

Mitigating the Impact of Constitutional Court Decision Number 168/PUU-XXI/2023 on the Sustainability of Labor-Intensive Industries in Sukabumi Regency

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	ABSTRACT
Key words: <i>Constitutional Court; Labour-Intensive Industries; Industrial Relations</i>	The Constitutional Court Decision Number 168/PUU-XXI/2023 has significant implications for Indonesia's labor regulations, particularly regarding fixed-term employment agreements (PKWT), outsourcing, wage policies, and termination procedures. These changes pose challenges for labor-intensive industries that rely heavily on workforce availability and are highly sensitive to labor policy adjustments. Sukabumi Regency, one of West Java's major labor-intensive industrial centers, faces potential legal uncertainty, increased labor costs, mass layoffs, and declining investment competitiveness. This study aims to analyze the impact of the Constitutional Court decision on the sustainability of labor-intensive industries in Sukabumi Regency and formulate mitigation strategies that balance workers' rights and industrial sustainability. The study employs a normative-empirical legal approach using statutory, conceptual, case, and socio-legal approaches. Data are analyzed qualitatively through legal interpretation and examination of empirical industrial-relations conditions. The findings indicate that implementing the decision requires harmonized and adaptive labor policies through a tripartite approach involving government, employers, and workers. Existing mitigation measures by the Sukabumi Regency Government remain largely reactive and lack a comprehensive policy framework. This study proposes a collaborative mitigation model encompassing regulatory adjustment, strengthened social dialogue, improved labor productivity, and a fair Regency-Level Sectoral Minimum Wage (UMSK) based on sectoral productivity, business capacity, and investment

	competitiveness.
	ABSTRAK
Kata Kunci : Mahkamah Konstitusi; Industri Padat Karya; Hubungan Industrial	<i>Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023 memiliki implikasi signifikan terhadap regulasi ketenagakerjaan di Indonesia, khususnya mengenai perjanjian kerja waktu tertentu (PKWT), alih daya (outsourcing), kebijakan pengupahan, dan prosedur pemutusan hubungan kerja. Perubahan tersebut menimbulkan tantangan bagi industri padat karya yang sangat bergantung pada ketersediaan tenaga kerja dan sensitif terhadap perubahan kebijakan ketenagakerjaan. Kabupaten Sukabumi, sebagai salah satu pusat industri padat karya utama di Jawa Barat, menghadapi potensi ketidakpastian hukum, peningkatan biaya tenaga kerja, pemutusan hubungan kerja secara massal, serta penurunan daya saing investasi. Penelitian ini bertujuan menganalisis dampak putusan Mahkamah Konstitusi terhadap keberlanjutan industri padat karya di Kabupaten Sukabumi serta merumuskan strategi mitigasi yang mampu menyeimbangkan perlindungan hak pekerja dan keberlanjutan industri. Penelitian menggunakan pendekatan yuridis normatif-empiris dengan pendekatan perundang-undangan, konseptual, kasus, dan sosio-legal. Data dianalisis secara kualitatif melalui interpretasi hukum dan kajian terhadap kondisi empiris hubungan industrial. Hasil penelitian menunjukkan bahwa implementasi putusan tersebut memerlukan harmonisasi kebijakan ketenagakerjaan yang adaptif melalui pendekatan tripartit yang melibatkan pemerintah, pengusaha, dan pekerja. Upaya mitigasi Pemerintah Kabupaten Sukabumi masih cenderung reaktif dan belum didukung kerangka kebijakan yang komprehensif. Penelitian ini mengusulkan model mitigasi kolaboratif melalui penyesuaian regulasi, penguatan dialog sosial, peningkatan produktivitas tenaga kerja, serta penetapan Upah Minimum Sektoral Kabupaten (UMSK) yang berkeadilan dengan mempertimbangkan produktivitas sektoral, kemampuan usaha, dan daya saing investasi.</i>

1. INTRODUCTION

The development of labor regulations in Indonesia over the past few years has undergone significant transformation in response to changes in the economic structure, globalization, and the need to enhance national investment (Sinambela et al., 2024). One of the most substantial regulatory reforms is Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation as Law. This legislation amended numerous labor provisions previously governed by Law Number 13 of 2003 on Manpower, particularly those concerning fixed-term employment agreements (Perjanjian Kerja Waktu Tertentu/PKWT), outsourcing, wage determination, working hours, and termination of employment procedures. These

amendments were intended to create a more favorable investment climate while increasing labor market flexibility. However, they also generated considerable debate regarding the adequacy of workers' legal protection (Widagdo, 2026).

