

## **The Validity of Working Time That Exceeds The Provisions Based On The Employment Agreement at PT Tkb**

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### **Abstract**

This research examines the application of overtime working time at PT TKB, a Food and Beverage-based company operating in Surabaya, with a focus on the position of "Store Keeper". The problem arises because the company sets a working time of 12 hours a day or 72 hours a week, which is agreed in the employment agreement without the provision of overtime pay. This is based on the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number Kep.102/MEN/VI/2004 which provides exceptions for workers with certain responsibilities. However, this policy raises questions regarding compliance with labor legislation, particularly Law Number 6 of 2023. The research aims to analyze whether the implementation of PT TKB's working time is in accordance with applicable labor regulations and how legal protection is provided to workers with working time agreements that exceed the provisions. The results of this study are expected to provide guidance for relevant parties in ensuring company policies are in line with applicable labor laws and improve the welfare and protection of workers' rights.

**Keywords:** Labor Law, Working Time, Overtime, Worker Protection.

### **INTRODUCTION**

The development of the industrial sector is currently increasing, this requires companies to increase productivity in order to compete with their competitors. Productivity can be defined as the ratio between the productivity results themselves and the total resources used by the company (Nurhayati, 2023) . Greenberg defines productivity by dividing total expenses by total income with a certain period (Arnando, 2019) . Based on this explanation, worker productivity is directly proportional to the acquisition of goods produced by labor divided by a unit of time in a certain period.

According to Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Law) Article 1 point 3 "Worker/labor is every person who works by receiving wages or compensation in other forms". From this explanation, there are two elements attached to the term worker/labor, namely everyone who works, and receives compensation/wages as a reward for the work that has been carried out. It can be concluded that a worker/laborer is any individual who has a working relationship with a company bound by a work agreement.

The employment relationship is the core of industrial relations that forms a legal relationship carried out by at least two legal subjects, namely employers/employers and workers/laborers regarding a job (Wijayanti, 2010) . An employment relationship occurs when a person (employee, worker, or clerk) provides his/her energy and expertise for another person (employer), and where the employer announces his/her willingness to employ the worker/laborer with the obligation to provide wages/other compensation. According to Article 1 number 15 of the Manpower Law, states that "The relationship between employers

and workers/laborers is based on a work agreement, which has elements of work, wages, and orders".

Work agreements are listed in the Manpower Law Article 1 Point 14 which reads "Work agreements are agreements between the parties workers / laborers and employers or employers that contain working conditions, rights, and obligations of the parties." Rights and obligations are things that are bound between one another, so that in practice they must be carried out in a balanced manner. Rights are everything that must be obtained by everyone who has existed since birth even before birth while obligations are something that must be carried out. One of the rights of workers that must be fulfilled by employers is the provision of working time in accordance with the provisions. This is stipulated in Article 77 Paragraph (1) of Law Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation (hereinafter referred to as the Law on the Stipulation of Perpu Ciptaker) which states that: "Every employer is obliged to implement the provisions of working time." Then Article 77 Paragraph (2) of the Law on the Stipulation of Perpu Ciptaker explains that

"(2) Working Time as referred to in paragraph (1) includes:

- a. 7 (seven) hours 1 (one) day and 40 (forty) hours 1 (one) week for 6 (six) working days in 1 (one) week; or
- b. 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week for 5 (five) working days in 1 (one) week."

Working time that exceeds the provisions in Article 77 Paragraph (2) of the Law on Perpu Ciptaker is referred to as overtime working time in Article 78 Paragraphs (1) and (2) of the Law on Perpu Ciptaker.

"Article 78 Paragraphs (1) and (2) of the Law on the Stipulation of Perpu Ciptaker states:

- (1) Employers who employ Workers/Laborers beyond the working time as referred to in Article 77 paragraph (2) must meet the requirements:
  - a. there is the consent of the worker/labor concerned; and
  - b. overtime work can only be done for a maximum of 4 (four) hours in 1 (one) day and 18 (eighteen) hours in 1 (one) week.
- (2) Employers who employ workers/laborers beyond the working time as referred to in paragraph (1) shall be obliged to pay overtime wages."

