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Reorientation of Pancasila Values in the Issue of Women's Position as Outsourced Workers in the Era of Industrialization 5.0

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Abstract. *Outsourcing labor is an indispensable foundation for industrial development, as it is instrumental in accelerating the development of the nation's industrial sector. The apparent importance of outsourcing employees has not been matched by adequate protection of their rights. This dilemma is exacerbated by the limited capacity of the national workforce to navigate a disruptive free market that sometimes creates unfair competition across borders, including in the area of outsourcing labor. This article uses a historical legal study approach, based on the study conducted, it can be understood that the legal political problem of female workers as outsourcing workers is in the form of the absence of threats of sanctions in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives against Worker Provider Companies and Outsourcing Service User Companies that do not guarantee and fulfill the rights and welfare of outsourcing workers, the absence of clear job limitations and time limits in terms of implementing the use of outsourcing worker services both in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives, the absence of a guarantee of the obligation of companies using outsourcing employee services to appoint permanent outsourcing employees because outsourcing employees legally enter into a permanent work agreement with the temporary worker provider company with the outsourcing employee service user company only a temporary outsourcing work contract agreement, as well as the absence of control or supervision regarding the use of outsourcing employees Number 13 of 2003 and Law Number 11 of 2020 and its derivatives. The practice of outsourcing labor agreements in Indonesia has, in reality, departed significantly from the mandate of Pancasila, particularly regarding respect for humanitarian values and equality through the implementation of equitable legal policies for outsourcing labor. This situation is further exacerbated by the absence of a concept of outsourcing worker protection that aligns with legal progress in the digital era and Industrialization 5.0, which is increasingly*



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developing and bringing free market competition at the local and regional levels through digital technology. This situation can clearly result in a disadvantaged position for female workers.

Keywords: *Industrialization 5.0; Labor; Power; Transfer.*



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1. Introduction

Labor plays a crucial role in the industrial ecosystem. In his article, "Legal Protection for Workers in the National Labor Law System," Suhartoyo eloquently states that labor is crucial for society, employers, and the government within the industrial ecosystem. Suhartoyo stated that:¹

The number of workers/laborers in Indonesia in August 2018 reached more than 100 million people (124.01 million to be exact). This makes the number of workers/laborers in Indonesia almost half of the population of Indonesia, so workers/laborers of course have a very important meaning for Indonesia both for the government, companies and society. Realizing the importance of workers/laborers for companies, government and society,

The crucial role of laborers is fundamentally due to their role as the driving force behind the industrial production cycle. According to Suhartoyo, this is evidenced by the high number of Indonesians employed in various private sectors. Suhartoyo's explanation, from another dimension, can also be interpreted as indicating that the high number of workers in Indonesia indicates that the Indonesian people's source of income is the industrial labor market. This view aligns with Suhartoyo's view that "wages play a crucial role and are a hallmark of an employment relationship. It has even been said that wages are the primary objective of a worker who performs work for another person or legal entity."²

The era of globalization and disruption is underway and brings a new order in the world of employment which is often referred to as the era of industrialization 5.0. Globalization as an era of rapid openness in all aspects of human life, has its own method in developing or in determining the core that gives birth to various dynamics, one of which is done through innovations in the world of information and communication technology knowledge that is increasingly developing. Alfin Toffler Since the late 1950s most countries have moved from second wave societies to what Toffler calls Third Wave Societies. According to Toffler, the emergence of the third wave is driven by the strong push of information technology, social demands throughout the world to obtain greater freedom and individuation which is marked by the emergence of various high technologies, such as cloning, global communication networks, nano-technology.³

¹Suhartoyo, "Legal Protection for Workers in the National Employment Law System", *Administrative Law & Governance Journal*, Volume 2, Issue 2, 2019, p. 327.

²*Loc. cit.*



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³L. Hadi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Industrial Digitalization and Its Impact on Employment and Employment Relations in Indonesia." *Jurnal Kompilasi Hukum*, Volume 5, No. 2, 2020, p. 269.

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This development of civilization has brought fundamental changes to the world of work, including capital systems, business cooperation practices, and changes in employment systems. These rapid changes have not only ushered in a new chapter in the history of civilization, one that is digital, instant, and fast-paced, but the industrial era has also brought with it a legacy known as disruption.⁴ Disruption was initially a phenomenon occurring in the economic world, particularly in the business sector. Clayton explained that disruption itself is a condition where a business is required to continuously innovate to keep up with developments, so that the business not only meets current needs but can also anticipate future ones.⁵ This highly disruptive workplace environment has also trickled down to and influenced the outsourcing workforce. Workers under outsourcing agreements, often referred to as outsourced labor, first emerged in the contract-based mining industry.⁶

