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LEGAL REFORM OF DIPLOMA DETENTION IN INDONESIAN INDUSTRIAL RELATIONS: BALANCING CONTRACTUAL FREEDOM AND FUNDAMENTAL RIGHTS

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ABSTRACT

The practice of employers withholding workers' educational diplomas has emerged as a significant labour law issue in Indonesia due to the absence of explicit statutory regulation governing the practice. This study examines the regulatory vacuum, its implications for workers' fundamental rights, and the consistency of judicial responses to disputes concerning diploma detention. Using normative legal research with statutory and case approaches, the study analyses relevant legislation and 29 Indonesian court decisions involving civil and industrial relations disputes. The findings reveal that the current legal framework fails to provide adequate legal certainty, resulting in inconsistent judicial decisions. While many courts classify diploma detention as an unlawful act and prioritise substantive justice and worker protection, others rely on procedural formalities or contractual freedom to reject workers'

claims. The recent Minister of Manpower Circular Letter prohibiting diploma detention represents an important policy development but lacks the binding authority of statutory law. This study recommends amending the Manpower Law to explicitly prohibit diploma detention and introduce enforceable administrative and criminal sanctions in order to strengthen legal certainty, judicial consistency, and the protection of workers' fundamental rights.

1. Introduction

The issue of withholding workers' diplomas has recently become a significant employment concern in Indonesia, extending beyond usual civil disputes and capturing considerable attention from public authorities. Government intervention in localized labor disputes frequently underscores the critical role of the state in enforcing equitable labor standards and protecting vulnerable workforces from exploitative practices.[1] This widespread worry was sparked by specific cases in companies, such as in Surabaya, which required direct intervention from executive officials. Notably, the Deputy Minister of Manpower and the Deputy Mayor of Surabaya reportedly intervened directly at the company's premises to mediate and resolve the dispute over the return of the diploma.[2] The problem of withholding workers' diplomas may be seen as a critical issue requiring a comprehensive solution. The practice of withholding workers' diplomas is quite unique and uncommon in other countries.

Every individual is entitled to decent work as a fundamental human right, acknowledged within numerous national and international legal frameworks, including the Universal Declaration of Human Rights (UDHR), the European Social Charter (ESC), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[3] The global consensus on decent work establishes that safe, fair, and dignified employment is a foundational pillar for sustainable socioeconomic development and psychological well-being.[4] This guarantees everyone the

[1] Janice Fine., Enforcing Labor Standards in Partnership with Civil Society: Can Co-Enforcement Succeed Where the State Alone Has Failed? *Politics and Society,* Vol.45, no.3, 2017, page.454. See too, Andrew B. Wolf., The Fight to Globalize Labor: Understanding the Role of Activists in the Spread of International Norms, *Law and Society Review,* Vol.54, no.3, 2020, page.607.

[2] Teuku Muhammad., Sidak Penahanan Ijazah, Wamenaker Marah Dengar Bos Hina Karyawan, *Kompas.Com*, 17 June, 2025. See too, Yudono Yanuar., Soal Ijazah Ditahan: Wamenaker Gagal, Khofifah Beri Jalan. *PT Tempo Inti Media*, April 21, 2025.

[3] Gráinne De Búrca, Bruno de Witte, and Larissa Ogertschnig., *Social Rights in Europe,* Britania Raya, Oxford University Press, 2005, page.21. Susan Magasi, Denise M. Nepveux, and Aimée Thompson., Social Justice and the Older Worker, In *Work and the Older Person*, New York: Routledge, 2024, page.39.

[4] José María Peiró, Christoph Steinebach, Lori Foster, Santo Di Nuovo, Giuseppe Carrus, Germán Gutiérrez, and Annamaria Di Fabio., Decent Work, Decent Lives, and Healthy Lives for Sustainable Development. *Australian Journal of Career Development* Vol.34, no.3, 2025, page.216. See too, Erica Di Ruggiero, Joanna E. Cohen, Donald C. Cole, and Lisa Forman.,

opportunity to participate in the labour market and contribute benefits to society, which is essential for ensuring a good quality of life basic right.[5]

In the context of labour relations in Indonesia, there is often an imbalance of power between workers and employers, with employers holding a stronger bargaining position.[6] Structural power asymmetries in the labor market frequently enable employers to impose restrictive or coercive conditions that disproportionately disadvantage job seekers and limit their socio-economic mobility.[7] This imbalance is frequently reflected in work requirements, one of which is the obligation for workers to submit their educational diplomas as collateral. While this practice aims to ensure that employees continue to work according to the agreement, it often causes discomfort for workers and is seen as a violation of human rights and Indonesian Labour Law.[8] An educational diploma is a significant document for workers; without it, they can face difficulties securing another job or proving their qualifications.[9]

Withholding a diploma by a company or other party without a clear legal reason is a forbidden action and can infringe on workers' fundamental rights. Although some companies argue that withholding diplomas as a guarantee for the performance of employment contracts, this action is considered a violation of the right to

Competing Conceptualizations of Decent Work at the Intersection Ofhealth, Social and Economic Discourses, *Social Science and Medicine* Vol.133, 2015, page.120.

[5] Manuel C. Branco., Economics for the Right to Work, *International Labour Review,* Vol.158, no.1, 2019, page.69. See too, Nicolas Bueno., From the Right to Work to Freedom from Work: Introduction to the Human Economy, *International Journal of Comparative Labour Law and Industrial Relations,* Vol.33, no.4, 2017, page.463; Robert Kudakwashe Chigangaidze., A Call for a New Perspective in Social Work and Health Care: The Developmental-Clinical Social Work Perspective, COVID-19 Pandemic through the Human Rights Perspective, *Social Work in Health Care*, 2022, page.11; Paolo Conigliaro., Decent Work Principles and Job Quality Criteria to Improve Sustainable and Equitable Well-Being, *Essentials*, 2019, page.333; Fang Lee Cooke, Jiuping Xu, and Huimin Bian., The Prospect of Decent Work, Decent Industrial Relations and Decent Social Relations in China: Towards a Multi-Level and Multi-Disciplinary Approach, *The International Journal of Human Resource Management,* Vol.30, no.1, 2019, page.122; Guy Davidov, Brian Langille, and Gillian Lester., *The Oxford Handbook of the Law of Work, Britania Raya*, Oxford University Press, 2024, page.24; Andrés Sebastián Ibarra González, Nelly Alexandra Verdezoto Aguiar, Erika Priscila Cahuasqui Molina, and Fátima del Rocío Núnez Aguiar., Job Stability and Its Constitutional Dimension, Presentation of Cases from the Decentralized Autonomous Government of Guaranda,Ecuador, *Salud, Ciencia y Tecnología,* no.5, 2025, page.1614; Susan Mapp, Jane McPherson, David Androff, and Shirley Gatenio Gabel., Social Work Is a Human Rights Profession, *Social Work,* Vol.64, no.3, 2019, page.259; Abel Neptali., El Trabajo Digno: Un Desafío Jurídico Para Los Trabajadores En La Economía Informal, *Revista Latinoamericana de Derecho Social*, 2024, page.205; Susanti Saragih, Henndy Ginting, Jann Tjakraatmadja, and Andika Putra Pratama., Decent Work in the Digital Context: Scale Development and Validation, *Business Strategy & Development,* Vol.8, no.1, 2025, page.34.