There are many factors that influence/cause companies to ask or require their workers to work overtime, namely meeting company targets, utilizing the human resources of workers, meeting market needs that the company feels are profitable, and the culture in the company. Behind the factors that benefit the company, the application of overtime work can provide benefits to workers, namely additional income to workers from overtime wages which will certainly have an impact on the progress of the economic quality of these workers in meeting their needs and for productive age they can maximize their productive years to seek a lot of work experience, deepen work skills and additional income which will have an impact on the economy of productive age workers themselves. In addition to these positive impacts, workers who work beyond their working hours and continuously can also cause many negative factors for them, namely reducing productivity and disrupting physical and mental health in the long run. This will definitely interfere with the sustainability of workers' lives in the future.

The reality in the field proves that there are companies that want their workers to work longer hours without being paid for overtime. This is made one of the agreements in the Work Agreement between the company and workers, which occurred at PT TKB. PT TKB is a *Food and Beverage-based* company, which was established in 2019 in Surabaya and already has several branches around Surabaya. PT TKB in the company's work agreement with workers with the position of "*Store Keeper*" states in the PT TKB employment agreement letter, namely:

"Article 6 paragraph (1) and (4) of the Employment Agreement Letter of PT TKB states that:

- (1) The second party's working time is 12 hours a day, or 72 hours a week and gets 1 day *off* per week and 1 *annual leave* per month.
- (4) For certain workers, overtime pay is not given due to the nature of their work which represents the interests of the Company as referred to in No. KEP-102/MEN/VI/2004 Jo. applicable Labor Regulations."

In daily practice in the field, workers who serve as "*Store Keepers*" carry out their work for 12 hours from 7am to 7pm with 1 day *off* per week. This statement is based on interviews with workers and evidence of the contents of the work agreement letter that the author obtained from the informant. This has been agreed by both parties and a Work Agreement was formed. One of the foundations of the employment agreement is 1338 BW.

"1338 BW Paragraph 1 states that:

All agreements made in accordance with the law shall be valid as laws for those who make them. They shall be irrevocable except by agreement of both parties, or for reasons provided by law, and they shall be executed in good faith."

From the contents of the Work Agreement above that occurred between PT TKB and its workers in the field of "*Store Keeper*", an agreement has been formed regarding working time that exceeds the proper working time, PT TKB uses the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number Kep.102/MEN/VI/2004 (hereinafter referred to as Kepmenakertrans Number 102 of 2004) concerning Working Time and Overtime Wages Article 4 as the legal basis for the working time agreement. The contents of Article 4 of Kepmenakertrans No. 102/2004 on Working Time and Overtime Pay are:

"Article 4

- (1) Employers who employ workers/laborers beyond the working time are obliged to pay overtime wages.
- (2) Workers/laborers belonging to certain categories of positions are not entitled to overtime pay as referred to in paragraph (1), provided that they receive a higher wage.
- (3) Included in the class of certain positions as referred to in paragraph (2) are those who have responsibilities as thinkers, planners, executors and controllers of the company's operations whose working time cannot be limited according to the working time set by the company in accordance with applicable laws and regulations."

Based on this, the author wants to conduct legal research with the following problem formulation:

1. Is the determination of working time by PT TKB based on the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia No. Kep.102/MEN/VI/2004 concerning Working Time and Overtime Pay in the implementation of working time contrary to the legislation in the field of labor?
2. How is legal protection for workers at PT TKB with an agreement on working time that exceeds the provisions of working time according to Law Number 6 of 2023?

## **METHODS**

In preparing this thesis proposal, a normative juridical research type is used which involves the identification of doctrines, regulations, and legal principles to provide in-depth understanding in answering legal issues, such as the validity of working time based on the employment agreement at PT TKB. This research adopts a statutory approach to analyze relevant written law as well as a conceptual approach to examine legal concepts related to working time, based on legal doctrines and theories from experts. These steps are taken in order to obtain a comprehensive understanding of the legal issues studied.

## **RESULTS AND DISCUSSION**

### **A. Research Results**

It is known that the law is a rule that must be implemented by everyone, without exception. According to Wijayanti, Law in the form of regulations often regulates human life, with the intention of ensuring protection, security and justice can be obtained by everyone. One aspect of human life that is regulated by law is the world of employment with its labor law (Wijayanti, 2020) . Labor law certainly has the aim of protecting workers in employment relationships through laws and regulations regarding the world of employment.

