

Enforcement Of The Ban On Probationary Periods In Fixed-Time Work Agreements (Pkwt) The Role Of The Batam City Manpower Supervision Upt

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Abstract

This study aims to analyze the role of the Batam City Manpower Supervision Unit in supervising the prohibition of probationary periods in the Fixed-Time Work Agreement (PKWT), the obstacles faced, and the efforts made in enforcing labor norms. The prohibition of probationary periods in PKWT has been regulated in Law Number 13 of 2003 as amended through Law Number 6 of 2023 concerning Job Creation and Government Regulation Number 35 of 2021. However, in practice, companies are still found that apply a trial period with other terms that have the potential to harm workers. This study uses an empirical juridical method with a qualitative approach. Data were obtained through interviews, literature studies, and analysis of laws and regulations. The results of the study show that the Batam City Manpower Supervision Unit has carried out supervision through the stages of planning, inspection, and reporting in accordance with the provisions of the Regulation of the Minister of Manpower Number 33 of 2016. However, the implementation of supervision has not been optimal due to the limited number of supervisors, facilities and infrastructure, the weak implementation of administrative sanctions, low legal awareness, and a work culture that still tolerates probationary periods in PKWT. Therefore, it is necessary to strengthen supervision, improve operational facilities, add labor supervisors, and socialize the law in an ongoing manner to increase legal protection for PKWT workers in Batam City.

Keywords: PKWT, probation, labor supervision, law enforcement, legal protection.

A. Introduction

Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the Job Creation Law) is basically a form of legal adjustment and strengthening of national legislation policies, which was drafted in response to the Constitutional Court Decision Number 91/PUU-XVIII/2020 which stipulates Law Number 11 of 2020 concerning Job Creation as conditionally unconstitutional.¹. As one of the legal products with an omnibus

¹ Nandang Purnama, "Legal Protection of Labor and Employers in the Implementation of Article 59 Employment Agreements Based on Law Number 11 of 2020 concerning Job Creation," *PAJOUL (Pakuan Justice Journal Of Law)* 02 (2021).

law approach, the Job Creation Law was drafted to align and simplify regulations in various sectors, including in the labor sector, with the aim of supporting the investment climate and certainty of employment relations².

As an implementation of the provisions in the Job Creation Law, the Government stipulates Government Regulation Number 35 of 2021 which regulates Fixed-Time Work Agreements, outsourcing, working time, rest time, and termination of employment (Government Regulation No. 35 of 2021). This PP specifically provides more detailed arrangements regarding the mechanism of Fixed-Time Work Agreements (PKWT)³. One of the fundamental aspects that is expressly regulated in the provisions of PKWT is the prohibition on determining a probationary period. The regulation regarding this can be found in Article 58 paragraph (1) of Law No. 13 of 2003 concerning Manpower (Law No. 13 of 2003), which was then reaffirmed through Government Regulation No. 35 of 2021 in Article 12 paragraph (1) which basically states that employers are prohibited from assigning probationary periods to workers employed under PKWT⁴.

This prohibition is intended as a form of legal protection so that contract workers obtain certainty of employment status, wages, and social security from the first day of work, considering the nature of PKWT which does not provide a guarantee of the sustainability of employment relations in the long term⁵. In the practice of employment relations in the field, normative provisions that expressly prohibit the determination of probationary periods in PKWT are often not fully implemented as they should, some companies still apply the practice of a covert probationary period with other terms such as the training period, orientation period, or adaptation period⁶. Although using different terminology, basically this practice has the same substance as the probationary period, which has the potential to cause losses on the part of workers, both in terms of wage protection, social security, and employment relationship certainty.

From the point of view of labor administration law, this condition can be qualified as a violation of work norms and obscures the clarity of the status of the employment relationship which should be definite and transparent. This situation is further complicated when workers do not have an adequate understanding of their rights, or are reluctant to report such violations due to economic dependency and fear of losing their jobs⁷.

² Nur Hidayatul Fithri, "Welfare And Application Of Justice For Workers on the Employment Cluster of Job Creation Law," *Wijaya Putra Law Review* 1, no. 2 (2020): 120-29.

³ May Linda Iswaningsih, I Nyoman Putu Budiarta, and Ni Made Puspasutari Uji "Legal Protection of Local Labor in Law Number 11 of 2020 concerning the Omnibus Law on Job Creation," *Journal of Legal Preferences* 2, no. 3 (2021): 478-84, <https://doi.org/10.22225/jph.2.3.3986.478-484>.

⁴ Otti Ilham Khair, "Analysis of the Job Creation Law on Labor Protection in Indonesia," *LEGAL STUDIES* 3 (2021).

⁵ Munawar, Marzuki, and Ibnu Affan, "Analysis in the Process of Forming the Job Creation Law from the Perspective of Law Number 12 of 2011 concerning the Formation of Laws and Regulations," *METADATA Scientific Journal* 3, no. 2 (2021): 452-68.

⁶ Diah Puji Lestari, "Normative Juridical Analysis of the Provision of Compensation for Certain Time Work Agreements (PKWT) Based on the Job Creation Law," *Lex Generalis Law Journal* 3, no. 5 (2022): 339-49, <https://doi.org/10.56370/jhlg.v3i5.160>.

⁷ Turro S Wongkaren et al., "Analysis of the Implementation of the Job Creation Law for Fixed-Time Work Agreement Clusters (PKWT) and Outsourcing," *Employment Journal* 17, no. 3 (2022): 210, <https://doi.org/10.47198/naker.v17i3.184>.