[6] William Hein., Structural Labor Right, *Michigan Law Review*, 2021, page.651.

[7] Richard A. Benton, and Ki-Jung Kim., The Dependency Structure of Bad Jobs: How Market Constraint Undermines Job Quality, *ILR Review,* Vol.75, no.1, 2022, page.121.

[8] Indra Afrita., Workers Protection in Working Agreements: A Case of Employee's Diploma Certificate on Company's Custody as a Warranty, *IOP Conference Series Earth and Environmental Science,* 175, 2018.

[9] Martin Neugebauer, and Annabell Daniel., Higher Education Non-Completion, Employers, and Labor Market Integration: Experimental Evidence, *Social Science Research,* Vol.105, 2022, page.23.

personal identity and freedom of work. To date, there are no strict provisions allowing companies to detain diplomas.[10] The regulation that expressly addresses the prohibition and sanctions against the detention of diplomas in employment relationships remains a problem. The Government, through the Minister of Manpower, is working to resolve the issue of withholding workers' diplomas with the aim of protecting workers/labourers. To facilitate this, the Government issued a Circular Letter (SE) of the Minister of Manpower regarding the prohibition of the detention of diplomas in employment relations, Circular Letter of the Minister of Manpower Number M/5/HK. 04. 00/v/2025, which specifically prohibits employers from retaining the diplomas and personal documents of workers/labourers. Although Law 13 of 2003 does not explicitly regulate the prohibition of detention of diplomas, such practices are viewed as violations of the principles of freedom of work and equality of rights.

Companies in Indonesia frequently withhold diplomas, leading to legal complications because there is no specific law or regulation that explicitly prohibits or supports this practice.[11] When legislative voids exist, judicial inconsistency in labor dispute resolution can severely undermine legal certainty and disproportionately harm workers seeking redress.[12] This lack of clear regulation has led to a range of considerations and rulings in disputes over the detention of workers' diplomas decided by courts in Indonesia. Court decisions, both in civil courts and industrial relations courts (PHI), show significant differences in either granting or rejecting demands for the return of diplomas, with some cases even ruling lawsuits inadmissible due to formalities. This ambiguity and inconsistency create legal uncertainty and may harm workers.

This research is highly important because the effective enforcement of labour laws and standards is essential to ensure that decent work principles are upheld[13], and correcting unclear legal products is crucial to protecting parties who require legal safeguarding.[14] Specifically, this analysis examines how court decisions on the detention of workers' diplomas can provide consistent legal protection in

[10] Didiek Wahju Indarta, Lailatul Mutmainnah, and Cindy Swastika Rahmania., Holding Employee Diplomas: Legal Implications and Workers' Rights Concerns, *Jurnal Al-Dustur,* Vol.8, no.1, 2025, page.75.

[11] Sinda Eria Ayuni, Sudarsono, and Tunggul Anshari., Kewenangan Pemerintah Daerah Dalam Pengaturan Larangan Penahanan Atau Penyimpanan Dokumen Asli Pekerja Oleh Pengusaha, *Legality: Jurnal Ilmiah Hukum,* Vol.27, no.1, 2019, page.115.

[12] Roman Vandzhurak, Nataliia Kushakova-Kostytska, Olga Balynska, Oleg Pankevych, and Iryna Nastasak., Socio-Legal Phenomenon of Judicial Reasoning in the Context of the Implementation of a Functional State, *Social and Legal Studios,* Vol.8, no.2, 2025, page.108.

[13] Agung Wibowo Purnomo Panotogomo, and Sugeng Hadi Poernomo., Perlindungan Hukum Pada Hubungan Kerja Penahanan Ijazah Sebagai Objek Jaminan Antara Perusahaan Dan Pekerja, *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance,* Vol.2, no.1, 2022; page.55.

[14] M., S. Yuniza, Gabriella Wijayawati, M. Triatmodjo Agustina Merdekawati, and S. Sangadji., An Ill Energy Transition Martyr: A Socio-Economic-Legal Critic of Indonesia's Early Coal Power Plant Retirement, *Carbon & Climate Law Review,* Vol.18, no.4, 2025, page.353.

Indonesia, with a scope that includes a review of relevant civil and employment law frameworks. By examining these cases and the applicable legal frameworks, this research is expected to address gaps in uniformity and law enforcement.[15] The primary objective of strengthening the Legal Framework through Legislative Reform is to propose specific reforms and optimal arrangements that prevent the detention of workers' diplomas in Indonesia.

In order to address the gaps in uniformity and law enforcement, this study is guided by the following research questions:

RQ1: What are the human rights implications and the current regulatory vacuum regarding the detention of workers' diplomas in Indonesian employment relations?

RQ2: How do Indonesian courts adjudicate disputes over the return of withheld diplomas, and what factors contribute to the inconsistencies in these judicial decisions?

RQ3: What specific legislative reforms are necessary to strengthen the legal framework and effectively prevent the detention of workers' diplomas?

