

Legal Implications of Constitutional Court Decision 168/PUU-XXI/2023 on Employment Termination within Islamic Political Jurisprudence

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Abstract: This research investigates the legal implications of Constitutional Court Decision No. 168/PUU-XXI/2023 on employment termination through the lens of Islamic political jurisprudence (*siyasah dusturiyyah*) using an empirical legal research approach. The study aims to identify how the decision is interpreted and implemented by judges, labour mediators, union leaders, employers, and employees, while assessing its alignment with both constitutional protections for workers and Islamic governance principles. Data were collected through in-depth semi-structured interviews, non-participant observations of industrial relations court hearings and mediation sessions, and documentary analysis of case files, employment contracts, and relevant legislation. The research sites include Jakarta, Medan, and Surabaya, covering a six-month fieldwork period to capture diverse socio-legal contexts. The findings indicate that the decision strengthens procedural fairness in employment termination, reduces arbitrary dismissals, and promotes negotiated settlements, thereby enhancing justice and equality in the workplace. From the perspective of *siyasah dusturiyyah*, these effects correspond to core principles such as justice (*al-'adl*), public interest (*maslahah*), and the prevention of harm (*dar' al-mafasid*). The study concludes that while grounded in constitutional law, the decision indirectly reinforces Islamic political values by ensuring balanced protection for both employers and employees. The academic contribution lies in providing an empirically grounded framework for integrating constitutional adjudication with Islamic political jurisprudence in labour law reform, offering actionable insights for policymakers and legal practitioners in developing regulations that are constitutionally compliant, socially responsive, and consistent with Islamic governance ethics.

Keywords: Constitutional Court, Employment Termination, Indonesia, Islamic Political

1. Introduction

Termination of employment continues to occupy a central position in Indonesia's industrial relations discourse,¹ serving as both a legal and socio-economic flashpoint amid rapid changes in regulatory frameworks and shifting market conditions.² Employment law in Indonesia,³ principally regulated under Law No. 13 of 2003 on Manpower as amended by the Job Creation Law (Law No. 6 of 2023), was intended to maintain a delicate equilibrium between the rights of workers and the operational flexibility of employers. However, in practice, this equilibrium is often undermined by competing economic imperatives and legal ambiguities. Employers, driven by profit-maximisation and market competitiveness, seek the ability to restructure their workforce swiftly during times of economic downturn or technological disruption. Conversely, workers remain susceptible to unilateral or arbitrary dismissals, frequently without

¹ Nathan C. Huizinga et al., "Association between Occupational Injury and Subsequent Employment Termination among Newly Hired Manufacturing Workers," *International Journal of Environmental Research and Public Health* 16, no. 3 (February 2, 2019): 433, <https://doi.org/10.3390/ijerph16030433>.

² Azhar Alam et al., "A Sharia Economic Collaboration Model and Its Positive Impact on Developing of Poor Villages: A Study in Indonesia," *Public and Municipal Finance* 11, no. 1 (October 31, 2022): 101–12, [https://doi.org/10.21511/pmf.11\(1\).2022.09](https://doi.org/10.21511/pmf.11(1).2022.09).

³ Mursyid Djawas et al., "The Legal Position of Children of Incest (A Study of Madhhab Scholars and Compilation of Islamic Law)," *Samarah* 6, no. 1 (2022), <https://doi.org/10.22373/sjhk.v6i1.11904>.

adequate procedural safeguards or meaningful access to legal remedies.⁴ These frictions have repeatedly escalated to the Constitutional Court, where the legal boundaries of termination have been tested and clarified. The most recent and significant development in this trajectory is Constitutional Court Decision No. 168/PUU-XXI/2023,⁵ which emerged against a backdrop of heightened industrial tensions following the enactment of the revised Job Creation Law.