The controversy surrounding the Job Creation Law ultimately led to its constitutional review before the Constitutional Court. Through Constitutional Court Decision Number 168/PUU-XXI/2023, the Court provided a constitutional interpretation of several labor law provisions by reaffirming the importance of protecting workers' rights without disregarding the legitimate interests of businesses. The decision has significant implications for the regulation of fixed-term employment contracts, outsourcing practices, wage policies, and dismissal procedures, all of which require adjustment by both the government and employers. Consequently, the decision carries not only legal consequences but also economic and industrial relations implications that necessitate appropriate mitigation measures to prevent legal uncertainty and disruptions to business continuity (Rozikin & Muhyiddin, 2025).

The implementation of the Constitutional Court's decision is expected to have its greatest impact on labor-intensive industries, which are characterized by a high dependence on human labor, substantial labor costs, and considerable sensitivity to changes in labor regulations. Enhanced labor protection standards, if not accompanied by appropriate transitional policies, may increase production costs, reduce operational efficiency, weaken industrial competitiveness, and even encourage investment relocation to regions or countries with lower labor costs. These conditions may ultimately increase the risk of layoffs, reduce employment opportunities, and contribute to deindustrialization in certain industrial sectors (Tia & Sufiarina, 2023).

Sukabumi Regency is one of the strategic labor-intensive industrial regions in West Java Province, with major industries including textiles, garments, footwear, food and beverages, and other manufacturing sectors. These industries constitute the largest source of employment and play a crucial role in regional economic growth. The region's strong dependence on labor-intensive industries makes it particularly vulnerable to changes in labor regulations, especially those affecting labor costs, industrial relations, and business certainty. Unless the implementation of Constitutional Court Decision Number 168/PUU-XXI/2023 is accompanied by effective mitigation policies, the

risks of declining investment, reduced production capacity, and increasing unemployment are likely to intensify.

At the same time, the protection of workers' rights, as reaffirmed by the Constitutional Court, represents a constitutional mandate that cannot be overlooked (Triastuti, 2018). Therefore, the primary challenge is not to choose between protecting workers and promoting investment but rather to achieve an appropriate balance between the two through adaptive public policies. A collaborative industrial relations approach involving local governments, employers, and labor unions is essential to ensuring legal certainty while maintaining industrial sustainability (Patria, 2023). In this context, mitigation strategies should extend beyond regulatory adjustments to include strengthening social dialogue, improving labor productivity, enhancing workers' competencies, developing a fair formulation of the Regency Sectoral Minimum Wage (Upah Minimum Sektoral Kabupaten—UMSK), and providing incentives for industries that continue to maintain employment opportunities (Afrilia, 2019).

A review of the existing literature indicates that most previous studies on Constitutional Court Decision Number 168/PUU-XXI/2023 have primarily focused on normative legal analyses of changes in labor law and their implications for workers' rights (Nababan & Olivia, 2025). Studies specifically examining the impact of the decision on the sustainability of labor-intensive industries at the regional level particularly through policy mitigation approaches integrating legal, industrial relations, and investment competitiveness perspectives remain limited. Accordingly, a significant research gap exists that warrants further investigation. This study seeks not only to examine the legal implications of the Constitutional Court's decision but also to formulate a practical mitigation model that can assist local governments in balancing workers' protection with industrial sustainability.

Based on these considerations, this research aims to analyze the impact of Constitutional Court Decision Number 168/PUU-XXI/2023 on the sustainability of labor-intensive industries in Sukabumi Regency and to formulate a mitigation model capable of ensuring legal certainty, maintaining a favorable investment climate, strengthening harmonious industrial relations, and providing sustainable protection for workers' rights. The findings are expected to provide policy recommendations for local governments, business actors,

labor organizations, and other stakeholders in responding to changes in labor regulations within the framework of sustainable economic development.

2. RESEARCH METHODS

This study employs a normative-empirical legal research method (socio-legal research), which integrates the examination of legal norms with an analysis of their implementation in practice (Marzuki, 2017). This approach was selected because the study not only examines the legal consequences of Constitutional Court Decision Number 168/PUU-XXI/2023 on amendments to Indonesia's labor regulations but also analyzes its impact on the sustainability of labor-intensive industries in Sukabumi Regency and formulates a mitigation model that can be implemented by relevant stakeholders.

The research applies four complementary approaches: (1) the statutory approach, which examines the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2003 on Manpower, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation as Law, along with other implementing regulations; (2) the conceptual approach, which explores the concepts of legal protection, industrial relations, legal certainty, industrial sustainability, and policy mitigation; (3) the case approach, through an in-depth analysis of Constitutional Court Decision Number 168/PUU-XXI/2023 and its legal reasoning; and (4) the socio-legal approach, which examines the implementation of the Court's decision within the practice of industrial relations in labor-intensive industries in Sukabumi Regency.