In relation to these conditions, the existence and role of the Employment Supervision Technical Implementation Unit (UPT *Arbeidarbeidarbeidarbeid*) is an important instrument in ensuring that the norms of prohibition of probationary periods in PKWT can be consistently enforced in the field. This is in line with Article 4 of the Riau Islands Governor's Regulation Number 33 of 2017 (Riau Islands Governor Regulation No. 33 of 2017) which emphasizes that the Technical Implementation Unit (UPT) of Manpower Supervision functions as an operational technical implementation element of the Provincial Manpower and Transmigration Office in the implementation of supervision of labor norms at the regional level⁸.

Furthermore, Regulation of the Minister of Manpower Number 33 of 2016 (PerMen No. 33 of 2016) emphasizes that the function of the Manpower Supervisor is to ensure the enforcement of labor laws, provide guidance, information, and conduct inspections and investigations in order to ensure compliance with norms in Article 3 companies. However, even though the normative and institutional framework of supervision has been strictly regulated, at the level of implementation in the field, various obstacles are still found that are the main source of problems, one of the crucial problems is that there is still a practice of setting a covert probation period in PKWT-based employment relationships. This situation raises fundamental questions about how effective the role of the Batam City Manpower Supervision Unit is in enforcing the norms of the probationary period.

The studies that have the title of the probationary period and the role of the Manpower Supervision Unit are: Rizki Amalia Fitriani et al. (2022) highlight the effectiveness of the supervision of the Manpower Unit on the minimum wage of workers who are still facing limitations in personnel, so that supervision is not optimal despite sudden inspections and strict⁹ sanctions. Verawaty et al. (2020) discuss the role of the Riau Islands Manpower and Transmigration Office in the supervision of occupational safety and health (K3) carried out through PPNS, but still faced with physical, chemical, biological, ergonomic, and psychological risk factors in the workplace¹⁰. Ni Made Indah Marlina Sitha Dewi (2021) emphasized that the probationary period in PKWT is null and void according to the Labor Law, while probation is only valid for PKWTT with minimum wage protection¹¹. Duwi Aprianti (2021) found that the legal protection of PKWT workers has not been optimal due to rules that are still multi-interpreted and the format of agreements that often use standard clauses¹². Meanwhile, Aci Nofriyanti (2019) showed that the role of the Batam City Manpower Supervision Unit in supervising the minimum wage is still not optimal due to

⁸ Supplement to the Sheet et al., "Regulation of the Governor of the Riau Islands Number 33 of 2017 concerning the Establishment of the Technical Implementation Unit for Employment Supervision at the Riau Islands Provincial Manpower and Transmigration Office," 2018, 20–23.

⁹ Rizki Amalia Fitriani et al., "The Effectiveness of Labor Supervision on the Minimum Wage of Workers," *Journal Usm Law Review* 5, no. 2 (2022): 809–18, <https://doi.org/10.26623/julr.v5i2.5761>.

¹⁰ Verawaty Verawaty et al., "The Role of the Riau Islands Manpower and Transmigration Office in Conducting Occupational Safety and Health (K3) Supervision," *Udayana Master Law Journal* 9, no. 4 (2021): 821, <https://doi.org/10.24843/jmhu.2020.v09.i04.p13>.

¹¹ Ni Made Indah Marlina Sitha Dewi and Made Gde Subha Karma Resen, "Legal Protection of Workers/Laborers in the Probationary Period Based on Labor Law," *Kertha Village Journal* 9, no. 12 (2021): 11.

¹² Duwi Aprianti, "Legal Protection of Workers in Fixed-Time Employment Agreements (PKWT)," *Saraswati Law Journal (JHS)* 03 (2021): 70–82.

limited human resources, even though the goal is to provide legal protection for workers and encourage employer compliance¹³.

This research has novelty in the aspect of study and approach that distinguishes it from previous studies. Previous studies are generally limited to normative discussions related to the legal protection of workers/laborers in PKWT, including the prohibition of the implementation of probationary periods as stipulated in Article 58 paragraph (1) of Law No. 13 of 2003 jo. Law No. 11 of 2020 and Government Regulation No. 35 of 2021. However, empirical studies on the enforcement of the ban on PKWT probationary periods concretely at the regional level, especially through the role of the Batam City Manpower Supervision UPT, have never been studied in depth.

Thus, this study contains novelty in two main dimensions, namely: first, describing the implementation of labor supervision by the Batam City Manpower Supervision Unit in order to enforce the prohibition of probation in PKWT; second, mapping the factual obstacles and enforcement strategies for the PKWT probation ban in Batam City that have not been revealed in the previous literature. This study uses the theory of legal effectiveness proposed by Soerjono Soekanto as the basis of analysis to assess the level of role of the Employment Supervision UPT, which is reviewed based on five main factors, namely legal factors themselves, law enforcement factors, facilities or facilities factors, community factors, and cultural factors. Thus, this research is expected to play a role in providing theoretical and practical contributions to increase the effectiveness of labor norms and legal certainty in the protection of workers' rights in Batam City.