The Labor Law, which has now been amended with the Job Creation Law, is a regulation in the field of employment. The regulations in the Manpower Law and Job Creation Law regulate many aspects of workers, one of which is the regulation of working time. Working time is the duration of work agreed upon by workers and employers, and does not exceed the provisions stipulated in the labor regulations. The determination of working time at PT TKB is regulated in a work agreement that must be made based on the agreement of both parties and adjusted to the provisions of the applicable laws and regulations.

Work agreements at PT TKB that regulate workers' working time should follow applicable regulations. The importance of determining working time in accordance with applicable regulations is related to the health and safety of PT TKB workers, so it must be implemented by both employers and workers. PT TKB, which should comply with the provisions of the applicable regulations, in fact does not show good faith in compliance with existing regulations, especially on the duration and time of work allowed. The facts on the ground show that workers who serve as "store keepers" at PT TKB are considered to have problems with the provisions of working time that apply according to legal provisions.

The application of working time at PT TKB is based on the employment agreement, which is written as follows:

"Article 6 paragraph (1) and (4) of PT TKB's Employment Agreement Letter states that:

- (1) The second party's working time is 12 hours a day, or 72 hours a week and gets 1 day off per week and 1 *annual leave* per month.

- (4) For certain workers, overtime pay is not given due to the nature of their work which represents the interests of the Company as referred to in No. KEP-102/MEN/VI/2004 Jo. applicable Labor Regulations.

The above agreement can be considered as an irregularity and unusual, this is because there is an obligation to work beyond the existing rules, namely the provisions on working hours in the Job Creation Law. Working hours for 12 hours in 1 day which exceeds the reasonable limit of human ability to work coupled with a fairly limited time off, which is only 1 day in 1 week. The unreasonable duration of work without overtime pay indicates an attempt to exploit workers by employers. Employers justify the exploitation of workers in employment contracts by arguing that workers are not entitled to overtime pay due to the nature of their work which represents the interests of the Company as referred to in No. KEP-102/MEN/VI/2004 Jo. prevailing labor regulations. The employer's argument in the employment contract is quite odd because the store keeper is not a specialized level of work and does not have a nature of work that represents the interests of the Company. The phrase "has a nature of work that represents the interests of the Company" needs to be examined more deeply, whether it is related to the work of *store keepers* or not. The use of the phrase Kepmenakertrans No. KEP-102/MEN/VI/2004 which is no longer valid in 2022 also makes the validity of the employment agreement above doubtful.

In the facts on the ground, workers object to the existing work agreement, but there is a compulsion that causes workers to finally sign the work agreement. Employers basically use a *take it or leave it* system in negotiating with workers. Workers are finally forced to agree with employers due to economic factors, so workers sign employment agreements. There is no fulfillment of the principles of humanity and justice in the employment agreement above, this is because there are elements of protection that are omitted by employers such as decent working hours, adequate rest periods, and decent wages for workers. If we look at the nature of the employment agreement under study, two different opinions will arise. Opinions that use civil law with the *Burgerlijk Wetboek* as a reference will argue that the above work agreement is valid, with the element of agreement in the legal conditions of the agreement in article 1320 BW. It should be noted that there are many phenomena of workers who are forced to agree to agree to the provisions in the work agreement. The existence of the phenomenon of workers being forced to agree to work agreements, makes the government as a regulator formulate labor law, by completing labor law with limits on working hours, rest periods, overtime pay, to wages in accordance with applicable standards. Labor law is basically very favorable to workers, by providing protection and declaring a work agreement null and void if it is considered to violate workers' rights.

## **B. Discussion of Research Results**

Based on the results of the above research, the problem formulations that have been determined above will be discussed as follows:

**The validity of the determination of working time by PT TKB which is based on the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number Kep.102/MEN/VI/2004 concerning Working Time and Overtime Pay in the implementation of working time is contrary to the legislation in the field of labor.**

The provisions in the employment agreement have actually been regulated in the Manpower Law, which regulates in detail the formal requirements of an employment

agreement. These formal requirements can be a parameter in assessing the validity of a work agreement, which of course in this case is a work agreement with PT TKB. formal requirements found in the Manpower Law are in article 54 paragraph (1) of the Manpower Law which reads:

- (1) A work agreement made in writing shall contain at least:
  1. Name, address, and type of business
  2. Name, gender, age, and address of the worker/laborer
  3. Job title or type of work
  4. Place of work
  5. The amount of wages and how they are paid
  6. Working conditions that contain the rights and obligations of employers and workers / laborers
  7. Commencement and validity period of the employment agreement
  8. Place and date the employment agreement was made
  9. Signatures of the parties to the employment agreement
  10. Made in writing using Indonesian language

If you look at the formal requirements in Article 54 paragraph (1) of the Manpower Law with the elements in the employment agreement made by PT TKB with workers, the employment agreement made by PT TKB with workers can be considered to meet the provisions of Article 54 paragraph (1) of the Manpower Law, but there are several things that need to be underlined. There are several elements of Article 54 paragraph (1) of the Labor Law that are considered not properly fulfilled. These elements include the position; the amount of wages and the method of payment; and working conditions that contain the rights and obligations of employers and workers/laborers. The description of the elements that are not fulfilled is as follows:

#### **a. Job Title**

The first problem is the job position of PT TKB workers. The position of the worker in this agreement is important to discuss, because the position can nullify other obligations such as limits on working hours and rest periods contained in article 54 paragraph (1) number 6 of the Manpower Law, which explains the working conditions that contain the rights and obligations of employers and workers / laborers. It should be noted that the position of *store keeper* is a regular position that has no privileges, so it does not get an exception. The absence of exceptions for workers causes workers to be bound by the provisions of rights and obligations. One of the rights and obligations that can be waived if the worker has a special position is working time, rest time, and overtime pay. The specific job category clause can be considered as an erroneous interpretation of the meaning of the article, where certain jobs are usually held by important workers such as directors or managers, not by *store keepers* who can be easily replaced by others.

"Article 6 paragraph (1) and (4) of the Employment Agreement Letter of PT TKB states that:

- (1) The second party's working time is 12 hours a day, or 72 hours a week and gets 1 day *off* per week and 1 *annual leave* per month.
- (4) For certain workers, overtime pay is not given due to the nature of their work

which represents the interests of the Company as referred to in No. KEP-102/MEN/VI/2004 Jo. applicable Labor Regulations."

The work agreement included a provision that workers would perform their duties for 12 hours per day. This provision is based on Article 4 of Ministerial Decree No102/2004 on Working Time and Overtime Pay.

"Article 4

- (1) Employers who employ workers/laborers beyond the working time are obliged to pay overtime wages.
- (2) Workers/laborers belonging to certain categories of positions are not entitled to overtime pay as referred to in paragraph (1), provided that they receive a higher wage.
- (3) Included in the class of certain positions as referred to in paragraph (2) are those who have responsibilities as thinkers, planners, executors and controllers of the company's operations whose working time cannot be limited according to the working time set by the company in accordance with applicable laws and regulations."

Based on Article 4 of Ministerial Decree No. 102/2004 on Working Time and Overtime Pay, companies are allowed to employ employees beyond standard working hours. This can be done if the employee is included in certain groups that receive higher wages and have responsibilities as thinkers, planners, implementers, and controllers of the company's operations. In this context, their working time is not subject to the generally accepted working time limit.

The position held by the informant is "store keeper", which is not included in the category of thinkers, planners, executors, or controllers of the company. In addition, the informant only receives a wage or salary of IDR 2.7 million per month. This amount is relatively low when compared to the ever-increasing cost of living. This raises concerns about the welfare of workers at this level, especially as they contribute to the management of inventory that is essential to the company.

#### **b. Wage Rate**

The amount of wages is indeed a sensitive matter in an employment relationship. There is an intersection between the needs of workers and the ability of employers in determining wages, so it needs to be regulated further so as not to harm either party. Workers have the right to get a decent wage, as for these rights, including wages, which in this case are also discussed in Article 90 of the Manpower Law which reads as follows:

- (1) Employers are prohibited from paying wages lower than the minimum wage as referred to in Article 89.
- (2) For employers who are unable to pay the minimum wage as referred to in Article 89 may be suspended.
- (3) The procedure for suspension as referred to in paragraph (2) shall be regulated by Ministerial Decree.

In the wage provisions, wages must be paid based on the city minimum wage standard with wage components as in Article 7 paragraph (1) of Government Regulation Number 36 of 2021 concerning Wages which reads as follows:

- 1) Wages without benefits
- 2) Basic wage and fixed allowances
- 3) Basic wage, fixed allowances, and non-fixed allowances
- 4) Basic wage and allowances are not fixed.