The outsourcing labor system has become increasingly stronger due to the recognition of its existence through the regulation of subcontract management in the Indonesian bonded zone in 1989, the birth of the Decree of the Minister of Trade of the Republic of Indonesia No. 264/KP/1989 concerning Subcontract Management in the Indonesian Bonded Zone made outsourcing labor not only in the mining industry, all private industrial sectors at that time gradually also implemented outsourcing labor agreements.⁷ The legal position of outsourcing workers is increasingly solidified with the existence of Article 64 of Law Number 13 of 2003 concerning Manpower,⁸ and ultimately found its foundation in a new chapter in the world of work with the enactment of Law Number 11 of 2020 concerning Job Creation, where outsourced workers are firmly bound by the provisions of Government Regulation (PP) Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours, and Termination of Employment. Outsourced workers are one of the foundations in discussing the development of labor law politics, however, the position of outsourced workers cannot be said to be as prosperous as explained in every labor law regulation in Indonesia. This is because in practice the world of employment still faces problems for outsourced workers. Issues regarding protection for outsourced workers often occur, for example, violations of workers' rights. In addition, a significant issue is the occurrence of discriminatory treatment experienced by outsourced workers.⁹

⁴Ralf Kopp, Jürgen Howaldt and Jürgen Schultze, "Why Industry 5.0 Needs Workplace Innovation: a Critical Look at The German Debate on Advanced Manufacturing", *European Journal Of Work Place Innovation (EJWI)*, Vol 2. No 1. June 2016. p. 22.



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⁵Banu Prasetyo and Umi Trisyanti, "Industrial Revolution 5.0 and the Challenges of Social Change", in Proceedings of SEMATEK SOS 3, "National Development Strategy Facing the Industrial Revolution 5.0", 2018, p. 24.

⁶Triyono, "Outsourcing from the Perspective of Workers and Employers", Indonesian Population Journal, Vol. VI, No. 1, 2011, p. 47.

⁷*Loc. cit.*

⁸Wafda Vivid Izziyana, Outsourcing Law in Indonesia, Unmuh Ponorogo Press, Ponorogo, 2018, p. 2.

⁹Asep Ahmad Saefuloh, "Outsourcing Policy in Indonesia: Developments and Problems", Journal of Economics & Public Policy, Vol. 2, No. 1, 2011, p. 362.

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The problems faced by outsourced workers today are not only conventional or traditional employment issues, the enemy faced by the workforce today is the global order that opens the scope of labor market competition with standards that are not only oriented towards skills that are only oriented towards diplomas, more than that, part-time workers are also required to be able to meet the needs of companies in facing business competition as well as the need to maintain their capital and income in the industrial world with free market standards. This signals that outsourced workers must also be able to improve their skills in competing in the current global and disruptive era. The concept of the industrial revolution 5.0 is a continuation of the third wave concept stated by Alvin Tofler previously. The industrial revolution 5.0 which has been ongoing since 2018 and is marked by changes in the way of life, work, and relationships between people quickly and disruptively. It has given rise to the concepts of machineization that replace the role of humans as a social work system in the wheels of industry. The phenomenon of changes in the actors in the production process from labor to machines or robots (automation), as well as changes in work relationships that arise as a result of the development of digital business systems, for example online buying and selling, online-based transportation (online motorcycle taxis and online taxis) and others that greatly facilitate society in general.

This is not necessarily the case for the workforce; Industry 5.0 has a significant impact. Smart factories require virtually no human labor, except for a few highly skilled workers. Therefore, many workers are predicted to become unemployed due to limited job opportunities and high labor competency standards. Without Industry 5.0, many countries, including Indonesia, would face unemployment problems. Industry 5.0 will increase the burden on each country to address the challenges of workforce competency development, rising unemployment, and the welfare gap. All of this will intensify pressure on the labor market. From the previous explanation, technological innovation will always have an impact on human life. Technological advances have contributed to human well-being, including new jobs, goods, travel, and communication. At the same time, technology also has disruptive power. Technology can influence how workers are employed and how companies operate. Technological changes in this fourth industrial revolution may not be as drastic as those in the past, but the acceleration of technological improvement and adoption is even faster.¹⁰

¹⁰Teduh G. Alam, Achmad LN Antony, Kezia V. Hotama, and Syahira S. Kuswandi, "The Fourth Industrial Revolution: The End of Labor Worldwide", *Journal of International Relations*, Year XII, No. 2, 2019, p. 230.