B. Research Methods

This research applies an empirical legal research method, which is a legal research approach that aims to observe, analyze, and examine how the law operates in people's lives¹⁴, especially related to the prohibition of probationary periods in PKWT carried out in practice in the field. The Empirical Legal Method was chosen because it is relevant to analyze the effectiveness of legal norms through the behavior of the labor supervision apparatus, especially related to the Employment Supervision Unit in Batam City as the authorized party to carry out supervision.

The research approach applied in this study is the Qualitative Approach¹⁵, which allows researchers to obtain an in-depth picture of the implementation of probationary ban supervision in PKWT, the challenges faced in the field, and the efforts made to ensure entrepreneurs' compliance. The data used in this study consisted of primary data and secondary data:

¹³ Aci Nofriyanti and Karol Teovani Lodan, "ANALYSIS OF THE ROLE OF THE TECHNICAL IMPLEMENTATION UNIT OF THE BATAM CITY MINIMUM SUPERVISION OFFICE Debate about Regency / City Minimum Wages Often Results in Demonstrations Conducted By," 2018.

¹⁴ Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289, <https://doi.org/10.37253/jjr.v24i2.7280>.

¹⁵ Aristocracy, *Research Methodology: Thesis Research Methodology*, Rake Sarasin, 2006, http://bppsdmk.kemkes.go.id/pusdiksdmk/wp-content/uploads/2017/11/Daftar-isi-Metodologi-Penelitian_k1_restu.pdf.

1. Primary data was obtained through interviews and direct field observations. The interview was carried out at the Batam City Manpower Supervision Unit Office at the Riau Islands Provincial Manpower and Transmigration Office, with the main resource person, namely Evidence Rantau as the Associate Expert Manpower Supervisor.
2. Secondary data was collected through a literature study that included various provisions of laws and regulations, including Law Number 13 of 2003 concerning Manpower, Law Number 6 of 2023 concerning Job Creation, Government Regulation Number 35 of 2021 concerning Fixed-Time Work Agreements, Regulation of the Governor of the Riau Islands Number 33 of 2017 concerning the Establishment of a Technical Implementation Unit for Employment Supervision at the Provincial Manpower and Transmigration Office Riau Islands, as well as Regulation of the Minister of Manpower Number 33 of 2016 concerning Employment Supervision Procedures.¹⁶

Data collection in this study uses a semi-structured interview technique conducted on labor supervisory officials in Batam City, with an approach in the form of preparing a question framework by the researcher accompanied by giving flexibility to resource persons to develop answers, in order to obtain more in-depth and information-rich data¹⁷.

This research uses the Theory of Legal Effectiveness proposed by Soerjono Soekanto. This theory is used to assess the extent to which regulations regarding the prohibition of probation periods on PKWT can be applied in real life in society. With this theory, researchers can analyze factors that affect the effectiveness of the law, such as the legal factors themselves, law enforcement, supporting facilities, society, and legal culture.

1. Legal Effectiveness Theory

In assessing the effectiveness of a legal rule, Soerjono Soekanto stated that the law will not run well just by relying on written regulations, but it depends on various factors that affect its enforceability in society.¹⁸ The theory of legal effectiveness is important to analyze how the role of the Batam City Directorate in supervising the ban on probation periods in PKWT. Soerjono Soekanto stated that the level of legal effectiveness is influenced by five factors, namely:¹⁹

Legal Factors (Law)

The law has a function to realize justice, certainty, and utility, so there are a number of indicators that can be used to assess the effectiveness of the law, including:

- a. The existing regulations regarding certain areas of life are quite systematic.
- b. The existing rules regarding certain areas of life are quite synchronous, hierarchically and horizontally there is no contradiction.
- c. Qualitatively and quantitatively, the regulations that govern certain areas of life are sufficient.

¹⁶ Rahman, *Secondary Data Collection Methods, Fun to Learn*, 2022.

¹⁷ Rahman.

¹⁸ Galih Orlando, "The Effectiveness of Law and Legal Functions in Indonesia," *Journal of Religious Education and Science* 6 (2022): 50–58, <https://www.ejurnal.stita.ac.id/index.php/TBQ/article/download/77/70>.

¹⁹ Soerjono Soekanto, *Factors Affecting Law Enforcement*, 2007, <https://lib.ui.ac.id/detail?id=20163590>.

- d. The issuance of certain regulations is in accordance with existing juridical requirements.

The legal aspects that are the focus of discussion in this study include Law No. 6 of 2023 concerning Job Creation, Government Regulation No. 35 of 2023 concerning PKWT, Ministerial Regulation No. 33 of 2016 concerning Employment Supervision Procedures.

2. Law Enforcement Factors

Soerjono Soekanto argued that the effectiveness of written law when reviewed from the perspective of the authorities is largely determined by the following factors:²⁰

- a. To what extent are officers bound by existing regulations.
- b. To what extent are officers allowed to give discretion.
- c. What kind of example should be given by officers to the community.
- d. To what extent is the degree of synchronization of the assignments given to the officer so as to provide strict limits on his authority.

In the context of this research, law enforcement is the Employment Supervision UPT, especially in Batam City

3. Facilities and Infrastructure Factors

The availability of facilities in the form of facilities and infrastructure for implementing officials in carrying out their duties²¹. These facilities and infrastructure are facilities that are used as instruments to achieve legal effectiveness. The elements in question include:

- a. Is the existing infrastructure well maintained?
- b. Infrastructure that does not yet exist needs to be held by taking into account the number of procurement times.
- c. Less infrastructure needs to be completed immediately.
- d. Damaged infrastructure needs to be repaired immediately.
- e. Jammed infrastructure needs to be carried out immediately.
- f. Infrastructure that has experienced a decline in function needs to be improved again.