The required minimum wage is the value of the basic wage only (if you do not get benefits or get irregular benefits) and the sum of the basic wage plus benefits (if you get benefits). There are regulations regarding wages and the validity of work agreements, namely in Article 92 of the Manpower Law which reads as follows:

- (1) Wage arrangements determined by agreement between employers and workers/laborers or trade unions/labor unions may not be lower than the wage provisions stipulated in the applicable laws and regulations.
- (2) In the event that the agreement as referred to in paragraph (1) is lower or contrary to the laws and regulations, the agreement shall be null and void, and the employer shall be obliged to pay the wages of workers/laborers in accordance with the prevailing laws and regulations.

It should be noted that the wages received by workers are very far below the minimum wage of Surabaya City in 2022 as the year of the validity of the work agreement, while the provisions regarding the minimum wage are the entirety of the basic wage plus benefits, in this case it will be described as follows:

- 1) Basic Wage  
Basic wage of Rp. 2,000,000,-
- 2) Allowances  
Transportation allowance of Rp. 310,000,-  
Meal allowance of Rp. 390,000,-

The total wage or what is commonly referred to as take home pay is Rp. 2,700,000, - from the minimum provisions as stated in the Decree of the Governor of East Java Number 188/803/KPTS/013/2021 concerning Regency / City Minimum Wages in East Java in 2022, with a total minimum wage of Rp. 4,375,479, -. The existence of article 92 paragraph (1) of the Labor Law shows that the legal requirements of the agreement as contained in article 1320 BW. There is a requirement that the element of agreement in the employment agreement is declared null and void if it does not meet the minimum wage limit.

The phenomenon of workers being forced to agree to work agreements has made it necessary for the government to make restrictions for the protection of workers. In addition to the element of agreement, the principle of freedom of contract is also set aside in order to provide protection for workers. Without a minimum wage limit

In requiring the validity of a work agreement, workers will be very susceptible to oppression from employers. In reality, many workers ignore government measures to protect their rights due to economic problems and the need to find immediate employment. This neglect has resulted in the practice of providing substandard wages as a common practice in the world of labor.

**c. Working conditions that contain the rights and obligations of employers and workers / laborers**

There are several rights and obligations that are commonly found in employment agreements. It can be seen that PT TKB's employment agreement includes clauses regarding working hours, overtime pay, and rest periods. The discussion of these elements will be discussed further as follows:

**1) Working Hours**

Working hours provided by employers are not in accordance with applicable laws and regulations. The provisions for working hours are regulated in Article 77 paragraph (2) of the Job Creation Law which reads as follows:

(1) Working time as referred to in paragraph (1) includes:

- a. 7 (seven) hours 1 (one) day and 40 (forty) hours 1 (one) week for 6 (six) working days in 1 (one) week; or
- b. 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week for 5 (five) working days in 1 (one) week.

There is a fact that the work agreement entered into by workers with PT TKB exceeds the maximum working hours by the company, so there is a violation of working time, while the Labor Law requires that work agreements must not violate the provisions of other laws and regulations. The working hours as stipulated in the employment agreement that workers have require workers to work for 12 hours per day, and 6 days per week. The working time required by the company exceeds the maximum applicable working time limit, which is a maximum of 7 hours if following the 6-day work week, which means that there is an excess of 5 hours per day or 30 hours per week, which still violates the provisions regarding working time even though it is converted into overtime work with a maximum limit of 18 hours per week.

**2) Wages**

As discussed above, the working hours in the employment agreement are not in accordance with statutory provisions, so that the excess hours can be considered overtime, and workers are entitled to overtime pay. Provisions regarding the calculation of overtime occur if it has exceeded the maximum working time limit, which is 7 hours, so that the excess time can then be considered as overtime. The overtime provisions regarding the obligation to pay overtime to workers are based on Article 78 of the Job Creation Law which reads as follows:

- (1) Employers who employ workers/laborers beyond the working time as referred to in Article 77 paragraph (2) must meet the requirements:
  - a. there is the consent of the worker/labor concerned; and
  - b. overtime work can only be done for a maximum of 4 (four) hours in 1 (one) day and 18 (eighteen) hours in 1 (one) week.
- (2) Employers who employ workers/laborers beyond the working time as referred to in paragraph (1) shall be obliged to pay overtime work wages.
- (3) The overtime working time provisions as referred to in paragraph (1) letter b do not apply to certain business sectors or occupations.
- (4) Further provisions regarding overtime work time and overtime pay are regulated in a Government Regulation.