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The position of outsourcing workers in the current multiverse period is becoming an increasingly complex issue, due to the political ability of labor law that is unable to create a legal protection system for outsourcing workers that is relevant and real in the lives of society, the legal politics of outsourcing workers is still a traditional paradigm, where the problem of resolving guarantees of equal rights to receive decent work in the era of humans competing with technology is not clearly stated. As a result, many outsourcing workers have to lose their great opportunity to get the right to receive work with the presence of robots and machines in the industrial world, only workers who have skills that are often only found in foreign and highly educated workers have access to still get decent work.¹¹

The issue of the impact of unfair regulations regarding the status of outsourced workers also impacts female workers. As workers, women not only face issues as a class or group of workers, but also face challenges due to their gender identity. One challenge faced by female workers is the glass ceiling effect, which hinders women's career advancement in the workforce. The view that the world of work is masculine is partly manifested in the assumption that female workers have lower skills than male workers. This view can be seen in the separation of occupations for men and those for women. Thus, professions in the fields of science, technology, and engineering are always identified with men, while professions in the social sciences, humanities, and education are identified with women. A feminist perspective critiques the dominant view that separates economics from domestic work. The world of work is identified with masculinity, while domestic work is considered a feminine domain with no economic value. This gender-biased separation results in the marginalization of women in the workforce, including in terms of the balance between workload and the level of welfare of female workers. Women's involvement today is not limited to demanding rights, but also makes a significant contribution to the development of Indonesian society in the Industrial Revolution 5.0 Era. The rapid development of science and technology has impacted the increasingly complex role of women. This era is characterized by advances in information and communication technology (ICT), such as artificial intelligence, the era of supercomputers, genetic engineering, as well as rapid innovation and change, which impact the economic, industrial, governmental, and political sectors. Women today play a dual role as domestic workers caring for children and managing the household and as career professionals outside the home. They function not only as housewives, but are also expected to be able to contribute to family businesses and the workplace. The position of women as outsourced workers, coupled with the various problems mentioned above, clearly results in women's lives being far from prosperous.¹²

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2. Research Methods

The study in this article is a historical legal study. A historical legal study examines the development of positive law (statutory regulations) over a specific period.¹³ This article attempts to analyze the issue of protecting the rights of outsourced workers, which is currently positioned in the vortex of the industrialization era 5.0. It is understood that the industrialization era brings very rapid changes in the world labor order, including in the demands of worker skills that have implications for the amount of wages and other workers' welfare rights. This article attempts to analyze this matter through an analysis of the history of the development of outsourcing labor law in Indonesia.

3. Results and Discussion

3.1. The Development of the Industrialization 5.0 Era and Its Relationship to the Development of the Job Market in Indonesia

Arnold Toynbee, in his book "Lectures on the Industrial Revolution," first introduced the term "Industrial Revolution." In his paper, Toynbee attempted to illustrate the industrial revolution and its impact on policy, production mechanization, culture, and the world's financial system, especially in Europe. The initial trigger was the invention of the steam engine by James Watt. Next, Industrial Revolution 2.0 was marked by the discovery of electricity, and Industrial Revolution 3.0 was marked by the invention of the computer. At the beginning of the 21st century, the discovery of the Internet and Information Technology (IT) triggered the birth of Industrial Revolution 5.0. In the entire cycle of new civilizations resulting from the industrial revolution.¹⁴

The above view reflects the influence of modern thinking, where humans are the center of the development of life on Earth. Modern thought views materialist rationalism as the pinnacle of human civilization and culture, fostered through science and technology. With their sharp intellect, modern humans are capable of developing astonishing scientific and technological knowledge.¹⁵ They even think

¹¹*Loc, cit.*

¹²Tia Putri Maharani, "Challenges and Opportunities for Women Facing the Industrial Revolution 5.0: Implications for Domestic Life and Careers," *Das Sollen: Journal of Contemporary Law and Society Studies*, Vol. 2, No. 2, 2023, pp. 3-4.

¹³Soerjono Soekanto and Sri Mamudji, *Normative Legal Research, A Brief Review*, Radja Grafindo Persada, Jakarta, 1995, pp. 14-15.

¹⁴L. Hadi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, *op., cit.*, p. 271.

¹⁵Seyyed Hossein Nasr, *The Struggle of Science and Spirituality Towards an Alternative Cosmological Paradigm*, trans. Ach. Maimun, IRCiSoD, 2015, Yogyakarta, p. 45.



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that ancient humans were just a group of people with low civilization and culture, because they were too filled with superstitious, irrational life, and were shackled by dogmatic beliefs.¹⁶Based on this explanation, it is clear that the freedom of human will in developing science and technology no longer has any limits. However, until now, the development of science that has no limits is still considered as the 'guardian of progress' of mankind, even though the development and progress itself has been attacked a lot because it brings various inequalities and pollution, both physically, biologically, socially and culturally.