In the context of this study, Facilities and Infrastructure include the availability of human resources for labor supervisors, work equipment, and an adequate complaint reporting and processing system.

4. Community Factors

The measurement of legal effectiveness is determined by a number of elements related to the condition of society, including:

- a. The factors that cause people to not comply with the rules even though the regulations are good.
- b. The factor that causes people not to comply with the regulations even though the regulations are very good and the apparatus is very authoritative.

²⁰ B A B Ii, "THEORETICAL FOUNDATION A. Legal Effectiveness Theory," n.d., 17–35.

²¹ Fitri Efendi, "Analysis of Competencies, Infrastructure Facilities and Training Program Planning on Labor Quality at the Manpower and Transmigration Office of Balangan Regency, South Kalimantan," *Kindai* 16, no. 2 (2020): 177–200, <https://doi.org/10.35972/kindai.v16i2.389>.

- c. The factors that cause the community to not comply with the regulations are good, officers or authorized officials and adequate facilities.

5. Cultural Factors

Culture has a big function for society, namely to regulate so that humans can understand how they should act, do, and determine their attitude when dealing with others²². This includes values, norms, and traditions that exist in a society that can influence attitudes and behaviors towards the law.

C. Results and Discussion

1. The Role of the Batam City Manpower Supervision Unit in Supervising the Ban on Probationary Periods in PKWT

In order to ensure the protection of workers' rights and the enforcement of labor norms in the Riau Islands Province, especially in Batam City, the existence of the Manpower Supervision Unit has a strategic role. One of the focuses of supervision that is of concern is related to the implementation of PKWT, especially regarding the prohibition of determining probationary periods in PKWT as stipulated in laws and regulations. Through its role and authority, the Manpower Supervision Unit is expected to be able to carry out supervision, guidance, and enforcement if violations of these provisions are found²³. In order for the supervision carried out by the Manpower Supervision Unit to be realized, it must be supported by factors that are the basis for the effectiveness of the law, namely:

a) Legal Factors

Based on the Riau Islands Governor's Regulation No. 33 of 2017, the Manpower Unit was formed as a technical implementation element within the Riau Islands Provincial Manpower and Transmigration Office. This is emphasized in Article 2 paragraph (1), which stipulates that the establishment of the Employment Supervision Unit is carried out based on the Governor's Regulation. Article 2 paragraph (2) stipulates that the UPT consists of the Batam City Manpower Supervision Unit and the Karimun Regency Manpower Supervision UPT, while for other work areas such as Tanjungpinang City, Bintan Regency, Lingga, Natuna, and Anambas Islands, the implementation of supervision is coordinated directly by the Office through the Manpower Supervision Division.

The position of the Manpower Supervision Unit is regulated in Article 4, which states that the UPT is an implementing element that carries out operational technical activities in the field of labor supervision in accordance with the authority of the Riau Islands Provincial Government. Each Employment Supervision Unit is led by a Head of Unit who is operationally responsible to the Head of Service and administratively coordinated through the Employment Supervision Division.

²² N Rohim Yunus, "Creating a Community Legal Culture in the Progressive Legal Dimension," *Rule of Law* 11, no. 1 (2015): 39-57.

²³ Nurdiana, "The Strategy of the Manpower Office in Overcoming Unemployment in Batam City," <http://repository.upbatam.ac.id/>, 2019, [http://repository.upbatam.ac.id/5423/1/cover to chapter III.pdf](http://repository.upbatam.ac.id/5423/1/cover%20to%20chapter%20III.pdf).

Article 6 regulates the main duties and functions of the Manpower Supervision Unit, namely carrying out some of the operational technical activities in the field of labor supervision in its work area. In the implementation of these duties, the UPT has the function of providing guidance and supervision of work norms, worker welfare facilities and institutions, labor social security norms, and occupational safety and health norms²⁴.

b) Law Enforcement Factors

The form of supervision carried out by the Manpower Unit in Batam City is guided by the provisions of PerMen No. 33 of 2016. Based on Article 4, the implementation of supervision is carried out through the stages of planning, implementation, and reporting. The implementation of supervision as stipulated in Article 9 paragraph (1) is carried out through educational preventive, non-judicial repressive, and judicial repressive approaches. The educational preventive stage is realized through coaching activities, dissemination of employment norms, technical advice, and assistance so that employers and workers understand the provisions of the law.

If violations are still found, the Manpower Supervision Unit can carry out non-judicial repressive actions in the form of issuing an Examination Memorandum as a warning or affirmation of the obligation to comply with labor norms (Articles 30–34). If the employer does not comply with the Memorandum of Examination, then as the last stage of law enforcement efforts, judicial repressive action can be taken in the form of an investigation of labor crimes by the Supervisor who acts as an Investigator of Civil Employment Employees as stipulated in Article 47. In addition, Article 10 gives the authority to the Manpower Supervisor to enter all companies or workplaces to carry out examinations, information collection (Articles 14–16), testing (Articles 36–39), and enforcement.

