Job Creation Law post - the Constitutional Court Decision No. 168/PUU-XXI/2023 is crucial to assess the law's impact on the balance between entrepreneur/employer and worker/employee rights. The ruling deemed several norms problematic,



necessitating re-evaluation. Such a review helps identify potential violations of workers' rights, such as the repeal of sectoral minimum wage provisions, and examines how the amendments impact recruitment and placement. This review informs the creation of a balanced framework that ensures economic growth while protecting basic worker rights, while the fundamental rights of employers tend to be neglected. Therefore, improvements to the law are necessary to align it with the constitution and protect all stakeholders. Improvements to the Job Creation Law following Constitutional Court Decision No. 168/PUU-XXI/2023 are necessary because the Constitutional Court's ruling likely addressed problematic legal aspects, such as fairness in labour standards. The review and subsequent amendments aim to create a more equitable employment ecosystem in Indonesia. The ongoing debate and controversy surrounding this law highlight the need for adjustments to address various issues and ensure the law's effectiveness and social acceptance.

Conclusion

An evaluation of the implementation of the Job Creation Law is very crucial to protect the rights of entrepreneurs/employers and workers/employee in the Job Creation Law post - the Constitutional Court Decision Number 168/PUU-XXI/2023: This decision emphasises the protection of workers' rights, so an assessment of how this law is implemented and its impact is needed. The evaluation of the implementation of the Job Creation Law post - the Constitutional Court Decision found that it only focused on protecting workers' rights, whereas this Constitutional Court Decision should effectively protect the rights of both parties, workers and employers. Therefore, it is necessary to examine the substance and practical application of this law to prevent imbalances that could harm entrepreneurs /employers through a socio-legal study related to the form of an ideal and progressive legal framework regarding the balance of protection for employers and workers in the Job Creation Law after the Constitutional Court Decision Number 168/PUU-XXI/2023. This form of legal framework is expected to guarantee fair treatment and rights for both parties. The Job Creation Law, enacted under the omnibus law concept, aims to encourage investment and increase competitiveness but has generated substantial controversy, especially among legal experts as well as workers and labour unions in Indonesia. Referring to socio-legal studies of the Job Creation Law post - the Constitutional Court Decision Number 168/PUU-XXI/2023 tends to focus only on worker protection, particularly focus on workers' rights, for example minimum wage, fixed-term employment agreement (PKWT), termination procedures, and priority for Indonesian workers (this decree emphasises the need to prioritise Indonesian workers over foreign workers, ensuring that foreign workers are only hired when qualified local workers are not available).

Thus, the Job Creation Law, following Constitutional Court Decision Number 168/PUU-XXI/2023, can be interpreted as an effort to protect workers' rights and ensure fair employment practices specifically for workers, and completely ignores the needs and interests of employers' rights as employers. Therefore, an ideal and progressive legal framework is needed regarding the balance of protection of the rights of employers and workers in the Job Creation Law, following Constitutional Court Decision Number 168/PUU-XXI/2023. In this case, the Job Creation Law after the Constitutional Court Decision Number 168/PUU-XXI/2023 is expected to be amended, the aim of which is to address the imbalance between workers' rights and the rights of employers as employers. Furthermore, efforts are needed to ensure fair implementation of the balance in protecting the rights of employers and workers in the Job Creation Law after the Constitutional Court Decision Number 168/PUU-XXI/2023, as mandated in the constitution, Article 27 paragraph (2), Article 28D paragraph (2), and Article 33 of the 1945 Constitution.

Novelty

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The authors declare that they have no conflicts of interest, financial or otherwise, regarding the publication of this article.

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Appendix

Republik Indonesia, Undang-Undang Dasar Tahun 1945

Republik Indonesia, Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang atau UU Cipta Kerja