The terminology of Industry 5.0 was first discovered in 2011 at the Hanover Fair in Germany, which was the most important project activity of the German government to promote the computerization of the manufacturing industry (smart factory). In 2012, the working group on Industry 5.0, chaired by Robert Bosch, GmbH, and Acatech, then recommended the German federal government regarding the Industry 5.0 platform, the Industry 5.0 platform was then presented again as a final report in April 2013 at the Hanover Fair. Three major industry associations present at that time, such as Bitkom, VDMA, and ZVEI, agreed to create an "Industry 5.0 platform." The Working Group on Industry 5.0 in 2013 then presented recommendations for the implementation of Industry 5.0 to the German federal government. This made the members of the working group recognized as the founding fathers and pioneers of the Industry 5.0 platform. One of the working group members recognized as the initiator of the Industry 5.0 platform is Klaus Schwab, a German professor and economist who is also the founder of the World Economic Forum. Schwab, in the final report of the Working Group on Industry 5.0, presented at the Hannover Fair on April 8, 2013, explained that it is fundamentally different from previous industrial revolutions. This revolution is blurring the boundaries between the digital, physical, and biological worlds, even eliminating them. Artificial intelligence, robotic technology, big data, and the Internet of Things are seamlessly connecting all elements of human life.¹⁷Klaus Schwab, the formulator of the Industry 5.0 platform, continues to offer his Industry 5.0 platform to the world through world economic forums held by his network. The Industry 5.0 platform was then quickly accepted by all countries in the world as a global economic doctrine, including in Indonesia. The International Labour Organization (ILO) report in 2017 explained that Indonesia experienced a five-rank increase in the 2017 Global Competitiveness Index (GCI). Currently, Indonesia is ranked 36th in the GCI. Of the 12 pillars of measuring a country's competitiveness, Indonesia shows good achievements in terms of market size and

¹⁶Bakhtiar's Proverbs, Philosophy of Science, 12th Edition, Rajawali Press, Jakarta, 2014, p. 146.

¹⁷Ralf Kopp, Jürgen Howaldt and Jürgen Schultze, "Why Industry 5.0 Needs Workplace Innovation: a Critical Look at The German Debate on Advanced Manufacturing", European Journal Of Work Place Innovation (EJWI), Vol 2. No 1. June 2016. p. 22.

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macroeconomic environment. In terms of innovation and increasing sophistication of business technology, its ranking is somewhat higher than the overall ranking at the global level. However, Indonesia's technological readiness is ranked 80th. In terms of technological readiness sub-index, Indonesia is ranked poorly in terms of internet users, broadband connections, and internet bandwidth. Indonesia ranks slightly better in terms of the availability of the latest technology in the technology readiness sub-index. Inadequate infrastructure outside Java hinders connectivity. However, the use of mobile phones helps reduce this barrier by providing the possibility for people to connect online. Unlike in the past when prices were very high, the increasing competition between mobile phone service providers has made prices lower and more affordable so that more customers can access the internet through their devices. A large number of Indonesians are active on social media, and Indonesia is even ranked third in global social media growth.¹⁸

The book, "Living Digital 2040: Future Work, Education, and Healthcare," states that "digital technologies have made possible new interactions and connections across the city and around the world. Living digital means we can go beyond the physical to also focus on interactions and explore new regional and global possibilities." This view explains quite clearly that digital technologies have enabled new interactions and connections across the city and around the world. Living digital means we can go beyond the physical to also focus on interactions and explore new regional and global possibilities.¹⁹ In relation to the presence of globalization that gave birth to digitalization in the world, it has also given rise to other impacts in the world of work, this can be observed from the narrative of the relationship between AI and the increasingly threatened absorption capacity of the human population in the job market.

Based on research conducted by Carl Benedikt Frey and Michael A. Osborne, Carl Benedikt Frey and Michael A. Osborne stated that:²⁰

According to our estimate, 47% of total US employment is in the high risk category, meaning that associated occupations are potentially automatable over some unspecified number of years, perhaps a decade or two. It should be noted that the

¹⁸ILO, Indonesia Employment Report 2017: Harnessing Technology for Growth and Job Creation, ILO, Jakarta, 2017, p. 98.

¹⁹King Wang Poon, Hyowon Lee, Wee Kiat Lim, Rajesh Elara Mohan, Youngjin Chae, Gayathri Balasubramanian, Aaron Yong, and Raymond Yeong, *Living Digital 2040 : Future of Work, Education and Health Care*, Lee Kuan Yew Center for Innovative Cities Singapore University of Technology and Design, Singapore. p. 33.

²⁰Carl Benedikt Frey and Michael A. Osborne, "The Future Of Employment: How Susceptible Are Jobs To Computerization?", *Technological Forecasting & Social Change*, 114, 2, 2017, p. 265.

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probability axis can be seen as a rough timeline, where high probability occupations are likely to be substituted by computer capital relatively soon.