In particular, for the supervision of PKWT norms, this Permenaker also contains the provisions of Article 34, which stipulates that the Supervisor can issue a Special Examination Memorandum related to PKWT, including if violations are found in the form of determining a probationary period that is contrary to the provisions of 58 paragraph 1 of Law No. 6 of 2023. Thus, all forms of supervision carried out by the Manpower Supervisory Unit are basically intended to ensure the enforcement of labor laws, especially in ensuring the company's compliance so as not to set a probationary period in the employment relationship based on PKWT.

c) Facilities and Infrastructure Factors

The availability of facilities and infrastructure in the implementation of labor supervision tasks is an important factor in supporting the effectiveness of supervisors' work in the field. Facilities and infrastructure include office facilities, operational vehicles, work equipment, and adequate administrative support systems. In the context of the Manpower Supervisory Unit in Batam City, this support for facilities and infrastructure is in line with the provisions of Article 16 of the Riau

²⁴ Lembaran et al., "Regulation of the Governor of the Riau Islands Number 33 of 2017 concerning the Establishment of a Technical Implementation Unit for Manpower Supervision at the Riau Islands Provincial Manpower and Transmigration Office."

Islands Governor's Regulation No. 33 of 2017 which states that the financing of the activities of the Manpower Supervisory Unit is charged to the Provincial Regional Revenue and Expenditure Budget (APBD) and other legitimate sources in accordance with laws and regulations.

However, in practice, limited facilities such as the limited number of supervisory official vehicles, inadequate inspection equipment, and reporting support facilities are often obstacles for supervisors in reaching companies spread across the Batam City area. These shortcomings can affect the optimization of the role of the Manpower Supervision Unit in following up on violations, including supervision of the ban on probationary periods in PKWT. Therefore, strengthening facilities and infrastructure is absolutely necessary so that supervision can be carried out effectively, on time, and thoroughly.

d) Community Factors

The Batam City Manpower Supervision Unit has an important role in ensuring that the working community receives legal protection in accordance with laws and regulations. In the context of the prohibition of probationary periods in PKWT, the Manpower Supervision Unit plays a role in socializing workers and the community to understand their rights, as stipulated in Article 17 and Article 18 of Permenaker Number 33 of 2016. Thus, the role of the UPT is not only in the form of administrative law enforcement through the Examination Memorandum, but also in educational preventive nature to educate and empower the working community.

e) Cultural Factors

Cultural factors play a role that is no less important than regulatory and institutional factors of supervisory bureaucracy. In practice in the field, some companies in Batam City, especially the labor-intensive industrial sector and small and medium enterprises, still maintain a work culture pattern that emphasizes the flexibility of working relationships for the sake of labor cost efficiency. This culture is reflected in the assumption that workers with contract status still deserve a probationary period, even though this practice is expressly prohibited in the legal provisions regarding PKWT as stipulated in the Employment Law which has been updated through the Job Creation Law and further described in Government Regulation Number 35 of 2021. This condition shows that there is a tension between the existence of coercive legal norms and the work culture habits in the company which in practice are not always in line with the principle of legality.

2. Obstacles faced by the Batam City Manpower Supervision Unit in supervising the ban on probationary periods in PKWT

In carrying out its duties to ensure that there is no probationary period in PKWT, the Batam City Manpower Supervision Unit is faced with various obstacles that affect the effectiveness of the implementation of supervision in the field. Although the regulations on which supervision is based are clear and the supervisory apparatus has tried to carry out its role to the maximum, the fact is that there are still several obstacles that make

supervision of the probation ban not fully optimal. The obstacles consist of various aspects or factors, namely:

a. In terms of rules or regulations

Based on Article 61 of Government Regulation No. 35 of 2021, violations of the provisions of PKWT, namely a probationary period that is not allowed, are subject to gradual administrative sanctions, namely²⁵:

- a. Written Warning
- b. Restrictions on Business Activities
- c. Temporary Shutdown of Production Equipment, and
- d. Freezing of Business Activities

However, according to Mr. Evidence Rantau, ST, MM as the Associate Expert Manpower Supervisor, which the author interviewed on July 1, 2025 at the Batam City Manpower Supervision UPT office, Riau Islands Provincial Manpower and Transmigration Office. This mechanism is less effective because in practice it only reaches the stage of a written reprimand; Follow-up sanctions are rarely applied. This causes similar violations to continue to recur without a deterrent effect. In fact, administrative sanctions are basically designed as a gradual instrument to encourage company compliance with labor norms. Unfortunately, the weak coercion of administrative sanctions is actually an obstacle in the implementation of supervision in the field so that the goal of legal protection of workers, including the prohibition of probationary periods in PKWT, is not achieved optimally and is prone to being ignored by the company.

b. Law Enforcement Factors

According to Mr. Evidence Rantau, ST, MM, the number of supervisory human resources is still far from ideal, there are only about 21 supervisors for thousands of companies in Batam which is clearly inadequate for complex and extensive tasks. This imbalance narrows the scope of supervision of the prohibition of probation in PKWT. Furthermore, the Riau Islands Provincial Ombudsman noted that the Riau Islands UPT and Disnakertrans have only 37 supervisors (including in Batam and Karimun) to supervise nearly 25,000 companies throughout the Riau Islands. This shortcoming, coupled with the absence of SOPs for supervision and follow-up, causes many labor reports to be delayed or not processed at all.²⁶

c. Facilities and Infrastructure Factors

The geographical location of the Riau Islands Province consisting of islands spread over a large area is a separate obstacle for the implementation of labor supervision²⁷. In order to improve services to the community in the field of

²⁵ BPK Regulation Database, "Government Regulation (PP) Number 35 of 2021 concerning Fixed-Time Work Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment" (2021), <https://peraturan.bpk.go.id/Details/161904/pp-no-35-tahun-2021>.