2. Research Methods

This study uses a normative legal research method based on two main approaches, as outlined by Abu Achmadi & Cholid Narbuko[16]: the Statutory Approach and the Case Approach, to analyse issues concerning workers' rights in cases of diploma detention within Indonesian Labour Relations. Normative legal research focuses on examining legal norms, principles, doctrines, legislation, and judicial decisions to evaluate the existing legal framework and its implications for resolving legal issues through secondary legal materials.[17] The first method, the Statutory Approach, involves analysing relevant Indonesian laws and regulations governing labour relations and worker protection, including the Labour Law and its derivative regulations. This approach also reviews universal human rights principles pertinent to workers' rights and their application within Indonesian law. The second method, the Case Approach, examines specific cases related to diploma detention that have been adjudicated by courts in Indonesia, including both civil and industrial relations courts. This approach aims to identify patterns of judicial reasoning, evaluate the consistency of judicial decisions, and assess how courts balance contractual

[15] Hari Triasmono, Yovita Arie Mangesti, Ferry Irawan Febriansyah, Richard Tomlins, and Nazli Bin., Legal Reforms for Preventing Employer Abuse: Crafting a Socially Just Employment Law Framework, *Journal of Law and Legal Reform,* Vol.5, no.3, 2024, page.1331.

[16] Abu Achmadi and Narbuko Cholid, *Metodologi Penelitian* (Jakarta: Bumi Aksara, 2013), page.23.

[17] Achmad Irwan Hamzani, Tiyas Vika Widyastuti, Nur Khasanah, and Mohd Hazmi Mohd Rusli., Implementation Approach in Legal Research, *International Journal of Advances in Applied Sciences,* Vol.13, no.2, 2024, page.380. See too, Nispul Khoiri., The Position of Negeri Serdang Sultanate (1865-1946) Towards Islamic Legal Development, *Miqot: Jurnal Ilmu-Ilmu Keislaman,* Vol.46, no.2, 2022, page.188; Tanto Lailam, Putri Anggia, and Nita Andrianti., The german federal constitutional court approaches proportionality analysis as a legal reasoning method to decide involving competing rights cases, *Petita: Jurnal Kajian Ilmu Hukum dan Syariah,* Vol.8, no.2, 2023, page.23; Bianca Steffes, and Diogo Sasdelli., A legal visualisation tool using normative diagrams, In *Legal Knowledge and Information Systems: JURIX 2024: The Thirty-seventh Annual Conference, Brno, Czech Republic, 11-13 December 2024*, 1 Oliver's Yard, 55 City Road, London, EC1Y 1SP: SAGE Publications, 2024, page.395.

freedom with the protection of workers' fundamental rights in resolving diploma detention disputes.

Data collection is through library research as described by Waluyo (1996), encompassing primary legal materials such as laws and regulations from Indonesia, alongside secondary legal sources like expert opinions, books, academic articles from reputable international journals (e.g., those accessible via Scopus and JSTOR), government reports, legal documents, court cases, and relevant case studies. The study primarily relies on legal materials published within the last ten years, while earlier sources are included where they remain doctrinally relevant. A total of 29 court decisions were selected purposively based on three criteria: (1) the dispute directly concerned the withholding or restitution of workers' diplomas; (2) the decisions were issued by Indonesian civil courts, industrial relations courts, appellate courts, or the Supreme Court; and (3) the judgments contained substantive legal reasoning regarding the legality of diploma detention or workers' entitlement to diploma restitution. Final decisions at the Cassation level are also included, as they possess the authority of *res judicata*. The analysis yielded 20 decisions from the Supreme Court granting workers' demands for diploma restitution; 2 rulings declared the lawsuit inadmissible due to procedural flaws; and 7 decisions rejected the plaintiff's lawsuit/demands. The 29 judgments analysed provide insights into the diversity of decisions concerning diploma retention in Indonesian employment law.

3. Results and Discussion

3.1. The Regulatory Vacuum and Human Rights Implications

The detention of workers' diplomas is widely recognised as a fundamental violation of human rights. This practice turns professional relationships into coercive ones, diminishes human dignity, and inhibits the socio-economic mobility of workers. Several articles in the Human Rights Act (Human Rights Law) and the 1945 Constitution are clearly violated by the practice of holding diplomas.

Table 1. Summary of Human Rights Violations Due to Degree Detention

Violated Human Rights Principles/Articles	Legal Resources	Description of Violations Due to Diploma Detention
The right to live, to defend life, and to improve one's standard of living.	Article 9, paragraph (1) of the Human Rights Law	Diploma withholding restricts workers from finding other jobs that are more feasible for their well-being, hindering career advancement and quality of life.[18]

[18] Agung Wibowo Purnomo Panotogomo, and Sugeng Hadi Poernomo., Perlindungan Hukum Pada Hubungan Kerja Penahanan Ijazah Sebagai Objek Jaminan Antara Perusahaan Dan Pekerja, *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance,* Vol.2, no.1, 2022; page.56.

Violated Human Rights Principles/Articles	Legal Resources	Description of Violations Due to Diploma Detention
The right to self-improvement, training, and education guarantees	Article 12 of the Human Rights Law	Workers whose diplomas are withheld lose the opportunity to continue their education or attend training that requires original documents, thus hindering self-development.[19]
The right to freely choose preferred employment and on fair employment conditions	Article 38, paragraph (2) of the Human Rights Law	The detention of diplomas deprives workers of the freedom to select a job that matches their desires and skills, and compels them to accept less-than-ideal working conditions (State Civil Service Agency.[20]
The right to ownership of legally acquired assets (principle of non-deprivation of property)	Constitutional Rights	Diplomas are private property. Withholding this document without a valid legal reason violates "the principle of non-deprivation of property without due process".
The right to be free from discriminatory treatment	Article 28D paragraph (2) of the 1945 Constitution, Article 28I paragraph (2) of the 1945 Constitution	Withholding diplomas can lead to discriminatory treatment of workers, particularly those in vulnerable positions, who are compelled to hand over their personal documents as a condition of employment.

This practice is often referred to as "employee hostage" carried out by employers. This causes employees to feel forced to follow the regulations made by employers without thinking about their rights, because diplomas are used as a guarantee so that employees do not run away or secretly stop working. Diploma detention is not just a civil or employment problem, but a fundamental human rights violation. This action directly reduces workers to objects whose rights are restrained, transforming work relationships that are supposed to be professional in nature into coercive ones. This degrades human dignity and significantly hinders the socio-economic mobility of workers by restricting their access to new employment opportunities and further education.[21] Therefore, any applicable legal framework

[19] Agung Wibowo Purnomo Panotogomo, and Sugeng Hadi Poernomo., Perlindungan Hukum Pada Hubungan Kerja Penahanan Ijazah Sebagai Objek Jaminan Antara Perusahaan Dan Pekerja, *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance,* Vol.2, no.1, 2022; page.57.

