

# Legal Certainty Of Oral Employment Agreements On Workers' Rights Carried Out By Termination Of Employment (Case Study Of Mamuju District Court Decision No. 2/PDT.SUS- PHI/2018/PN. Mam)

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## Legal Certainty Of Oral Employment Agreements On Workers' Rights Carried Out By Termination Of Employment (Case Study Of Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN. Mam)

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**Abstract.** Employment agreements are a crucial step in establishing the employer-employee relationship. While both the Indonesian Labor Law and the Job Creation Law encourage written agreements, verbal contracts are also legally recognized. Written employment agreements serve as a binding instrument and evidence, yet many labor relations operate without them. This can lead to legal disputes, particularly regarding workers' rights, as exemplified in the Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN.Mam. This study employs a descriptive-analytical approach, adhering to the normative legal research method. Secondary data is gathered from primary legal materials, secondary legal materials, tertiary legal materials. The findings reveal that workers' rights under verbal agreements are still protected by the Labor Law and the Job Creation Law. However, the absence of written documentation of agreed-upon terms for termination of employment can pose challenges in proving these terms in court. In the Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN, the court ordered the defendant to pay double the plaintiff's entitlements due to the wrongful termination of employment through coercion. The court found that the plaintiff's termination was unrelated to any company policy violation and could not be substantiated due to the lack of written documentation.

**Keywords:** Verbal Agreement, Workers' Rights, Termination of Employment.

## INTRODUCTION

The right to work is a fundamental human right enshrined in Article 27(2) of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945), which states: "Every citizen has the right to work and a decent living in accordance with human dignity." Legal certainty for labor aims to eradicate the system of slavery and ensure that labor is treated with greater humanity, leading to improved living standards and a life worthy of human dignity. The process of protecting labor requires comprehensive, integrated, and balanced planning and implementation. (Yusup Permana, 2022).

In addition, legal protection for workers is intended to guarantee the basic rights of workers. To ensure equal opportunities and treatment without discrimination on any grounds. As stated in Article 6 of Law No. 13 of 2003 concerning Manpower (hereinafter referred to as "Manpower Law") in conjunction with Law No. 11 of 2020 concerning Job Creation

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(hereinafter referred to as "Job Creation Law") states that every worker/laborer is entitled to equal treatment without discrimination from the employer. (Koniardy & Tiyas Asri Putri, 2023).

Legal certainty in industrial relations is a crucial pillar for creating a harmonious and productive work environment. One of the most important aspects of this relationship is the employment agreement, which ideally should be in writing to provide legal protection for both parties. However, in practice, oral employment agreements are still common, especially in the informal sector or small-scale businesses. This phenomenon creates vulnerability for workers, particularly when there is a termination of employment (layoff), due to the lack of formal evidence that can be used as a reference in dispute resolution.

The issue of oral employment agreements is highlighted in the Mamuju District Court Decision Number 2/PDT.SUS-PHI/2018/PN. Mam, which is the focus of this research. This decision is interesting to analyze further because it concerns the validity and legal consequences of oral employment agreements, as well as their impact on legal certainty and the protection of workers' rights in layoff cases.

This research aims to comprehensively analyze the regulation of oral employment agreements in Indonesian law, examine the Mamuju District Court Decision Number 2/PDT.SUS-PHI/2018/PN. Mam regarding oral employment agreements, and evaluate the implications of this decision on legal certainty and the protection of workers' rights.

Theoretically, this research is expected to enrich the study of labor law regarding oral employment agreements, particularly in the context of layoffs. Practically, the findings of this research are expected to provide valuable input for legal practitioners, workers, and employers in understanding and dealing with issues related to oral employment agreements and layoffs. Thus, it is hoped that a more just and equitable industrial relationship can be created for all parties.

## **THEORY**

### **Employment Agreement**

An employment agreement is an agreement between a worker and an employer that contains the rights and obligations of each party in the employment relationship. The elements of an employment agreement include mutual agreement, the capacity of the parties, the work to be performed, and wages as compensation. Legal principles of employment agreements, such as the principle of freedom of contract, the principle of consensuality, and the principle of legal certainty, serve as the basis for the regulation and implementation of employment

agreements. Employment agreements can be in written or oral form, but written form is more recommended to provide legal certainty for both parties (Nasution et al., 2021).