Based on Frey and Osborne's findings, it can be seen that approximately 47% of total jobs in America are at risk of being computerized. This means that 47% of total jobs in America are at risk of being replaced by computer systems that require minimal human involvement. Only high-risk jobs and jobs that still require aspects of thinking and analysis of knowledge based on common sense have a small chance of being replaced by computers. Frey and Osborne then added that computers and robots can create new products and services, and this product innovation will generate new jobs that are currently unimaginable. Furthermore, new automation technologies and some types of labor are highly complementary.²¹ Morikawa Masayuki later stated in his research that:²²

The percentage of respondents who chose "I will probably lose my job," "No think I'm going to lose my job," and "I don't know" were 29.9%, 38.8%, and 31.3%, respectively. When a relatively large number of respondents are not afraid of losing their jobs, about 30% of people feel it is the risk of their jobs being replaced by AI and robotics. Based on gender, a rather optimistic male worker relative to female workers. By education, workers with postgraduate education are the least pessimistic about the prospects of their jobs, followed by university graduates and those who graduated from vocational school.

Based on the results of Morikawa's research, it can be understood that 38.8% of workers, mostly male workers, are not afraid of losing their jobs due to AI. This is because the 38.8% of male workers are mostly male workers who have a work ethic and work skills that are very high compared to female workers. The group of people in Japan who are also not afraid of losing their jobs due to AI are highly educated people. The aspect of education is believed by most people in Japan to influence each person's work.²³ Although 38.8% of workers, mostly male workers in Japan, are not afraid of being replaced by AI in the workplace, however, 29.9% of people in Japan are also afraid of losing their jobs due to AI replacing humans in the workplace, and most of these 29.9% work in the public sector, where their roles are most at risk of being replaced by AI. Based on Morikawa's research, it can be concluded that Morikawa's research broadly attempts to analyze the employment risks of computerization in terms of city size and gender. The results found that female workers are exposed to a higher risk of computerization than

²¹*Ibid*, p. 257.

²²Morikawa Masayuki, *Who Are Afraid of Losing Their Jobs to Artificial Intelligence And Robots? Evidence From a Survey*, RIETI Discussion Paper Series 17-E-069, 2017, p. 5-6.

²³*Loc, cit.*

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male workers. Importantly, this impact becomes greater with increasing city size. Furthermore, it was also found that jobs with a high probability of being computerized are, on average, less educated and lower-paid, thus implying that workers need additional human resource investment to obtain jobs with a lower risk of being computerized.

3.2. The Development of Women as Outsourcing Workers in Indonesia and Its Problems

Although normatively there are equal rights between female and male workers, the condition of women in the employment sector in general is still far from expectations, both in terms of quantity and quality. There is still gender inequality in the employment sector between female and male workers. This gender inequality in the employment sector can be seen by looking at the Labor Force Participation Rate (TPAK) of women and men. Data from the Central Statistics Agency shows that there is still a high gap between TPAK based on gender in February 2017. The male TPAK in February 2017 was 83.05%, down compared to the same period last year of 83.46%. The female TPAK was only 55.04%, but increased compared to the same period last year of 52.71%. However, compared to the same period last year, the female TPAK experienced an increase of 2.33% points, while the male TPAK actually experienced a decrease of 0.41% points. As regulated in Article 28D paragraph (2) of the 1945 Constitution, everyone has the right to work and receive fair and proper compensation and treatment in employment relations. How then is the regulation in the law and its implementing regulations? Employment policy in Indonesia is regulated in Law Number 13 of 2003 concerning Employment (Employment Law). Articles 5 and 6 of the Employment Law state that there is equal rights without discrimination between male and female workers in the labor market as follows: Article 5: "Every worker has the same opportunity without discrimination to obtain employment." Article 6: "Every worker/laborer has the right to receive equal treatment without discrimination from employers." Furthermore, the provisions in the Employment Law are regulated in more detail in Government Regulation Number 8 of 1981 concerning Wage Protection (PP Wage Protection). Article 3 of the PP Wage Protection emphasizes that employers in determining wages may not discriminate between male and female workers for work of equal value. Furthermore, in the explanation of Article 3, it is stated that what is meant by not being allowed to discriminate is that the wages and other benefits received by male workers are the same as the wages and other benefits received by female workers for work of equal value. Regarding the guarantee of equal wages between female and male workers, apart from being regulated in Article 11 paragraph (1) letter d of the CEDAW Convention, these provisions are also found in international labor