[20] Badan Kepegawaian Negara (BKN)., Undang-Undang Republik Indonesia Nomor 39 Tahun 1999, 1999.

[21] Mala Nurseha, Trini Handayani, and Aji Mulyana., Perlindungan Hak Pekerja Terhadap Tindakan Penahanan Ijazah Oleh Perusahaan Sebagai Pelanggaran Hubungan Industrial, *Indonesian Journal of Law and Justice,* Vol.2, no.4, 2025, page.12.

must prioritize human rights principles over rigid contractual formalities, in order to ensure justice and respect for the dignity of workers.

The following is a summary of the relevant Indonesian legal rules regarding companies holding a diploma in an employment relationship. Although there are no rules that explicitly prohibit such practices, some existing legal provisions can be interpreted as contradictory to the detention of diplomas because they violate the principles of fairness, protection of workers' rights, and healthy freedom of contract. The following table presents these rules in a systematic manner:

Table 2. Relevant Legal Rules in Indonesia regarding the Practice of Diploma Detention

No.	Regulation	Article / Principle	Contents	Relevance
1	Civil Code	Article 1320	Valid terms of the agreement: agreement, competence, specific object, halal reason.	A degree detention agreement is flawed when made without complete freedom.
2	Civil Code	Article 1338	The basis of freedom of contract: Obligatory agreement to be executed in good faith.	Invalid if it causes injustice or coercion.
3	Law No. 13 of 2003 (Manpower)	Article 5	Workers' rights to fair and non-discriminatory treatment, including the right to personal documents.	Withholding a diploma violates workers' personal rights.
4	Law No. 13 of 2003 (Manpower)	Article 31	Prohibition of forced labour and restrictions on workers' freedom.	Degree withholding is considered an indirect form of forced labour
5	Law No. 13 of 2003 (Manpower)	Article 62	Compensation for the party that terminates the unilateral employment relationship.	Withhold the diploma as collateral for the company does not necessary.
6	Law No. 6 of 2023 (Job Creation)	-	Strengthening a conducive work climate, worker protection, and legal certainty.	Fostering healthy and fair industrial relations.

Based on existing regulations, the detention of workers' diplomas lacks a clear legal foundation in Indonesian law. Generally, agreements regarding the withholding of diplomas may conflict with the principle of freedom of contract

(Article 1338 of the Civil Code) if made under conditions of power imbalance. Furthermore, the Labour Law affirms the protection of workers' rights, including the prohibition of forced labour and discriminatory treatment, which implicitly forbids the practice of withholding personal documents such as diplomas. This legal gap should be addressed by recognising principles of justice and civil law that emphasise equality of parties. Consequently, withholding a diploma should be regarded as a violation of workers' rights, even if it is not explicitly outlawed. An important development is the issuance of the Circular Letter (SE) of the Minister of Manpower Number M/5/HK.04.00/V/2025 on 20 May 2025. This circular explicitly prohibits employers from withholding workers' diplomas and other personal documents. The SE is seen as a "strong signal" that practices that harm workers, although previously widespread, are no longer acceptable in a healthy and fair working environment. The SE prohibits detention of diplomas and other personal documents, including certificates of competence, passports, birth certificates, marriage certificates, and Motor Vehicle Owner's Books (BPKB). Exceptions are allowed only if the diploma or competency certificate earned through company-funded education or training, with a legal written agreement and security guarantee for document return. If damaged or lost, the company must compensate.[22]

The Minister of Manpower has announced plans to include the prohibition of diploma detention points into the latest Manpower Law (Naker Law).[23] This will follow the issuance of a Ministerial Regulation (Permenaker) on the same matter, with the ultimate goal of producing a "shared product" in the new Manpower Law. This commitment aims to provide stronger and permanent legal protection against these harmful practices. The Deputy Minister of Manpower has stated that the detention of diplomas is illegal and is a "serious offence" as well as a "criminal practice" that the state will not tolerate.[24] Violations of the Circular Letter may lead to administrative sanctions and legal action, in accordance with applicable laws.[25] The case of UD Sentoso Seal shows that entrepreneurs can face criminal charges, especially for embezzlement (Article 372 of the Criminal Code), for illegally withholding diplomas. The Ombudsman of the Republic of Indonesia also advocates "strict and explicit regulations that provide a deterrent effect". Companies should move away from coercive practices such as diploma withholding and instead focus on positive retention strategies.[26] These include competitive compensation, transparent communication, career growth opportunities, recognition, a positive work environment, employee upskilling, effective onboarding, and work-life balance. As supervision, the government is also initiating

[22] Yudono Yanuar., Soal Ijazah Ditahan: Wamenaker Gagal, Khofifah Beri Jalan. *PT Tempo Inti Media*, April 21, 2025.

[23] KumparanBISNIS., Menaker Akan Tambahkan Poin Larangan Tahan Ijazah Pekerja Ke UU Ketenagakerjaan, *KumparanBISNIS*, May 20, 2025.

[24] Mus Purmadani., Wamenaker Tegaskan Penahanan Ijazah Karyawan Adalah Tindakan Ilegal, Ada Sanksi Untuk Perusahaan, *Radar Surabaya*, July 16, 2025.

[25] Warens Law., Larangan Perusahaan Untuk Menahan Ijazah Atau Dokumen Pribadi, *Warens & Partners*, June 20, 2025.

[26] Deepti Sinha, Sachin Sinha, and Shreya Jain., Decoding the Alchemy of Employee Retention, *Advances in Human Resources Management and Organizational Development Book Series*, 2024, page.78.

measures to carry out oversight by imposing administrative sanctions and legal actions, in accordance with applicable laws and regulations. The issuance of the SE of the Minister of Manpower marks a shift in policy paradigm from a passive or formalistic approach to explicit recognition of violations of workers' rights and human rights. Although this SE does not yet have the legal force equivalent of a statute, it creates a strong normative basis for law enforcement and raises public awareness.

The Labour Law does not explicitly regulate the prohibition of withholding diplomas in employment relations; as a result, the practice of employers or companies withholding workers' diplomas continues. The Ministerial Circular represents an important policy response but lacks legally binding force because it is not included within Indonesia's hierarchy of legislation. Consequently, it cannot provide sufficient legal certainty regarding diploma detention. The regulation on the prohibition of the detention of diplomas that are not specifically regulated or not clearly stated in the Manpower Law, namely Law Number 13 of 2003 and its amendments in Law Number 6 of 2023, it is important to strengthen the legal framework by including provisions on the prohibition of the detention of workers' diplomas accompanied by sanctions for violations in the Manpower Law. The absence of statutory regulation shifts excessive discretion to employers and judges, allowing contractual freedom to prevail over worker protection. This situation creates legal uncertainty because identical disputes may receive different legal treatment despite involving substantially similar facts.