As explained above, there will still be a violation of workers' rights due to excess time of 5 hours per day or 30 hours per week, even though it is converted into overtime work with a maximum limit of 18 hours per week. In the case of overtime, workers agree to do work, although it is not clear whether they agree to do work in the context of obligations during working hours, or to do work in the context of overtime, this agreement is also due to coercion due to the economic situation of workers.

The employer refused to pay overtime with arguments that had been refuted at the beginning of the discussion of the results, so the worker was declared entitled to overtime pay. The Labor Law requires that work agreements must not violate the provisions of other laws and regulations, so the agreement can be said to be invalid, after not seeing the good faith of the employer to compensate for excess working time with overtime pay.

The employer refused to pay overtime with arguments that had been refuted at the beginning of the discussion of the results, so the worker was declared entitled to overtime pay. The Labor Law requires that work agreements must not violate the provisions of other laws and regulations, so the agreement can be said to be invalid, after not seeing the good faith of the employer to compensate for excess working time with overtime pay.

If we look at the provisions that constitute the formal requirements of the workers' agreement with PT TKB, it can be concluded that the agreement is invalid, because it does not reflect the protection and appreciation of workers who are human beings entitled to a decent livelihood. The argumentation and validity of the workers' employment agreement with PT TKB can actually be concluded since the statement regarding the position of workers as a certain category of workers is void, so that with that, all formal requirements that were previously ruled out by the employer become something that must be given to workers.

The validity of PT TKB's employment agreement with workers is not only based on the fulfillment of formal requirements, but also on material requirements. The material requirements that must be met in the employment agreement are in Article 52 of the Labor Law:

- (1) Employment agreements are made on the basis of:
  - a. agreement of both parties;
  - b. ability or capacity to perform legal acts;
  - c. the existence of the work promised; and
  - d. The work agreed upon does not conflict with public order, decency, and prevailing laws and regulations.
- (2) Employment agreements made by the parties contrary to the provisions referred to in paragraph (1) letters a and b may be canceled.
- (3) Employment agreements made by the parties contrary to the provisions referred to in paragraph (1) letters c and d are null and void.

The material terms of the employment agreement have the consequence that the employment agreement can be canceled, if the employment agreement does not meet the provisions. The terms of PT TKB's employment agreement will be described as follows:

**a. Agreement of Both Parties**

In the workers' agreement with PT TKB, it can be seen that there is an agreement from both parties. Where workers and employers both agree to compile and sign the employment agreement which is the object of research. Agreement in this case is a final action by making a conscious agreement to the employment agreement, even though the worker is actually forced to sign because of economic problems. Coercion that is not due to the influence or actions of others cannot be said to be forced in the concept of an agreement, so that workers are still considered to have agreed and the employment agreement with PT TKB can be said to fulfill the elements of the agreement of both parties.

The workers' agreement to accept the employment agreement from PT TKB cannot be considered valid from the material side due to the abuse of circumstances or what is known as *Misbruik van Omstandigheden*, resulting in an agreement made due to coercion (Hayati & Sudiarti, 2024) . Related to the doctrine of abuse of circumstances, there are several conditions that can be used as a basis for determining whether an agreement that has been made contains abuse of circumstances in it. The first requirement is that one party must have an economic or psychological advantage over the other party. While the second requirement is the existence of another party who is forced because of his weaker situation than the superior party at the time of entering into an agreement with the superior party (Clarins, 2021) . Abuse of power undermines the principle of consensualism, which is the basis of the legal requirement of an agreement, namely agreement.

**b. Ability or Capacity to Perform Legal Acts**

Workers and employers in implementing work agreements can be considered as capable legal subjects, this is because workers have been considered as adult human beings, and employers are considered to have the ability to conduct business, provide work, and pay workers, so it can be concluded that the agreement between workers and PT TKB fulfills the elements of ability and capability in carrying out legal acts. The capacity of both parties is important in ensuring that the parties are able to be responsible for fulfilling the achievements of the agreement that have been mutually agreed upon. The elements of legal capacity include adulthood, sound mind, and unmarried for women.