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conventions that have been ratified by the Indonesian Government, including: Convention No. 100 concerning Equal Remuneration for Men and Women for Work of Equal Value (ratified by Law No. 80 of 1957) and Convention No.111 concerning Discrimination in Employment and Occupation (ratified by Law No. 21 of 1999). Several key issues concerning female workers, in addition to wages and discrimination, include social security, maternity protection, nighttime work, termination of employment, and occupational safety and health. Several of these issues are also regulated in the Employment Law, for example, the prohibition on nighttime work (Article 76); protection of reproductive function (Article 81); and pregnancy protection [Article 82 paragraph (1)]. Specifically regarding protection for female workers, there are several provisions in the constitution, laws, and implementing regulations. The 1945 Constitution states that everyone has the right to work and to receive fair and proper remuneration and treatment in employment. This means that female workers also have the right to receive the same rights as men regarding proper treatment. The Constitution is a form of regulation that protects workers' rights in general. This is regulated in Article 27 and Article 33 of the 1945 Constitution. In addition, the rights of female workers are also regulated in several laws and their implementing regulations, namely:²⁴

- a. Law Number 13 of 2003 concerning Manpower;
- b. Law Number 8 of 1981 concerning Wage Protection;
- c. Regulation of the Minister of Manpower Number 8 Per-04/Men/1989 concerning Conditions for Night Work and Procedures for Employing Female Workers at Night;
- d. Decree of the Minister of Manpower and Transmigration Number Kep. 224/Men/2003 concerning the Obligations of Employers Who Employ Female Workers/Laborers between 23.00 and 07.00.

The disadvantageous bargaining position of female workers then became even more pronounced due to regulations related to outsourcing labor. Outsourcing labor agreements first became legally binding through the regulation of subcontract management in the Indonesian bonded zone in 1989, the issuance of the Decree of the Minister of Trade of the Republic of Indonesia No. 264/KP/1989 concerning Subcontract Management in the Indonesian Bonded Zone made outsourcing labor not only in the mining industry, but all private industrial sectors

²⁴Sali Susiana, "Protection of Women Workers' Rights from a Feminist Perspective," *Aspirasi*, Vol. 8, No. 2, 2017, pp. 8-10.

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at that time gradually also implemented outsourcing labor agreements.²⁵ The legal position of outsourcing workers is increasingly solidified with the existence of Article 64 of Law Number 13 of 2003 concerning Manpower,²⁶ Regarding the term outsourcing in Law Number 13 of 2003 concerning Manpower. However, based on the provisions of Article 64 of Law No. 13 of 2003 concerning Manpower, it is explained that an employment agreement made between employers and workers, where the company can hand over part of the work to another company through a written work contract agreement. Thus, an outsourcing agreement can be equated with a work contract agreement. Furthermore, outsourcing is strengthened by the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia No. Kep.101/Men/VI/2004 of 2004 concerning Procedures for Licensing Companies Providing Worker/Labor Services. Based on the explanation above, outsourcing is permitted to be implemented in Indonesia. However, the freedom to hand over part of the work through outsourcing is limited in several matters, including the requirements for work that can be outsourced and the requirements of the contracting company, as well as the legal consequences for violating these requirements. However, in practice, various problems still often occur, among others due to differences in interpretation of the requirements for work that can be done by outsourcing. These differences in interpretation are sometimes based on the interests of the parties involved in the outsourcing issue. In 2014, Minister of Manpower Regulation No. 27 of 2014 concerning Amendments to the Regulation of the Minister of Manpower and Transmigration Number 19 of 2012 concerning the Conditions for Submitting Part of the Implementation of Work to Other Companies. This regulation has not been implemented well, as indicated by one of the workers' demands, namely the demand for the elimination of outsourcing, especially outsourcing in BUMN and the appointment of all outsourced workers as permanent workers.²⁷

Minister of Manpower Regulation No. 27 of 2014 concerning Amendments to the Regulation of the Minister of Manpower and Transmigration Number 19 of 2012 concerning the Conditions for Submitting Part of the Implementation of Work to Other Companies in 2019, which was then replaced with Minister of Manpower Regulation No. 11 of 2019 concerning the Second Amendment to the Regulation of the Minister of Manpower Number 19 of 2012 concerning the Conditions for Submitting Part of the Implementation of Work to Other Companies. Even though

²⁵Loc, cit.

²⁶Wafda Vivid Izziyana, Outsourcing Law in Indonesia, Unmuh Ponorogo Press, Ponorogo, 2018, p. 2.

²⁷Rony Adolof Buol, These are the Ten Demands of Workers on May Day 2014, accessed via <https://nasional.kompas.com/read/2014/05/01/0823038/Ini.Sepuluh.Tuntutan.Buruh.pada.May.Day.2014>, on May 12, 2026.