Legislative amendment is therefore necessary because policy instruments alone cannot eliminate judicial inconsistency or guarantee effective enforcement. Incorporating explicit statutory prohibitions would provide stronger legal certainty and reduce reliance on judicial interpretation. Provisions on the prohibition of the detention of diplomas can be added in Law Number 13 of 2003 in Chapter IX Employment Relations added in Article 55 as paragraph (2) with the principal arrangement being: Employment Agreements are prohibited from being made with the condition of handing/withholding the diploma of workers/laborers. Violations of the provisions of diploma detention can be added in Chapter XVI of Criminal Provisions and Administrative Sanctions in Article 185 in the form of criminal sanctions of imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine ranging from Rp. 100,000,000.00 (one hundred million rupiah) to Rp. 400,000,000.00 (four hundred million rupiah).

3.2. Analysis of Court Decisions Against Workers' Diploma Return Demands

Analysis of twenty-nine judicial decisions demonstrates three distinct patterns of judicial responses: decisions granting workers' claims, decisions rejecting the claims, and decisions declaring the lawsuits inadmissible on procedural grounds. These patterns indicate that judicial protection against diploma detention remains inconsistent. Case Decision Number 13/Pdt.Sus-PHI/2019/PN.Tte jo. Number 583/K/Pdt.Sus/2020/PHI (2020) illustrates the judicial uncertainty surrounding

disputes over diploma detention in Indonesia. Together with the UD Sentoso Seal case in Surabaya, where the employer was prosecuted for embezzlement after unlawfully withholding 108 workers' diplomas,[27] these cases demonstrate that diploma detention may give rise to both civil and criminal liability.[28] The analysis of judicial decisions further reveals divergent approaches adopted by Indonesian courts. Decisions favouring workers generally recognize diploma detention as an unlawful act that violates workers' property rights and prioritise substantive justice over contractual clauses, [29] whereas decisions rejecting workers' claims tend to rely on procedural formalities or the principle of freedom of contract without adequately considering the structural imbalance of bargaining power between employers and workers.[30] This divergence reflects the absence of explicit statutory regulation governing diploma detention, leaving judges to interpret similar disputes differently and consequently undermining legal certainty and the effective protection of workers' fundamental rights. [31]

[27] Direktori Putusan Mahkamah Agung Republik Indonesia., Ganti Rugi, *Direktori Putusan Mahkamah Agung Republik Indonesia,* 2021.

[28] Ambrosius Harto Manumoyoso., UD Sentoso Seal Akhirnya Serahkan Dokumen Eks Pegawai Kepada Penyidik, *Kompas*, 2025.

[29] Fatima Khan., Does the Right to Dignity Extend Equally to Refugees in South Africa,? *African Human Rights Law Journal,* Vol.20, no.1, 2020, page.23. see too, William Hein., Structural Labor Right, *Michigan Law Review*, 2021, page.652.

[30] Fristin Intan Sulistyowati, and Gloria Setyvani Putri., Gugatan Ijazah Jokowi Gugur Di PN Solo, Hakim Nilai Bukan Wewenang, Penggugat Ajukan Banding, Kompas, *Kompas*, 11 July, 2025. See too, Benedictus Satryo Wibowo, Achmad Busro, and Anggita Doramia Lumbanraja., Legitimasi Penahanan Ijazah Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT), *Notarius,* Vol.14, no.2, 2021, page.738.

[31] Indra Afrita., Workers Protection in Working Agreements: A Case of Employee's Diploma Certificate on Company's Custody as a Warranty, *IOP Conference Series Earth and Environmental Science,* 175, 2018. See too, Mala Nurseha, Trini Handayani, and Aji Mulyana., Perlindungan Hak Pekerja Terhadap Tindakan Penahanan Ijazah Oleh Perusahaan Sebagai Pelanggaran Hubungan Industrial, *Indonesian Journal of Law and Justice,* Vol.2, no.4, 2025, page.14; Dicky Satria Pratama, Muhammad Wendy Alpianur Ariady, Muhammad Zulfikar Azis, and Muhammad Zacky Umar Pananda., Analisis Hukum Mengenai Penahanan Ijazah Karyawan Oleh Perusahaan, *Indonesian Journal of Law and Justice,* Vol.1, no.4, 2024, page.10; Nihaya Lila Utami, Pradita Gustarini Widjianti, and Apriana Nadhia., Legal Protection Againts Detention Of Administrative Worker Diplomas By Restu Ibu Artikel, Vol.2, no.9, 2020, page.133; Christina Bagenda, Rosita, Fajar Rachmad Dwi Miarsa, Ahim, and Amsari Damanik., Analisis Hukum Perdata Terhadap Penahanan Ijazah Karyawan Oleh Perusahaan Civil Law Analysis of the Withholding of Employee Diplomas by Companies, *Civil Law Analysis of the Withholding of Employee Diplomas by Companies,* Vol.8, no.6, 2025, page.21.