### **Oral Employment Agreements**

The Manpower Law and related regulations recognize the validity of oral employment agreements, but require sufficient evidence to protect workers' rights. Proof of oral employment agreements can be done in various ways, such as testimony, correspondence, or proof of wage payments. In practice, proving oral employment agreements is often a challenge due to the lack of formal evidence that can be submitted (Dharmanto & Sari, 2023).

### **Termination of Employment (PHK)**

23

Termination of Employment (PHK) is the ending of an employment relationship due to specific circumstances, resulting in the termination of the rights and obligations of the employee. PHK can be conducted for valid or invalid reasons. In the event of PHK, employees have certain rights, such as severance pay, long-service awards, and compensation for other entitlements. Legal protection for employees in PHK cases is regulated in the Manpower Law and related regulations, which aim to guarantee that employees' rights are fulfilled and to prevent arbitrary termination of employment (Ahmad, 2022).

### **Legal Certainty**

Legal certainty is a principle that ensures every legal action has a clear and predictable legal basis. Legal certainty is crucial in employment relationships, as it provides assurance to both workers and employers that their rights and obligations are protected by law. In the context of oral employment agreements, legal certainty becomes a particular challenge due to the lack of formal evidence that can be used as a reference in dispute resolution (Halilah & Arif, 2021).

### **Case Studies Related**

Several other court decisions relevant to oral employment agreements and termination (PHK) demonstrate varied approaches in assessing the validity and legal consequences of oral employment agreements. Some decisions recognize the validity of oral employment agreements as long as they can be sufficiently proven, while other decisions emphasize the importance of written employment agreements to provide legal certainty. In the context of termination, these decisions also show diverse considerations in determining workers' rights and the legal protection provided.

## RESEARCH METHODS

In this research, the author will employ a normative juridical research method, also known as doctrinal research (Muchtar, 2015). As the name suggests, doctrinal research focuses solely on written regulations or other legal materials. The purpose of normative legal research is to examine the provisions of positive law, which are studied normatively and will be used as legal sources.<sup>6</sup> Through a statutory approach, this research will review the 1945 Constitution of the Republic of Indonesia,<sup>1</sup> Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment, as well as the applicable Civil Code, which will be reflected theoretically based on basic legal concepts in the Case Study of the Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN.Mam.<sup>7</sup>

This thesis research is descriptive and analytical, drawing from written law, namely statutory regulations, and other legal materials containing theoretical information relevant to this research, sourced from relevant literature. Subsequently, the collected legal materials will be processed according to the needs of the discussion by compiling and classifying them into respective chapters and sub-chapters arranged sequentially concerning the main issues. The obtained legal materials will be formulated qualitatively by linking them to each other to gain clarity on a truth or its opposite, thereby obtaining a new perspective or strengthening an existing one, or vice versa. The author will describe and analyze the Case Study of the Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN.Mam. All legal materials will be grouped based on their relevance to the research questions and theme, which will then be analyzed and concluded into recommendations that will be beneficial in the future..

## RESULTS AND DISCUSSION

### Analysis of Oral Employment Agreement Arrangements

In Indonesian law, oral employment agreements are recognized as a valid form of agreement between workers and employers.<sup>33</sup> However, there are several requirements that must be met for an oral employment agreement to be considered valid and legally binding (Humaira, 2022). These requirements include a clear agreement between both parties regarding their respective rights and obligations, the work to be performed, and the wages to be received by the worker as compensation. In addition, the oral employment agreement must also meet subjective requirements, namely that the parties must be competent to enter into an agreement,<sup>28</sup>



and objective requirements, namely that the work agreed upon must be lawful and not contrary to public order.

One of the main problems with oral employment agreements is proof. Unlike written employment agreements which have strong physical evidence, proof of oral employment agreements often depends on weaker evidence, such as testimony, confessions, or other indirect evidence. This can make it difficult for workers to prove the existence of an oral employment agreement, especially when there is a dispute with the employer (Sitompul & Ariani, 2014).

To overcome the problem of proof, the Manpower Law and related regulations have regulated several provisions regarding the proof of oral employment agreements. For example, workers can prove the existence of an oral employment agreement through testimony from coworkers, proof of wage payments, or other relevant evidence. However, in practice, proving oral employment agreements remains a challenge, especially for workers who do not understand their rights or do not have access to legal assistance.

#### 1 Analysis of Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN. Mam

The Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN. Mam highlights a case of industrial relations dispute between an employee and their employer. In this case, the employee claimed the existence of an employment relationship with the company based on an oral employment agreement, which was later unilaterally terminated by the company without providing proper entitlements.