The research utilizes both primary and secondary data. Primary data were collected through in-depth interviews with informants selected using purposive sampling. The informants included representatives of the Sukabumi Regency Government—particularly the Department of Manpower, the Department of Industry, and the Regional Development Planning Agency (Bappeda)—employers' associations, labor unions, labor-intensive manufacturing companies, academics, and labor law practitioners. In addition, Focus Group Discussions (FGDs) were conducted to obtain stakeholders' perspectives on appropriate mitigation strategies for addressing the impacts of implementing the Constitutional Court's decision. Secondary data were obtained through library research covering primary legal materials, secondary legal materials

such as books, scholarly journal articles, previous research, and policy documents, as well as relevant tertiary legal materials.

Data were collected through document analysis, semi-structured interviews, and Focus Group Discussions (FGDs). Document analysis was conducted to identify changes in labor law provisions and employment policies, while interviews and FGDs were intended to obtain empirical information regarding stakeholders' perceptions, challenges, and adaptation strategies in response to the implementation of Constitutional Court Decision Number 168/PUU-XXI/2023.

The data were analyzed using qualitative analysis, consisting of data reduction, data display, and conclusion drawing. Normative analysis was employed to interpret statutory provisions and the legal reasoning of the Constitutional Court, whereas empirical analysis was used to identify the impacts of the Court's decision on the sustainability of labor-intensive industries in Sukabumi Regency. Subsequently, the findings from both normative and empirical analyses were synthesized using a prescriptive approach to formulate a policy mitigation model capable of balancing the protection of workers' rights, legal certainty, industrial sustainability, and investment competitiveness.

3. RESULTS AND DISCUSSION

3.1. Legal Implications of Constitutional Court Decision Number 168/PUU-XXI/2023 for Indonesia's Labor Law Framework

Constitutional Court Decision Number 168/PUU-XXI/2023 has generated multidimensional legal implications for Indonesia's labor law framework. With respect to fixed-term employment agreements (*Perjanjian Kerja Waktu Tertentu—PKWT*), the Court affirmed that limitations on the types of work and the duration of fixed-term contracts constitute a constitutional requirement intended to safeguard the dignity and rights of workers. The previous provisions under the Job Creation Law, which relaxed restrictions on the use of PKWT without limiting it to specific categories of work, were declared conditionally inconsistent with the constitutional principle of labor protection enshrined in the 1945 Constitution. Consequently, the Court required that PKWT once again be restricted to temporary, seasonal, or probationary work, consistent with the regulatory framework established under Law Number 13 of 2003 (Suryana, 2025).

Regarding outsourcing, the Court ruled that its application should be limited to specific types of work that are not directly related to a company's core business activities (Nurhasanah & Hikmawati, 2025). This decision has significant implications for the business models of many companies in Sukabumi Regency, where outsourced labor has long been utilized in core production processes. As a result, employers are now required either to convert outsourced workers into permanent employees or to terminate their employment relationships, both of which entail substantial financial consequences.

In the area of wage regulation, the Constitutional Court reinstated the mechanism for determining the Regency Sectoral Minimum Wage (UMSK), which had previously been abolished under Government Regulation Number 36 of 2021 (Jaelani & Kusumaningtyas, 2025). For Sukabumi Regency, the reinstatement of the UMSK presents a double-edged sword. On the one hand, it provides stronger wage protection for workers in specific industrial sectors. On the other hand, it may increase disparities in labor costs across sectors, potentially distorting the region's industrial structure and reducing business competitiveness.

With respect to termination of employment, the Court strengthened both the substantive requirements and procedural safeguards governing dismissals. The decision restored employers' obligations to provide severance pay, long-service awards, and compensation for employees' statutory rights at levels more proportionate than those prescribed under the Job Creation Law regime (Sukma et al., 2025). Consequently, the financial costs associated with employment termination have increased significantly, which may, at least in the short term, influence business decisions regarding investment, expansion, and workforce management.

3.2 Impact on Labor-Intensive Industries in Sukabumi Regency

According to data from the Sukabumi Regency Department of Manpower and Transmigration, a total of 847 foreign direct investment (FDI) and domestic investment (DDI) companies operate within the region. Approximately 73% of these companies are engaged in labor-intensive industries, making them directly affected by Constitutional Court Decision Number 168/PUU-XXI/2023.