In terms of executing a work agreement, workers can be considered adults with an age of 27 years, which means that they exceed the minimum limit of 21 years. Workers are also declared to be of sound mind and not under guardianship, and are not married, so that they can be declared legally capable of entering into a work agreement.

**c. Existence of Promised Employment**

The agreement contains real work for workers, so that the employment agreement of PT TKB can be considered to fulfill the elements of the existence of a promised agreement. The work promised by PT TKB is as a store keeper at a company engaged in the production, processing, distribution and sale of food and beverages. The work carried out by workers focuses on managing warehouse inventory in a company. As a store keeper, a worker's main task is to manage warehouse inventory by ensuring that every incoming and outgoing item is properly recorded. Workers are also responsible for keeping the warehouse clean and tidy, as well as ensuring that stock items are always available as needed. In addition, workers must monitor product expiration dates and conduct routine checks to avoid damage or loss of goods.

**d. The Promised Work is Not Contrary to Public Order, Decency, and Applicable Laws and Regulations**

The agreement entered into in PT TKB's employment agreement is an agreement that is permitted by law, which in this case is as a store keeper, so it can be concluded that PT TKB's employment agreement with workers fulfills the element of work agreed upon does not conflict with public order, decency, and applicable laws and regulations.

Public order is a situation where people's lives run well in accordance with the prevailing norms (Santosa, 2021) . Work can be considered to violate public order if it contradicts the values of public order itself. The work agreed between workers and PT TKB is work that does not violate public order because it focuses on managing warehouse inventory. The tasks performed do not cause public order disturbances because these activities take place within the company premises and do not involve actions that disturb the general public.

The definition of decency refers to the moral and ethical principles that govern one's behavior in society (M. Abdul Roziq A., 2016) . This work can be contrary to decency if it does not conform to generally accepted norms about how a person should act towards others in a way that respects, maintains honor, and promotes good values. It is also not contrary to decency, as the nature of the job instills values of honesty, and high responsibility in the management of company goods, all of which are positive values and in accordance with the norms of decency.

Legislation is a written rule of law agreed upon and established by the government of a country. This job also does not violate the provisions of the applicable laws and regulations, because it is not a job prohibited by law. The work of the store keeper in its implementation is not carried out by violating the values of public order, decency, and compliance with applicable laws and regulations.

It can be concluded that PT TKB's agreement with workers does not fulfill the elements of the material requirements stipulated in Law 13 of 2003 concerning Manpower. The employment agreement is also considered not to fulfill the formal elements, so the agreement is considered invalid because it violates the applicable statutory provisions...

**How is the Legal Protection for Workers at PT TKB with an Agreement on Working Time that Exceeds the Provisions of Working Time according to Law Number 6 Year 2023**

Legal protection is the most important aspect in everyone's life, especially for workers (Permatasari, 2018) . Workers in their lives are very dependent on work related to legal relations. The existence of legal relations for workers between workers and employers, in this case PT TKB, is carried out based on a work agreement. Work agreements are the basis for providing certainty and protection for workers and employers, so that work agreements must be in accordance with the provisions of laws and regulations.

The existence of the principle of freedom of contract in employment agreements is often misinterpreted as the ability of employers to make employment agreements freely according to the wishes of employers and workers, but this cannot be fully considered correct (M. Roesli, Sarbini, 2019) . The principle of freedom of contract does not fully apply in labor law, because the nature of employment relations is different from civil relations in general. The intervention of the government by making differences that limit employment agreements with more detailed formal and material requirements compared to ordinary civil agreements is intended to protect workers from the potential arbitrariness of employers in employment relationships. Government Employment relations through

employment agreements are basically implemented in an unbalanced manner, where the position, bargaining power, and capabilities of workers and employers have a considerable gap, in contrast to civil relations in general. Civil relations are generally carried out by two parties with equal positions, bargaining power and abilities, so the government is considered unnecessary to intervene in drafting an agreement. The intervention in the form of having to fulfill the formal and material requirements listed in Law 13 of 2003 concerning Manpower shows an effort to ensure that workers get legal protection.