In its legal considerations, the panel of judges emphasized that oral employment agreements are valid and binding as long as their existence can be proven. In this case, the employee successfully proved the existence of an oral employment agreement through evidence such as witness testimony, payslips, and proof of wage transfers. Although there were no written documents, the panel of judges argued that this evidence was strong enough to demonstrate a working agreement between the two parties.

24  
Based on the analysis of evidence and legal considerations, the panel of judges decided that the oral employment agreement between the employee and the company was valid. Therefore, the termination of employment (PHK) carried out by the company was considered unlawful and detrimental to the employee's rights. The company was ordered to pay the employee's rights, including severance pay, service pay, and compensation for rights.

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This decision reaffirms the principle that oral employment agreements have the same legal force as written employment agreements, as long as their existence can be proven. This decision also provides protection for employees working under oral employment agreements,

ensuring that their rights remain protected even without written documents governing their employment relationship.

### **The Impact of Court Decisions on Legal Certainty and Protection of Workers' Rights**

Court decisions regarding termination of employment (PHK) based on oral employment agreements have significant implications for legal certainty and the protection of workers' rights. Although oral employment agreements are recognized as valid, proving their existence is often a challenge. This creates legal uncertainty, as it is difficult to determine the rights and obligations of each party without strong written evidence (Wilma Silalahi, 2019).

The effectiveness of court decisions in protecting the rights of workers terminated based on oral agreements also needs to be examined. Decisions that do not fully consider the context of oral agreements can harm workers. For example, if a decision focuses solely on the absence of written evidence and ignores other facts supporting the existence of an employment relationship, then workers' rights such as severance pay and other entitlements may be overlooked.

Therefore, several recommendations need to be considered to improve the law and related practices. First, there needs to be a strengthening of regulations regarding oral employment agreements. Clearer and more assertive regulations regarding the validity requirements and proof of oral employment agreements can help increase legal certainty. Second, there needs to be increased awareness and understanding among both workers and employers regarding the importance of written employment agreements. This can be done through socialization, training, and the provision of easily accessible information. Third, there needs to be a more effective and fair dispute resolution mechanism. This mechanism must be able to accommodate the uniqueness of oral employment agreements and consider the context comprehensively.

With improvements in the law and related practices, it is hoped that the protection of workers' rights who are terminated based on oral employment agreements can be enhanced. Better legal certainty will also create a healthier and more harmonious industrial relations climate.

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

Based on the analysis of the Mamuju District Court Decision No. 2/PDT.SUS-PHI/2018/PN. Mam, it can be concluded that oral employment agreements have binding legal force, as affirmed in Article 1320 of the Civil Code and Law Number 13 of 2003 concerning

Manpower. This decision sets an important precedent in strengthening the position of workers whose rights are often neglected due to the absence of written employment agreements.

In this case, the judge ruled that the termination of employment (PHK) carried out by the employer against a worker with an oral employment agreement is invalid and detrimental to the worker. The employer is obligated to provide the worker's rights in accordance with statutory provisions, including severance pay, service awards, and compensation for rights. This decision provides legal certainty for workers that oral employment agreements have the same legal force as written employment agreements.

### **Suggestions**

#### **For Policymakers:**

It is important to continue to socialize to the wider community, especially workers and employers, that oral employment agreements have valid legal force.

Consider strengthening legal regulations regarding oral employment agreements, for example, by requiring employers to create a statement letter signed together with the worker as proof of the existence of an oral employment agreement.

#### **For Legal Practitioners:**

Advocates and other legal practitioners need to have a deep understanding of legal provisions regarding oral employment agreements in order to provide effective legal assistance to workers experiencing problems related to termination of employment.

#### **For Workers:**

Workers need to be aware of their rights, including the right to obtain a written employment agreement. However, if the employment agreement is only made orally, workers need to collect evidence that can strengthen their position in the event of a dispute later on, such as proof of salary transfers, assignment letters, or testimony from coworkers.

#### **For Employers:**

Employers need to understand that oral employment agreements have the same legal consequences as written employment agreements. Therefore, employers must fulfill workers' rights in accordance with statutory provisions, even if the employment agreement is only made orally.



## Further Research:

Further research on this topic can be conducted by expanding case studies to other court decisions in various regions of Indonesia.

Research can also delve deeper into the impact of oral employment agreements on overall employment conditions.

With legal certainty regarding oral employment agreements, it is hoped that workers' rights can be better protected and industrial relations between workers and employers can be established harmoniously.

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