²⁶ Ombudsman.go.id, "Ombudsman Asks Riau Islands Provincial Government to Increase Budget and Manpower Supervisor," ombudsman.go.id, 2023, https://ombudsman.go.id/artikel/r/pwkmedia--ombudsman-minta-pemprov-kepri-tambah-anggaran-dan-pengawas-ketenagakerjaan?utm_source=chatgpt.com.

²⁷ Wwww.geografi.org, "Geography of Riau Islands Province," www.geografi.org, 2022, <https://www.geografi.org/2022/04/geografi-provinsi-kepulauan-riau.html>.

employment, the Governor of the Riau Islands has stipulated Riau Islands Governor Regulation No. 33 of 2017. In Article 2 of the regulation, it is stipulated that the Manpower Supervision Unit is formed in several areas, namely the Batam City Manpower Supervision Unit and the Karimun Regency Manpower Supervision Unit²⁸. However, the implementation of supervision in the field still encounters obstacles, especially from the factors of facilities and infrastructure. One of the obstacles faced is related to coordination between separate work areas. According to Mr. Evidence Rantau, ST, MM, the distance between the islands is quite far requires supervisory officers to use sea transportation such as ships, which requires considerable operational costs. This condition has an impact on the effectiveness of coordination between UPTs in the provincial area and the headquarters of the Manpower Office as well as between UPTs themselves.

In addition to geographical constraints and transportation costs, based on the information of Mr. Evidence Rantau, ST, MM, UPT Employment Batam City also faces serious obstacles in terms of the availability of supporting facilities and infrastructure. Currently, the building used as the office of the Batam City Manpower Supervision Unit is not a building owned by the provincial government, but is still in the status of a lease or contract from the private sector. This creates uncertainty, because at any time the office of the Manpower Supervision Unit can be asked to move if the contract period expires or there is a need from the land owner. According to Mr. Evidence Rantau, ST, MM, the availability of government assets in Batam City has also not supported the existence of the Manpower Supervision Unit optimally. Some land and building assets in Batam City have been allocated for the benefit of other agencies, such as the Education Office and other public service agencies. This condition gives the impression that the existence of the Manpower Supervision Unit has not been a top priority in planning the needs of facilities and infrastructure at the provincial level.

In addition to building problems, limited operational facilities are also a real obstacle in the field. Until now, the Batam City Manpower Supervision Unit does not have a special official vehicle to support the mobility of supervisory officers. As a result, surveillance operations in the field still rely on private vehicles owned by employees. The same thing also happens to work facilities such as laptop devices, most of which still use employees' personal property due to the limited official inventory from the agency.

d. Community Factors

The presence of the Batam City Manpower Unit in carrying out its supervisory function is part of efforts to ensure legal protection and certainty for workers. However, the effectiveness of such supervision also depends heavily on the level of willingness and legal awareness of the working community itself. Interview results with Mr. Evidence Rantau, ST, MM,

²⁸ Lembaran et al., "Regulation of the Governor of the Riau Islands Number 33 of 2017 concerning the Establishment of a Technical Implementation Unit for Manpower Supervision at the Riau Islands Provincial Manpower and Transmigration Office."

"Many workers come to report here, in fact, in my personal opinion they are over expectation, it means that the expectations are too excessive, meaning that we are a one-stop solution, whatever the problem is to report the Employment UPT. Even though I have said "this sir, I can't be here", but the workers still insist "no, sir, I still want to report to the Employment UPT". But indeed, because the people who attended were also similar to the small companies, they were also blind to the rules. So we will explain the title later, only later from the worker "oh that's it, sir, yes it's already sir, if that's the case, I don't have to report it". Now sometimes the obstacle is like that, workers insist on reporting even though it is not a portion of the handling that should be carried out by the Employment UPT".

In addition, since the budget restrictions, the Batam City Manpower Unit has faced serious obstacles in carrying out socialization activities to provide in-depth understanding to workers or HRD practitioners. The special budget for the implementation of socialization is no longer available, so activities that were originally routine are now stopped. Even the Employment Unit felt hesitant to hold socialization without official budget support, because it was feared that it would raise questions about the source of funding²⁹.

In addition, if the cost of socialization is provided by the company, the Employment Unit is also reluctant to accept it because it is worried that there will be a public perception that there is a conflict of interest or covert cooperation between the supervisor and the supervised company. This shows that the community support factor, in the sense of company and workers' awareness of regulations, is greatly influenced by the availability of formal education spaces organized by the state through the Employment UPT.

e. Cultural Factors

Habits, values, and mindsets that live in society and in the world of work often form a pattern of employment relationships that tend to accept practices that are actually contrary to the provisions of the law. For example, there are still many workers who are reluctant to report or refuse when given a probationary period even though they work with PKWT status, due to a culture of hesitation, fear of losing their job, or the belief that adjustments at the beginning of work are natural. Based on an interview that has been conducted with sister Amelia Putri as an employee at PT BPR Dana Fanindo on September 2, 2024 at the office of PT BPR Dana Fanindo said that:

"Yes, here I first came to work and was given a three-month probationary period. After three months, I didn't get any compensation. Actually, I knew that it was not allowed, because I had heard from friends too, but none of my co-workers dared to report either. Yes, I have also been silent. Besides, I'm also a bit hesitant and afraid if I want to argue with my superiors."