Figure 1. Court Decision Regarding Diploma Detention

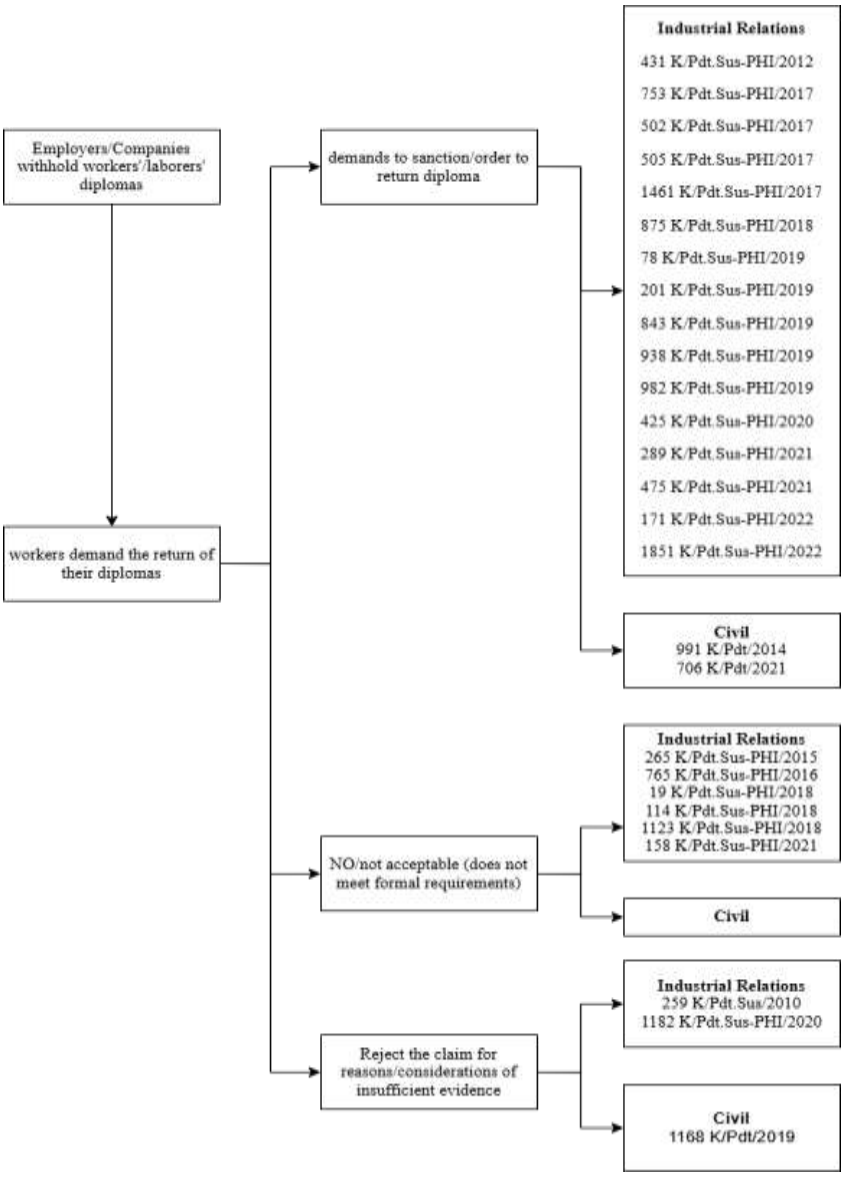


Figure 1 illustrates that although the majority of decisions favour workers, a considerable proportion either reject the claims or dismiss them on procedural grounds. The distribution demonstrates that judicial protection remains dependent upon judicial interpretation rather than clear statutory standards. The court decision related to the dispute over the detention of diplomas by employers or companies reveals significant inconsistencies in providing legal protection for workers to retrieve their diplomas. The decision "Granting the punitive demand/order to restitute" (Industrial Relations and Civil) demonstrates the worker's success in asserting their rights, indicating that the court acknowledges a violation has occurred. However, the presence of "NO/unacceptable (not formally qualified)" (Industrial Relations and Civil) and "Denial of Claim for insufficient evidence" (Industrial Relations and Civil) suggests that many cases either do not

reach substantive judgments or are dismissed due to procedural obstacles or lack of sufficient proof of formality. This underscores that, despite favourable rulings for workers, legal processes are frequently hindered by formalities or evidentiary difficulties, ultimately resulting in legal uncertainty and highlighting that judicial decisions have not consistently provided uniform and effective legal protection regarding workers' rights to reclaim their diplomas.

The issue of inconsistency in decisions largely pertains to rulings concerning the demand for the return of workers' diplomas. This combination of legal vacuums, diverse interpretations of the principle of freedom of contract, and the imbalance in bargaining power creates notable legal uncertainty for workers. The inconsistency of such court decisions reflects not merely differing judicial opinions but also the failure of the legal system to offer clear guidance on balancing contractual autonomy with the protection of fundamental human rights.[32] Consequently, this results in unpredictable outcomes in similar cases, making it difficult for workers to get their diplomas back on a consistent basis.

The problem of inconsistency in the verdict also arises because there are no clear rules on the detention of workers' diplomas. The absence of laws and regulations that explicitly prohibit the detention of diplomas is the core of the inconsistency in judicial decisions.[33]Within the Indonesian legal system, this practice is neither explicitly forbidden nor endorsed, leaving room for diverse judicial interpretations. This legal vacuum constitutes not merely negligence but a significant vulnerability exploited by employers, given the inherent power imbalance. Employers often include clauses for withholding diplomas without fair and transparent negotiations, leaving workers in a weak bargaining position and compelling them to accept unfavourable terms in order to secure employment.[34] Agreements that violate human rights can be invalidated under the principles of Civil Law (Articles 1320, 1335, 1337 of the Civil Code) if they are contrary to law, morality, or public order.

A prominent illustration of courts prioritizing substantive justice over corporate policy is, The civil dispute between Dedi Ansari Harahap and PT. Bank Rakyat Indonesia (Persero) Tbk. Dedi Ansari Harahap began as a trainee employee on September 6, 2000, and was required to submit his original diploma to the company for safekeeping during his trainee period and five years after becoming a permanent employee. He was appointed as a permanent employee on October 1, 2002, but his employment was terminated on February 23, 2011. The company refused to return his diploma, prompting Dedi to file a lawsuit against PT. Bank Rakyat Indonesia (Persero), Tbk in the Medan District Court. In decision No.

[32] P.C. Adisti., Perlindungan Hukum Atas Penahanan Ijazah Asli Pekerja Oleh Pemberi Kerja Pada Perjanjian Kerja Waktu Tertentu, *Jurnal Kertha Semay* Vol.11, no.1, 2020, page.658. See too, Rizky Naafi Aditya, and Tina Marlina., Perlindungan Hukum Terhadap Tenaga Kerja Yang Ijazah Nya Dijadikan Jaminan Oleh Perusahaan Pemberi Kerja (Studi Penelitian Di Disnaker Kota Cirebon), *Hukum Responsif,* Vol.11, no.1, 2020, page.21.

[33] Dicky Satria Pratama, Muhammad Wendy Alpianur Ariady, Muhammad Zulfikar Azis, and Muhammad Zacky Umar Pananda., Analisis Hukum Mengenai Penahanan Ijazah Karyawan Oleh Perusahaan, *Indonesian Journal of Law and Justice,* Vol.1, no.4, 2024, page.12.