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Minister of Manpower Regulation No. 11 of 2019 concerning the Second Amendment to the Regulation of the Minister of Manpower Number 19 of 2012 concerning the Conditions for the Submission of Part of the Implementation of Work to Other Companies was born as a new legal product, however the problem of violations of the rights of outsourced workers has not ended, this can be seen in Case Number 171/PDT.sus/PHI.bdg/2019 between Gito Martono et al. who are members of FSP PPMI SPSI (Federation of Printing, Publishing and Information Media Workers Unions of All Indonesia) against PT. Jasa Marga (Persero) and Jasa Marga Bhakti VI Cooperative Bandung. At first glance, this case looks like an Industrial relations dispute that is routinely tried at the PHI of Bandung City, but for outsourced workers the lawsuit process in court is a phase of proving the truth after years of struggling with complex matters in an effort to demand justice in the unilateral layoffs carried out by PT. Jasa Marga. Gito Martono (Paramedic), Usep Sepudin (Toll Gate Officer), and Asep Deni (Toll Gate Officer) workers are PT. Jasa Marga laborers who have been employed outsourced for more than 10 years. The struggle of the outsourced workers began together with friends from FSP-PPMI-SPSI (Federation of Printing, Publishing and Information Media Workers Union, All Indonesia Workers Union) since November 2013. At that time, at PT. Jasa Marga, there was a unilateral layoff through a circular letter posted at each workplace with the reason of a change in the outsourcing vendor company so that the workers were considered dismissed and had to reapply to the new outsourcing company. The circular letter then affected 57 outsourced workers at PT Jasa Marga Purbaleunyi Bandung toll branch, followed by hundreds of Jasa Marga outsourced workers in other branches such as Jakarta-Cikampek and Jagorawi.²⁸

The policy regarding outsourcing workers was then strengthened again in 2020 with the enactment of the Job Creation Law, namely Law Number 11 of 2020. Law Number 11 of 2020 concerning Job Creation contains several provisions regarding outsourcing that were removed, including Article 64, Article 65, and Article 66 of Law Number 13 of 2003 concerning Manpower. Article 66 of Law Number 11 of 2020 concerning Job Creation in reality does not include restrictions on jobs that are prohibited from being carried out by workers with an outsourcing system. This clearly opens up the possibility for Labor Service Provider companies to employ workers for various tasks that are not regulated in Law Number 11 of 2020 concerning Job Creation. In fact, Article 65 paragraph (2) of Law Number 13 of 2003 concerning Manpower previously regulated work that can be outsourced to other companies that must meet the requirements, namely being carried out

²⁸Bandung Legal Aid Institute, Exposing Inhumane Outsourcing Practices in State-Owned Enterprises Must Continue, Press Release, accessed through <http://www.lbhbandung.or.id/mengungkap-praktik-kerja-outsourcing-yang-tidak-manusiawi-di-perusahaan-bumn-harus-terus-dilakukan/#>, on May 12, 2026.

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separately from the main activity; The work is carried out under direct or indirect orders from the employer; is a supporting activity for the company as a whole; and does not directly impede the production process. This provision also allows for an unlimited time limit for outsourced workers, even for life. This provision certainly allows companies to employ outsourced workers in all lines of work. This would impact the free use of outsourced workers if there were no rules or regulations derived from Law Number 11 of 2020 concerning Job Creation. Outsourced workers can also be used to carry out core activities or activities related to the production process, meaning that all types of work can use a Labor Service Provider (PJP) company.²⁹

3.3. Reorientation of Pancasila Values in the Issue of the Status of Outsourced Workers in the Era of Industrialization 5.0

Based on various explanations related to the problems in the legal policy of outsourcing workers as described above, the author can divide several legal problems of outsourcing workers into:

Table: Issues in the Legal Politics of Outsourcing Workers

No	Problem Aspects	Form of the Problem	Information
1	The problem of the capabilities of the outsourcing worker ecosystem in facing the industrialization era 5.0.	a. The lack of human resources for outsourcing workers in the technology sector and work skills born in the digital era. b. Lack of company support for efforts to develop outsourced human resources in the digital work system sector. c. The reality is that some outsourced workers whose roles can be replaced by artificial intelligence and computers and robots	In this regard, it's clear that Indonesia is still lagging behind in terms of human resources for outsourced workers. Consequently, the changes brought about by globalization and the Industrial Revolution 5.0 era have resulted in rising unemployment due to the replacement of human labor by machines and artificial intelligence.

²⁹Wiwin Budi Pratiwi and Devi Andani, "Legal Protection of Workers with the Outsourcing System in Indonesia", *Ius Quai Iustum*, Volume 29, Issue 3, 2022, p. 655.