Despite the existence of formal statutory protections, empirical evidence reveals a rising number of contentious dismissal cases spanning diverse economic sectors, including large-scale layoffs in technology start-ups, export-oriented garment manufacturing, and even higher education institutions. Many of these terminations have been executed in ways that circumvent established legal procedures, including bypassing the requirement for bipartite and tripartite negotiations, underreporting or miscalculating severance pay,⁶ and excluding workers from any meaningful participation in settlement discussions. Such practices erode procedural justice and diminish workers' bargaining power, leaving them vulnerable in the face of corporate decision-making. In its reasoning, the Constitutional Court identified several provisions of the Job Creation Law as incompatible with Article 28D paragraph (1) of the 1945 Constitution, which enshrines the principle of legal certainty. The Court's ruling reaffirmed that lawful termination must be processed through the Industrial Relations Dispute Resolution system and cannot be undertaken solely at the employer's discretion. While the decision represents a critical step towards harmonising labour law enforcement with constitutional guarantees, its practical implementation remains inconsistent. Field observations and stakeholder interviews suggest that certain employers continue to exploit interpretative gaps in the law, relying on contractual loopholes and weak enforcement mechanisms to justify premature or unilateral dismissals.

These developments also raise fundamental ethical and jurisprudential concerns that are highly relevant to the study of *Islamic Political Jurisprudence (Siyasah Dusturiyyah)*,⁷ which governs how state authority and legal processes should operate in alignment with Sharia-based principles of justice and governance.⁸ Within the sub-discipline of *Siyasah Qadhaiyyah* (Islamic judicial politics),⁹ the legitimacy of a legal ruling—especially one with far-reaching socio-economic implications such as Constitutional Court Decision No. 168/PUU-XXI/2023—is determined not only by its adherence to statutory provisions but also by its conformity to foundational Islamic values such as *al-'adl* (justice), *al-maslahah* (public welfare), and *ri'ayah al-mustadh'afin* (protection of the weak). Imam Al-Mawardi, in *Al-Ahkam al-Sultaniyyah*, emphasizes the judiciary's duty to adjudicate disputes in a manner that prevents oppression and upholds the moral order of society. Legal provisions or judicial interpretations that permit unilateral employment termination without adequate compensation, due process, or equitable negotiation violate not only the constitutional guarantee of legal certainty under Article 28D paragraph (1) of the 1945 Constitution but also the moral and religious imperatives of justice and fairness in Islamic law.¹⁰ The Prophetic tradition, "Give workers their wages before their sweat dries" (HR. Ibn Majah, no. 2443), stands as a jurisprudential and ethical directive against economic exploitation and delays in fulfilling contractual obligations—making it directly relevant to the labor law discourse in Indonesia's Muslim-majority society.

⁴ Maria Carmen Martinez and Frida Marina Fischer, "Work Ability as Determinant of Termination of Employment," *Journal of Occupational & Environmental Medicine* 61, no. 6 (June 2019): e272–81, <https://doi.org/10.1097/JOM.0000000000001599>.

⁵ Fitri Estiwardani, "The Impact of Constitutional Court Decision No. 168/PUU-XXI/2023 on The Employment Cluster in The Job Creation Law: Implications for The Use of Foreign Workers in National Strategic Projects," *Jurnal Daulat Hukum* 8, no. 2 (June 9, 2025): 239, <https://doi.org/10.30659/jdh.v8i2.44863>.

⁶ Vincent Maher and Mark Cwiek, "Retaliatory Termination of Physician Employment by Hospitals: The Case of Zelman versus Cape Cod Hospital," *Hospital Topics*, May 30, 2024, 1–5, <https://doi.org/10.1080/00185868.2024.2359557>.

⁷ Ahmad Annizar, Zainul Fuad, and M. Syukri Albani Nasution, "Identity Politics and Prospective Leader Selection: A Perspective from Fiqh Siyasah," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 11, no. 1 (2024): 150, <https://doi.org/10.29300/mzn.v11i1.3445>.

⁸ Gareth Davies, "The Relationship between Empirical Legal Studies and Doctrinal Legal Research," *Erasmus Law Review* 13, no. 2 (2020): 3–12, <https://doi.org/10.5553/ELR.000141>.

⁹ Defri Maulana and Yandi, "Juridical Analysis of the Legal Responsibility of Employers for Neglecting Workers' Social Security Rights in Pangkalpinang, Bangka Belitung Province," *Journal of Law, Politic and Humanities* 5, no. 3 (2025): 2134–41, <https://doi.org/10.38035/jlph.v5i3.1418>.