[34] Mala Nurseha, Trini Handayani, and Aji Mulyana., Perlindungan Hak Pekerja Terhadap Tindakan Penahanan Ijazah Oleh Perusahaan Sebagai Pelanggaran Hubungan Industrial, *Indonesian Journal of Law and Justice,* Vol.2, no.4, 2025, page.16.

62/Pdt.G/2012/PN.Mdn (August 1, 2012), the Court partially granted his lawsuit, ruled the company's actions unlawful, ordered the return of the diploma, imposed a daily fine of Rp. 1,000,000 until compliance, and charged the company with case costs. The Medan High Court (decision No. 188/Pdt/2013/PT.Mdn, August 23, 2013) upheld this ruling. On further appeal, the Supreme Court (decision No. 991K/Pdt/2014, December 19, 2014) confirmed the company had no right to withhold the diploma, though denied compensation for losses. The decision established the illegality of withholding the worker's diploma.

Conversely, the courts have also demonstrated a willingness to excuse document retention under exceptional, unforeseen circumstances, as seen in the civil dispute between Krisna Yuiandri Wijayanto and PT. Bandar Trisula Kediri Branch. Krisna Yuliandri Wijayanto, who is an employee of PT. Bandar Trisula Kediri Branch is required to submit a guarantee in the form of a diploma and BPKB belonging to the worker at work. The Company experienced theft, so that the worker's diploma and BPKB were also lost, then Krisna Yuliandri Wijayanto filed a lawsuit against the Company with the following demands: declaring that the Defendant committed an unlawful act; Sentence the Defendant to pay all of the Plaintiff's losses in the amount of Rp. 225,972,500 and impose a fine of Rp. 2,000,000 every day if the Defendant does not implement the judgment. Kediri District Court in Decision Number 126/Pdt.G/2017/PN. The Gpr dated April 11, 2018 has rejected the Plaintiff's lawsuit in its entirety. The decision of the Kediri District Court was upheld by the East Java High Court with Decision Number 349/Pdt/2018/PT. SBY dated August 20, 2018 which was reaffirmed by the Supreme Court with Decision Number 1168 K/Pdt/2019 dated May 24, 2019 with the consideration: The Plaintiff cannot prove that the Defendant committed an unlawful act; and the Defendant could not return the diploma and BPKB to the Plaintiff because there had been *a force majeur*, namely theft experienced by the Defendant which resulted in the loss of the Plaintiff's diploma and BPKB, but the Defendant was willing to reimburse the costs for the management of the diploma and the management of the Plaintiff's BPKB, all of which were in the process of being managed. The conclusion of this decision is that withholding a diploma is not an unlawful act as long as there is a force majeure event and the Company has the ability to reimburse management costs.

Further reinforcing the illegality of withholding documents once an employment relationship has formally concluded, the judiciary took a definitive, pro-worker stance in the civil dispute between Yitno alias Jitno and Richard Then as the President Director of PT. United Eight Biscuit Manufactory. Yitno, a former employee of PT. United Waru Biscuit Manufactory, was required to submit his diploma during employment. After resigning, he asked for his diploma back, but the company refused. Yitno sued Richard Then, the company's President Director, claiming the company committed an unlawful act by withholding his diploma. He demanded the return of his diploma, compensation for material and immaterial damages, and daily penalty payments for delays. The Sidoarjo District Court with Decision Number 201/Pdt/2020/PT. SBY dated May 4, 2020, partially granted his

claim, ruling that withholding the diploma was unlawful and ordering the company to pay Rp. 100,000,000 in material damages, Rp. 50,000,000 in immaterial damages, and a daily penalty of Rp. 100,000 for each day of non-compliance after the verdict. The company's appeals were rejected by both the Surabaya High Court and the Supreme Court, which upheld the lower court's ruling. The Supreme Court concluded that withholding a worker's diploma after employment ends is unlawful, and entitles the worker to both material and immaterial compensation.

A clear example of this protective stance is seen in the case of Irene S. Kojongian against PT. Sinar Mas Insurance. Irene S. Kojongian worked at PT. Asuransi Sinar Mas from September 3, 2014, as a trainee, with a requirement to submit her diploma. She was terminated on October 20, 2015. After the termination, she sued the company in the Industrial Relations Court, claiming the layoff was invalid, the diploma detention and payback requirements were against the Manpower Law, and demanded her rights and the return of her diploma. The Central Jakarta District Industrial Relations Court partially granted her lawsuit in decision No. 249/Pdt.Sus-PHI/2016/PN.Jkt.Pst on December 19, declaring her employment terminated, ordering compensation, and requiring the unconditional return of her diploma. Both parties appealed to the Supreme Court. In decision No. 753 K/Pdt.Sus-PHI/2017 on August 7, the Supreme Court rejected both appeals, affirming that the lower court correctly applied the law and the worker did not commit any violation. Thus, employees who prove their diploma was withheld will have their claim for its return granted unconditionally.

This principle was further solidified in the dispute involving Rolixon Ambarita against Mandiri Jaya Multi-Business Cooperative (KSU), BH163/PAD/BH/INDAGKOP/KOP/III/2006. Rolixon Ambarita is an employee of the Mandiri Jaya Multi-Business Cooperative (KSU), BH163/PAD/BH/INDAGKOP/KOP/III/2006, who, while working, was asked to surrender his diploma. Problems arose when he was laid off by the company. Workers whose rights are not fulfilled due to termination of employment then file a lawsuit related to workers' rights, accompanied by a demand for the return of the diploma to Industrial Relations Court. The Industrial Relations Court at Pekanbaru, with decision Number 44/Pdt.Sus-PHI/2021/Pn.pbr dated August 18, 2021, granted the Plaintiff's lawsuit in part; declared the termination of employment (PHK) invalid and void; ordered the Defendant to pay the Plaintiff's rights due to the termination; ordered the Defendant to pay procedural fees; and ordered the return of the Plaintiff's diploma. The Company filed an appeal, and the Supreme Court, in decision Number: 171 K/Pdt.Sus-PHI/2022 dated March 16, 2022, corrected Industrial Relations Court's decision at Pekanbaru with the consideration: declaring layoffs without evidence of violations or wrongdoing by workers, or disharmony; and revising the provisions of workers' rights based on Article 43 paragraph (2) of Government Regulation Number 35 of 2021. This decision concludes that workers who can prove that the Company has indeed withheld the diploma will have their demand for its return granted.