²⁹ Batampos.jawapos.com, "Minimal Supervision Budget, Many Cases of Traffic Jam," batampos.jawapos.com, 2023, https://batampos.jawapos.com/berita/2424065273/anggaran-pengawasan-minim-banyak-kasus-naker-mandek?utm_source.

From this information, it can be seen that one of the obstacles faced in supervising the ban on probation in PKWT is the culture of hesitation, fear, and a tendency to remain silent among workers, even though workers actually understand that their rights are violated. On the other hand, employers also often practice the probationary period at PKWT as a habit that is considered commonplace and difficult to change because it has become a work culture in some companies. Mr. Evidence Rantau, ST, MM, says:

"In small and medium-sized companies, the culture of 'don't want to lose' does happen very often, ma'am. It's almost everywhere the same. So they think about how to pay the minimum possible labor but the work is maximum. Well, unlike large companies, if large-scale ones are rare, we rarely find cases like that. They usually already have a system, the human resources also understand the rules better. If many of these small companies do not understand the law very well, so yes, just make a probationary period at PKWT, even though it is not allowed. Even worse, sometimes even after the contract is completed, compensation is not paid. This often makes workers lose money, but many also don't dare to report because they are afraid of being fired."

3. What are the efforts made by the Batam City Manpower Supervision Unit in supervising the ban on probationary periods in PKWT?

To carry out its duties as regulated in Article 3 of the Ministry of Manpower No. 33 of 2016 concerning Procedures for Labor Supervision. Employment Supervision works:

- a. ensuring the enforcement of labor laws;
- b. providing information and technical advice to Employers and Workers/Laborers regarding matters that can ensure the effective implementation of labor laws and regulations;
- c. Collect information on employment relations and employment conditions in the broadest sense as material for the preparation or improvement of labor laws and regulations.

The rampant violation of the probationary period ban in PKWT in Batam City puts the Employment Unit as an important actor in overcoming it, through the formulation of the necessary steps to take action against business actors who violate the provisions of the Labor Law. Based on an interview with Mr. Evidence Rantau, ST, MM. Some of the ways or efforts that have been made in preventing or reducing violations of the probationary ban on PKWT in Batam City, several forms of steps and efforts that have been implemented include:

1) Legal Factors

As one of the solutions to legal factors, the Batam City Manpower Unit has actually formulated the idea that the application of sanctions for companies that violate the ban on probationary periods in PKWT is not only limited to administrative sanctions, but can also be extended to criminal sanctions. The purpose of this idea is so that business actors really feel the deterrent effect and

no longer repeat similar violations. However, until now the proposal has not been realized to the maximum, because according to information obtained from Mr. Evidence Rantau, ST, MM:

"Actually, administrative sanctions should be applied more firmly. However, there have been several changes in the head of the agency, no one has dared to propose the application of heavier sanctions to the center. Why? Yes, one of them is because there is a concern that if the sanctions are too harsh, it will later affect the investment support or funding that we need also for the operation of this UPT. So sometimes there is a dilemma as well, on the one hand we have to take firm action, on the other hand if investment support for the supervision program is disrupted, our activities can also be hampered."

In addition, the Manpower Unit refers to Article 4 of the Regulation of the Minister of Manpower Number 33 of 2016 concerning Labor Supervision Procedures, which emphasizes that supervision activities are carried out through three stages, namely planning, implementation, and reporting, as an effort to ensure that the supervisory function runs systematically and measurably.

2) Planning

Planning means the preparation of a work program for labor supervision. At this stage, supervisors and supervisory agencies prepare annual or periodic work plans, determine supervision targets, determine companies or supervisory objects to be inspected, map the risk of violations, and prepare an inspection schedule. This planning should be based on company data, employment reports, complaints, and strategic priorities (e.g. industrial sectors that are prone to violations). With good planning, supervision can be carried out more targeted and measurable.

3) Implementation

It is the core of supervision activities, which include checking labor administration, checking employment agreement documents, interviews with employers and workers, to providing reprimands or recommendations for improvement if violations are found. At this stage, the labor supervisor carries out law enforcement functions in the field, including the application of administrative sanctions in accordance with the provisions of laws and regulations if violations are not immediately corrected.

4) Reporting

The last stage is reporting, which is the preparation of a report on the results of the audit and supervision that contains the company's identity, findings of violations, handling actions, and follow-up recommendations. This report is submitted in stages to superiors or supervisory agencies at a higher level, as a basis for policy evaluation, coaching, and follow-up law enforcement if necessary. With the consistent implementation of these three stages, labor supervision is expected to run more effectively, transparently, and accountably in accordance with the mandate of laws and regulations.

5) Law Enforcement Factors

Based on the results of the interview with Mr. Evidence Rantau, ST, MM. Information was obtained that one of the efforts made by the supervisor related to the violation of the probationary period ban on PKWT was to issue a letter of reprimand to the company that was proven to be in violation. This reprimand is a form of administrative sanction as stipulated in the provisions of labor supervision. However, the Employment Unit realizes that this administrative sanction is basically only aimed at companies as business actors, while workers as aggrieved parties often do not get direct rights restoration through this route.