The formal and material requirements in the work agreement, which in this case is the worker's work agreement with PT TKB, fulfill the material elements, but do not fulfill the formal elements in accordance with the law. Important points such as working hours, wages, and overtime are parts that are deliberately violated by using legal smuggling under the pretext of certain job classifications to become the main focus in efforts to protect workers. Even though the employment agreement with PT TKB was implemented in 2022, where the validity of the Job Creation law is in Law Number 11 of 2020, protection efforts are provided based on the new work copyright law, namely Law Number 6 of 2023 on the pretext of research expediency due to legislation that has changed when the research was carried out. The protective measures that must be given include:

**a. Protection of the Right to Working Hours**

Working hours are a very important element in labor relations, this is because the work performed by workers and the main needs expected by employers take place during working hours. The provision of working hours must be adjusted to the limits of human ability by taking into account humanitarian principles. Workers must be protected from arbitrary actions of employers in determining working hours that are inhumane and exceed the limits of human reasonableness in working. Adjustments to the limits of human capabilities are then formulated in the law, with the latest regulation in the amendment to article 77 paragraph (2) in article 81 of Law Number 6 of 2023 concerning Job Creation. The working hours or working time regulated in the legislation are:

- (2) Working time as referred to in paragraph (1) includes:
  - a. 7 (seven) hours 1 (one) day and 40 (forty) hours 1 (one) week for 6 (six) working days in 1 (one) week; or
  - b. 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week for 5 (five) working days in 1 (one) week.

Working hours that exceed the applicable regulations cannot be justified, and workers can be considered to be doing overtime, so they are obliged to get overtime pay which is certainly different from ordinary wages. The exclusion of working hours as argued in the workers' employment agreement with PT TKB, which is proven to be untrue, shows that workers have the right to request compensation in the form of overtime pay or a reduction in working hours, if the employer does not have the ability to pay overtime wages.

**b. Protection of the Right to Wages**

Wages are an important discussion in labor relations, because they are the motive for workers to enter into labor relations and are a medium of exchange for working hours that have been carried out by workers (Gani, 2015) . Basically, wages can be determined based on the agreement of workers and employers, but must not be less than the specified minimum limit. Workers in carrying out their work should be entitled to two types of wages, namely basic wages and overtime wages as working

time that exceeds the limit and is considered as overtime wages. The violation committed by PT TKB is not only in overtime wages, but also in basic wages that are not in accordance with the specified minimum wage. Workers who perform work get wages that are too far from the minimum wage set by the government. Employers should get wages that are not less than the minimum wage limit set by the government.

### **c. Protection of the Right to Overtime**

As discussed above, working hours that exceed statutory regulations can be referred to as overtime. However, it should be noted that overtime hours also have limits, because they take into account human abilities and

potential risks to workers' health. The maximum limit in the implementation of overtime to date is regulated in the amendment to article 78 paragraph (1) letter b in article 81 of Law Number 6 of 2023 concerning Job Creation, namely a maximum of 4 (four) hours in 1 (one) day and 18 (eighteen) hours in 1 (one) week. If we look at the agreed work agreement, PT TKB must pay wages proportionally by calculating excess working hours into overtime hours.

Violations committed by PT TKB against workers' rights can be resolved by conducting bipartite negotiations with the company, but if no results are found on the demands for PT TKB's obligations, then workers can apply for mediation at the Manpower Office with the type of dispute in the rights dispute. Efforts that can be made later are not limited to mediation, but also at the next stage, namely a lawsuit to the industrial relations court by following the applicable procedures in Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution.

## **CONCLUSIONS**

Based on the discussion above, it can be seen that the work agreement made by PT TKB with workers is declared invalid, because it is not in accordance with statutory provisions. PT TKB is considered to have carried out manipulation by making workers appear to occupy certain positions or strategic positions in order to eliminate the company's obligation to pay overtime wages. The company also clearly violated the provisions of working hours, wage provisions, and overtime, causing the formal requirements of the workers' employment agreement with PT TKB to be invalid. It is necessary to protect workers by ensuring the elements of rights that should be owned by workers such as protection of the right to working hours, protection of the right to wages, and protection of the right to overtime. Workers can also take legal remedies through the industrial relations dispute resolution scheme.

## **ADVICE**

There needs to be an evaluation from the labor office, regarding the company's compliance with violations in labor relations.

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