Even when employment is terminated for reasons entirely unrelated to employee fault, such as corporate restructuring, the courts maintain that document retention is unjustified. This is illustrated byRudi Hartono against PT. Putra Borneo Sugiarto

Samarinda and PT. Livia Mandiri Sejati. Rudi Hartono worked at PT. Putra Borneo Sugiarto Samarinda and PT. Livia Mandiri Sejati, where he was required to hand over his diploma as a work condition. After being terminated, Rudi sued both companies, demanding severance pay (Rp. 100.000), a daily fine if they neglected the judgment, and the return of his diploma. The Samarinda District Industrial Relations Court partially granted his claim, ordering the companies to pay his rights and return his diploma. However, the court found the termination was not Rudi's fault but a company efficiency measure. Rudi appealed to the Supreme Court, which revised the lower court's decision but agreed that Rudi was entitled to severance pay and the return of his diploma. The Supreme Court (issued a decision in Number 96 K/Pdt.Sus-PHI/2023) clarified that if an employee can prove their diploma is being withheld by the company, the court can order it to be returned. This case highlights the legal principle that diploma withholding is not allowed if proven in court, and employees have the right to seek its return alongside other employment rights.

Despite these substantive victories, workers remain highly vulnerable to procedural technicalities that can entirely derail their claims. A stark demonstration of this formalistic barrier is the case of Heara Halawa against Suryanto, HRD of PT. Security Physical Dynamics. Heara Halawa worked at PT. Security Physical Dynamics under a fixed-term contract, and was required to submit a diploma as collateral. When the company ordered a transfer (mutation) and Heara refused, security barred them from entering the workplace. Heara then sued Suryanto, the HRD manager, demanding unpaid employment rights and the return of the diploma. The Bandung District Court declared the lawsuit inadmissible due to Suryanto, the defendant, lacking the authority to represent the company in judicial proceedings. On appeal, the Supreme Court upheld this decision, explaining that Suryanto was not a director nor did he have legal authority from the company's board to act as its representative. As a result, the court did not consider the substance of the complaint, including the diploma issue, due to the lawsuit failing to satisfy the requisite formal legal standards. This case shows that courts that prioritize formalities will dismiss cases that do not follow strict procedural rules, regardless of the actual employment dispute or the merits of the demand to return a worker's diploma.

Analysis of seven decisions in both civil and industrial relations disputes demonstrates that courts prioritizing substantive justice categorize the withholding of a worker's diploma as an unlawful act (*onrechtmatige daad*), regardless of whether compensation is awarded. Conversely, courts emphasizing formal requirements will deem lawsuits that do not meet procedural standards inadmissible and will reject unproven claims. The variation in verdicts is attributed to the lack of clear regulations prohibiting the withholding of workers' diplomas, highlighting the need for further regulatory clarification as recommended by this research.

3.3. Recommendations For Overcoming Diploma Withholding In Employment Relationships

Based on the findings and analyses conducted, this study recommends several comprehensive strategic measures to strengthen Indonesia's legal framework and employment practices. First, laws and regulations should be amended immediately to explicitly prohibit the act of withholding diplomas or securities belonging to workers or labourers, especially when the work agreement does not include the handover of the company's inventory to the workers or labourers. This provision should be supported by strict sanctions, including administrative, civil, and criminal penalties, to ensure employer compliance and prevent similar practices in the future. The prohibition of diploma detention and its sanctions can also be incorporated into the Manpower Law. Second, efforts must be made systematically to enhance the consistency of court decisions regarding diploma detention disputes. This can be achieved through the development of clearer, more uniform guidelines for judges handling such cases, increasing awareness of human rights principles within employment contexts, and emphasising the importance of substantive justice over mere formalities. Judicial consistency will bolster public trust in the judicial system and provide workers with greater legal certainty.

Third, governments, trade unions, and civil society organisations should intensify education and advocacy programmes on workers' rights, including the right to their diplomas, along with raising awareness about the dangers and illegality of diploma withholding practices. Additionally, accessible, transparent, and secure reporting channels must be promoted to enable workers to report such practices without fear of retaliation. Fourth, companies should be encouraged to adopt and utilise alternative guarantees that do not infringe upon workers' human rights. This might include more comprehensive employment agreements with fair retention clauses, bank guarantees, or other lawful, transparent collateral that does not harm workers. This approach aligns with efforts to establish a fairer and more balanced employment law framework founded on trust and ethics, not coercion. Through comprehensive legal reforms, improved judicial consistency, and the promotion of ethical labour practices, it is hoped that Indonesia's legal framework can become more effective in safeguarding workers' rights and fostering equitable and balanced labour relations.

4. Conclusion

This study concludes that Indonesia currently lacks specific statutory regulations prohibiting the detention of workers' educational diplomas, leaving existing legal frameworks critically vague. While the government attempted to address this through the Minister of Manpower Circular Letter (SE) No. M/5/HK.04.00/V/2025, this instrument requires subjective interpretation and lacks the binding authority of a formal legislative act. Consequently, judicial responses to demands for diploma restitution, across both civil and industrial relations courts, display considerable inconsistency. Although many rulings favor workers, a significant portion of claims are rejected or deemed inadmissible due to strict adherence to procedural formalities or evidentiary burdens, highlighting a fractured legal system.

The implications of these findings are profound for the Indonesian labor market.

The ongoing regulatory vacuum allows employers to exploit the inherent power imbalance in employment relations, functionally coercing workers into surrendering their personal property under the guise of contractual freedom. This not only constitutes a continuous violation of fundamental human rights but also severely restricts workers' socio-economic mobility by trapping them in unfavorable working conditions. Until this legal ambiguity is resolved, the judicial lottery will continue, leaving vulnerable workers without guaranteed avenues for substantive justice.

Therefore, there is an urgent need to reconstruct and strengthen the national legal framework to provide absolute legal certainty. The prohibition of diploma withholding must be explicitly codified into statutory law to ensure robust worker protection. Specifically, it is recommended that Law Number 13 of 2003 concerning Manpower be amended by adding a provision to Chapter IX on Employment Relations (Article 55, paragraph 2) explicitly prohibiting employment agreements conditional upon document retention. Furthermore, to ensure compliance, violations of this provision must be strictly addressed in Chapter XVI on Criminal Provisions and Administrative Sanctions (Article 185) to establish a definitive deterrent against this coercive practice.

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