Therefore, the Batam City Manpower Unit suggests that workers who feel aggrieved should also take other legal routes, namely through Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. This route uses civil procedure law, where disputes can be submitted to the Industrial Relations Court so that there is legal certainty through a binding judge's decision, including the fulfillment of workers' rights such as compensation or compensation. The UPT considers that the civil procedure law mechanism is more effective in recovering workers' losses than just stopping at the application of administrative sanctions.

In addition, the UPT also explained that labor supervision is not only limited to the PKWT aspect, but also includes all other labor norms, each of which has different characteristics of violations and sanctions. For example, violations in the form of employing minors can be categorized as crimes that are handled using the criminal procedure law, thus involving law enforcement officials such as the police for investigations, prosecutors for prosecution, and criminal judges to render sentences.

In practice, the Batam City Manpower Supervision Unit emphasizes the importance of placing each type of norm in the right legal handling corridor, so that there are no mishandles. For example, the UPT cannot impose a settlement through criminal channels for cases that should be resolved civilly in the Industrial Relations Court, and vice versa.

4. Facilities and Infrastructure Factors

In an effort to increase the effectiveness of supervision of the ban on probationary periods in PKWT, one of the efforts implemented by the Batam City Manpower Unit in terms of facilities and infrastructure is the use of the online Mandatory Employment Report system on the www.wajiblapor.kemnaker.go.id website. This system is an important tool because it allows the Employment Supervision Unit to obtain company data in a structured and real time manner, making it easier to prepare schedules and supervision targets.

With the existence of the online reporting system, the Manpower Supervision Unit can carry out two types of inspections, namely periodic inspections and special inspections. Periodic inspections are carried out regularly, regardless of whether or not there are reports of violations, as a form of labor law compliance control. Through the data that the company inputs into the Mandatory Report system, supervisors can map which companies are required to be inspected and what employment norms must be monitored in depth. In this periodic inspection, the Employment Supervision Unit examines various work norms

in each company, ranging from wage norms, labor placement norms, BPJS Employment norms, Occupational Safety and Health (K3) norms, to PKWT provisions, including the prohibition of probationary periods. Inspections are carried out in detail to ensure that all aspects of compliance are carried out as stipulated in laws and regulations.

Meanwhile, a special inspection is carried out if there are reports or complaints from workers about certain violations. This examination is focused, focusing only on reported aspects, such as unpaid wages, probation violations, or other normative rights issues. By utilizing the online Mandatory Employment Report system as the main means of data collection and mapping, the Employment Supervision Unit has a strong basis for planning, implementing, and following up on field inspections. This is a form of concrete solution that supports the limitations of supervisory human resources, so that the supervisory process can continue to run more directed, measurable, and accountable.

a. Community Factors

One of the supervision efforts related to community factors, especially in terms of legal knowledge and awareness, is through socialization and education activities for companies and workers. This socialization aims to make the company understand their obligations, including the prohibition of probationary periods in PKWT, while workers are expected to be more aware of normative rights protected by laws and regulations.

According to the explanation of Mr. Evidence Rantau, ST, MM, before the latest government period, namely the President of the Republic of Indonesia Prabowo Subianto, routine socialization activities were carried out at least once a year. Socialization is usually carried out to introduce new regulations, such as policies regarding PKWT workers' compensation, or other changes in employment norms that must be complied with by companies. In its implementation, the Manpower Unit invites HRD practitioners, company management, and related parties to ensure that information is conveyed properly and uniformly.

b. Cultural Factors

Cultural factors have a fairly important role in the Batam City Manpower Unit, especially related to the supervision of the ban on probationary periods in PKWT. In general, the work culture and the culture of industrial relations in society are still heavily influenced by a paternalistic mindset, where workers tend to be reluctant to report violations they experience due to hesitation, fear of losing their job, or feeling unwell with their superiors. This condition is certainly a challenge for supervisors, because the success of supervision in the field also depends heavily on the courage of workers to convey correct information.

Therefore, the Batam City Manpower Unit strives to take a cultural approach through education and coaching, both to workers and companies, in order to create a work culture that respects each other's rights and obligations according to regulations. In addition, the Employment Unit also seeks to instill the values of legal compliance through the socialization of labor norms, although it is acknowledged that this activity is often constrained by budget limitations and community participation. In practice, supervisors also try to build more persuasive communication when conducting

inspections in the company, so that management and workers do not feel pressured and are willing to work together to provide honest information.

D. Conclusions and Recommendations

Based on the findings, it can be concluded that the Batam City Manpower Supervision Unit has an important role in supervising the prohibition of probationary periods in Fixed-Term Employment Agreements (PKWT) through planning, implementation, reporting, and guidance activities. However, the effectiveness of supervision has not been fully achieved due to several obstacles, including limited law enforcement, inadequate facilities and infrastructure, low legal awareness among employers and workers, and cultural factors that discourage workers from reporting violations. In light of Soerjono Soekanto's theory of legal effectiveness, strengthening legal, institutional, and societal aspects is essential to ensure optimal enforcement of the prohibition on probationary periods in PKWT.

To improve the effectiveness of supervision, the government should strengthen the enforcement of administrative sanctions, increase the number of labor inspectors, and improve supporting facilities and infrastructure for labor supervision. In addition, continuous legal education and public awareness programs should be expanded to enhance compliance among employers and encourage workers to report violations. Strengthening cooperation between government agencies, employers, and workers is also necessary to create a more effective supervisory system and ensure better legal protection for PKWT workers in accordance with applicable labor laws.

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