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		have been replaced in the world of work.	
2	The problem of the absence of protection for the rights of outsourced workers in existing legal policies.	a. The absence of the threat of sanctions in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives against Worker Provider Companies and Outsourcing Service User Companies that do not guarantee and fulfill the rights and welfare of outsourced workers; b. The absence of clear work limitations and time limits in terms of implementing the use of outsourcing worker services both in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives; c. There is no guarantee that the company using outsourced employee services must appoint outsourced employees permanently because outsourced employees legally enter into a permanent work agreement with the company providing temporary workers, while the company using outsourced employee services only has a temporary outsourcing work contract agreement; d. As well as the compliance with control or supervision	The absence of the threat of sanctions in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives against Worker Provider Companies and Outsourcing Service User Companies that do not guarantee and fulfill the rights and welfare of outsourced workers, the absence of clear work limitations and time limits in terms of implementing the use of outsourced worker services both in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives; There is no guarantee that companies using outsourced employee services must hire outsourced employees permanently because outsourced employees legally enter into a permanent employment agreement with the company providing temporary workers, while the company using outsourced employee services only has a temporary outsourcing work contract agreement. The lack of control or supervision regarding the use of outsourced employees Number 13 of 2003 and Law Number 11 of 2020 and its derivatives. It has clearly shown that the current practice of regulating outsourced workers is more like slavery, this is due to the absence of a mechanism oriented towards the future of workers' careers.

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		regarding the use of outsourcing employees Number 13 of 2003 and Law Number 11 of 2020 and its derivatives.	
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The various weaknesses mentioned above demonstrate that the legal policy surrounding the use of outsourced workers has a significant potential to create slavery due to competition and unequal legal regulations between workers and companies. This situation clearly contradicts the humanitarian values universally recognized by everyone and specifically crystallized in Pancasila. This inconsistency can be observed in the conflict between the implementation of outsourced labor agreements and the Preamble to Law Number 11 of 2020 concerning Job Creation, letters (a) and (b), which state:

- a. That in order to realize the objectives of establishing the Government of the State of Indonesia and to create a prosperous, just and prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the State needs to make various efforts to fulfill the rights of citizens to work and a decent living for humanity through job creation;
- b. It is hoped that job creation will be able to absorb as much of Indonesia's workforce as possible amidst increasingly competitive competition and the demands of economic globalization.

This clearly contradicts the principles of Job Creation as stipulated in Article 2 of Law Number 11 of 2020 concerning Job Creation, which include equal rights, legal certainty, ease of doing business, togetherness, and independence. Universal humanitarian values mean that all humans are equal. There should be no discrimination based on any differences between humans. The nation's noble values, which oppose all forms of exploitation, both exploitation of humans by humans and exploitation of nations by nations, are enshrined in the preamble to the 1945 Constitution. These values have proven to be able to ignite the spirit of resistance against colonialism. Legally, this humanitarian spirit underlies the Indonesian nation's struggle for independence. In the preamble to the 1945 Constitution, the first paragraph states, "That independence is the right of all nations and therefore, colonialism in the world must be abolished, as it is not in accordance with humanity and justice," which is legal proof that this country is based on the principles of just and civilized humanity. Pancasila, which is built on the principle of Bhineka Tunggal Ika, in reality hopes for balance through the realization of national and state life that is able to realize a life that is based

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onprotection, humanity, family, archipelago, unity in diversity, justice, equality before the law and government, order and legal certainty and/or balance, harmony and alignment.³⁰The various legal distortions in the regulation of the workforce above clearly show that there has been a disorientation of Pancasila values withinThe issue of the position of outsourced workers in the era of industrialization 5.0. Pancasila, which upholds humanitarian values, has been replaced by capitalist values in the world of employment. Employment law policies have never seriously regulated the concept of protecting the rights and guaranteeing the career position of outsourced workers, this has been clearly narrated in the explanation above.

4. Conclusion

The political legal issues of outsourced female workers are in the form of the absence of threats of sanctions in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives against Worker Provider Companies and Outsourcing Service User Companies that do not guarantee and fulfill the rights and welfare of outsourced workers, the absence of clear work limitations and time limits in terms of implementing the use of outsourced worker services both in Law Number 13 of 2003 and Law Number 11 of 2020 and its derivatives, the absence of a guarantee of the obligation of outsourced employee service users to appoint permanent outsourced employees because outsourced employees legally enter into a permanent work agreement with the temporary worker provider company with the outsourced employee service user company only a temporary outsourcing work contract agreement, as well as the absence of control or supervision regarding the use of outsourced employees Number 13 of 2003 and Law Number 11 of 2020 and its derivatives. The practice of outsourcing labor agreements in Indonesia has, in reality, departed significantly from the mandate of Pancasila, particularly regarding respect for humanitarian values and equality through the implementation of equitable legal policies for outsourcing labor. This situation is further exacerbated by the absence of a concept of outsourcing worker protection that aligns with legal progress in the digital era and Industrialization 5.0, which is increasingly developing and bringing free market competition at the local and regional levels through digital technology. This situation can clearly result in a disadvantaged position for female workers.

³⁰Compilation Team, *Pancasila Towards a Century of Independence*, University of Jember, Jember, pp. 75-77.



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