A survey conducted by the Indonesian Employers Association (APINDO) Sukabumi Regency revealed that 68% of the surveyed companies expect their

operational costs to increase by 15–25% if all provisions of the Constitutional Court's decision are fully implemented ([Asosiasi Pengusaha Indonesia \(APINDO\) Kabupaten Sukabumi, 2023](#)). These additional costs are primarily attributable to three factors: (1) the conversion of workers employed under fixed-term employment agreements (PKWT) and outsourcing arrangements into permanent employees; (2) adjustments to wage levels in accordance with the revised wage-setting mechanism; and (3) increased financial reserves for severance pay obligations.

On the other hand, employment data indicate that the extensive use of fixed-term employment contracts during the implementation of the Job Creation Law created a precarious employment situation for many workers. Of the total workforce employed in Sukabumi Regency's industrial sector, approximately 41% are engaged under PKWT arrangements, with many having exceeded the employment duration that the Constitutional Court has now deemed constitutionally permissible ([Sukabumi, n.d.](#)). This situation requires employers to regularize employment relationships within a relatively short period, creating significant legal and financial challenges.

The risk of deindustrialization has become a tangible concern that requires immediate policy attention. Data from the Indonesia Investment Coordinating Board (BKPM) indicate that investment realization in Sukabumi Regency during the third quarter of 2023, coinciding with the Constitutional Court proceedings, declined by approximately 12% compared with the corresponding period in the previous year. Although this decline cannot yet be directly attributed to the Constitutional Court's decision, it reinforces the urgency of developing responsive and anticipatory mitigation policies capable of preserving investment attractiveness while ensuring compliance with the strengthened labor protection framework.

3.3 Effectiveness of Mitigation Strategies Implemented by the Sukabumi Regency Government and Business Actors

The Sukabumi Regency Government has undertaken several initial measures in response to the Constitutional Court's decision, including the establishment of a Labor Task Force, the implementation of joint dissemination programs involving the Department of Manpower and the Indonesian Employers Association (APINDO), and the revitalization of the Tripartite Cooperation Institution (LKS Tripartite). These initiatives represent positive

preliminary responses. However, a more in-depth analysis indicates that the measures adopted remain largely reactive and fragmented, rather than being integrated into a comprehensive and measurable mitigation action plan.

From the perspective of regional authority, a significant challenge arises from the institutional imbalance between the authority of the Sukabumi Regency Government which is directly confronted with the industrial impacts of the Constitutional Court's decision and the authority of the Central Government, which retains responsibility for formulating national labor regulations. Law Number 23 of 2014 on Regional Government classifies labor affairs as a concurrent governmental function shared between the central and regional governments. In practice, however, regional governments possess only limited authority to formulate labor policies that address specific local conditions and industrial characteristics.

From the perspective of business actors, most companies have adopted a "wait and see" strategy while awaiting the issuance of implementing regulations by the Ministry of Manpower ([Salamena & Saleh, 2025](#)). Only approximately 23% of companies have proactively conducted internal compliance audits and developed operational adjustment plans. Although this strategy may be understandable from the standpoint of short-term risk management, it carries the potential risk of creating a substantial compliance backlog should the implementing regulations be issued with stringent implementation deadlines.

From the perspective of labor unions, differing strategies have emerged among the major labor federations. Some unions have adopted a confrontational approach by demanding the immediate implementation of the Constitutional Court's decision and threatening industrial action, including strikes ([Podungge et al., 2021](#)). Others have preferred a more cooperative strategy by pursuing negotiations through bipartite and tripartite consultation mechanisms. In this regard, the legal framework established under ILO Convention No. 98 concerning the Right to Organise and Collective Bargaining, which has been ratified by Indonesia, provides a broad legal basis for implementing the Constitutional Court's decision through collective bargaining mechanisms. Such an approach offers a more constructive and sustainable means of resolving industrial disputes than reliance on confrontational strategies.

3.4 Formulating a Fair and Competitive Sectoral Minimum Wage Policy (UMSK)

The debate surrounding the Regency Sectoral Minimum Wage (UMSK) essentially reflects the enduring tension between two equally legitimate objectives: workers' protection and investment sustainability ([Putri, 2024](#)). An appropriate theoretical framework for reconciling these competing interests is the concept of a dynamic balance of interests, as developed in the comparative labor law literature. This approach emphasizes that labor regulations should simultaneously ensure adequate protection for workers while maintaining a favorable environment for business continuity and economic growth.

Based on an analysis of sectoral productivity data and labor market conditions in Sukabumi Regency, this study proposes a UMSK formulation that incorporates three principal variables. First, sectoral productivity, whereby sectors with higher productivity levels such as the electronics industry may justifiably adopt a sectoral minimum wage above the Regency Minimum Wage (UMK), whereas industries operating with relatively narrow profit margins, such as basic garment manufacturing, require a more gradual wage adjustment mechanism. Second, the regional purchasing power index, which more accurately reflects the cost of achieving a decent standard of living for workers in Sukabumi Regency. Third, the trade openness ratio, which measures the degree to which a particular industrial sector is exposed to global market competition and is therefore particularly relevant for export-oriented industries.

From a legal perspective, the formulation of the UMSK must comply with the principle of legal certainty, which requires legal norms to be clear, predictable, and consistently applied ([Ihsanuddin, 2023](#)). At present, the absence of comprehensive implementing regulations following Constitutional Court Decision Number 168/PUU-XXI/2023 has created a regulatory vacuum, which is ultimately counterproductive to both the protection of workers' rights and the maintenance of a stable business environment.

Accordingly, this study recommends that the Sukabumi Regency Government, in collaboration with the Regency Wage Council, promptly enact a Regent Regulation governing the implementation of the UMSK in accordance with the Constitutional Court's decision. Such a regulation should be formulated through a tripartite consultation process involving the Indonesian Employers Association (APINDO), labor unions, and government representatives on an equal footing. Furthermore, the wage-setting process

should be based on objectively measurable and independently verifiable productivity data in order to ensure transparency, fairness, and regulatory legitimacy.

3.5 An Operational Mitigation Model: An Adaptive Tripartite Approach

Based on the above findings, this study proposes an Adaptive Tripartite Mitigation Model (ATMM) as a policy recommendation for managing the implementation of Constitutional Court Decision Number 168/PUU-XXI/2023. The model is founded on the principle that the implementation of the Court's decision should be managed as a gradual, well-planned, and inclusive process of institutional transformation involving the active participation of all relevant stakeholders.

The ATMM consists of three sequential phases. The first phase, the Stabilization Phase (0–6 months), includes a comprehensive compliance audit, the identification and mapping of affected workers, and the establishment of a Joint Labor Consultation Center jointly administered by the Sukabumi Regency Government, the Indonesian Employers Association (APINDO), and labor unions. This phase is intended to reduce legal uncertainty while facilitating communication and dispute prevention during the early implementation period.

The second phase, the Adjustment Phase (6–18 months), focuses on the gradual regularization of workers employed under fixed-term employment agreements (PKWT), negotiations concerning sectoral minimum wages (UMSK), and the adjustment of severance payment mechanisms in accordance with the financial capacity of individual enterprises. This phase seeks to balance compliance with the Constitutional Court's decision with the need to preserve business continuity and employment stability.

The third phase, the Long-Term Institutionalization Phase (18–36 months), aims to institutionalize tripartite consultation mechanisms, conduct periodic evaluations of the UMSK, and implement programs to enhance workforce productivity and skills development. Through these measures, the model is expected to establish a sustainable industrial relations framework capable of adapting to future regulatory developments while maintaining both labor protection and industrial competitiveness.

The effectiveness of the ATMM depends largely on the political will of the Sukabumi Regency Government to assume the role of an active facilitator rather

than merely a passive regulator in the implementation of the Constitutional Court's decision. In this regard, the Open Unemployment Rate (OUR) in West Java, which reached 7.44% in 2023, underscores the importance of managing this regulatory transition effectively. Failure to implement an adaptive mitigation strategy may not only undermine legal certainty and investment confidence but also contribute to a significant increase in unemployment and weaken the long-term sustainability of labor-intensive industries in Sukabumi Regency.

4. CONCLUSION

This study draws three principal conclusions, First, the synchronization of strengthened workers' rights with the sustainability of labor intensive industries should be achieved through an adaptive, evidence based tripartite approach, rather than through unilateral policies that disregard economic realities. Second, the mitigation strategies currently adopted by the Sukabumi Regency Government remain largely reactive and have not yet been integrated into a systematic and comprehensive action plan. Third, the formulation of a fair Regency Sectoral Minimum Wage (UMSK) should incorporate three key variables sectoral productivity, the cost of a decent living, and investment competitiveness within a single wage setting framework that is acceptable to all stakeholders.

Based on these findings, this study recommends that the Sukabumi Regency Government adopt the Adaptive Tripartite Mitigation Model (ATMM) proposed in this research as the primary policy framework for managing the implementation of Constitutional Court Decision Number 168/PUU-XXI/2023. The model is expected to facilitate a balanced transition by safeguarding workers' rights while maintaining industrial sustainability and preserving the region's investment attractiveness.

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