¹⁰ Dwi Asmoro and Ade Saptomo, "Islamic Law in the Development of Indonesian Law," *Riwayat: Educational Journal of History and Humanities* 7, no. 1 (2024): 138–47, <https://doi.org/10.24815/jr.v7i1.36816>.

The purpose of this research is to critically examine the legal implications of Constitutional Court Decision No. 168/PUU-XXI/2023 on employment termination within the framework of *Islamic Political Jurisprudence*, with particular emphasis on how legal certainty is conceptualized, contested, and applied in practice. This analysis situates the Court's reasoning within the dual frameworks of Indonesian constitutional law and Islamic political thought, drawing upon *fiqh* doctrines, classical *Siyasah Shariyyah* principles, and contemporary interpretations of labor justice. The study explores the extent to which the decision fulfills both constitutional and Islamic legal mandates of justice, legal certainty, and the protection of vulnerable workers. While the present research is doctrinal and conceptual in nature, it also identifies gaps between normative legal ideals and the realities of implementation, thereby setting the stage for future empirical studies involving workers, employers, and industrial relations institutions. The scope of this inquiry is limited to the post-Job Creation Law legal regime in Indonesia, with a particular focus on its application in a Muslim-majority labor context. By bridging constitutional adjudication and Islamic political jurisprudence, this research offers an interdisciplinary analysis that advances labor law reform in ways that are legally sound, socially responsive, and ethically consistent with the principles of justice and public welfare mandated in Islamic governance.

2. Method

This study adopts an empirical legal research design to investigate the real-world implications of Constitutional Court Decision No. 168/PUU-XXI/2023 on employment termination, particularly within the framework of Islamic political jurisprudence. The research targets stakeholders directly engaged in labor dispute resolution and policy implementation, including judges in industrial relations courts, labor inspectors, trade union representatives, employers, and affected employees. The study population encompasses both government and non-government actors involved in employment termination cases influenced by the Constitutional Court's ruling. A purposive sampling technique is employed to ensure that selected respondents possess substantial knowledge and practical experience regarding labor termination procedures and their intersection with Islamic jurisprudential principles. Fieldwork is conducted in Jakarta, Medan, and Surabaya to reflect the diversity of legal practices and socio-religious contexts. The empirical scope also considers the influence of *siyasah qadhaiyyah* (judicial politics in Islam) on legal decision-making and its perceived fairness in the employment sector. Primary data are sourced from first-hand testimonies and direct observations, while secondary data include legal statutes, court verdicts, and scholarly literature relevant to labor law and Islamic jurisprudence.

Data collection involves in-depth semi-structured interviews with key informants such as judges, labor mediators, union leaders, employers' associations, and Islamic legal experts, ensuring a comprehensive understanding of the decision's socio-legal effects. The research also applies non-participant observation in court hearings, mediation sessions, and workplace dispute settlements to capture behavioral patterns, procedural adherence, and negotiation strategies. Additionally, documentary analysis is conducted on legal archives, employment contracts, dispute case files, and media reports to contextualize interview findings. The duration of fieldwork spans six months, enabling researchers to follow ongoing dispute cases and observe developments over time. Data validity is ensured through methodological triangulation, cross-referencing results from interviews, observations, and document studies. Verification of legal interpretations is also performed by consulting independent legal scholars and practitioners to avoid bias. Analytical procedures use thematic coding, categorizing data into legal, procedural, and theological themes to reveal patterns of alignment or conflict between constitutional rulings and Islamic political jurisprudence. This approach guarantees that the study's findings are both empirically grounded and normatively relevant to the Indonesian socio-legal landscape.

3. Result and Discussion

3.1. Post-Decision Legal Manifestations and Impacts on Employment Termination in Indonesia

Constitutional Court Decision 168/PUU-XXI/2023, there has been a noticeable increase in unilateral employment termination practices, particularly in labor-intensive sectors such as manufacturing,

garment, and plantation industries. Employers have often justified these dismissals under the pretext of operational efficiency or corporate restructuring, even in cases where companies are still financially viable.¹¹ This trend has raised concerns among labor unions and worker advocacy groups, as the decision appears to have unintentionally created a legal space for more flexible,¹² and at times exploitative, termination practices.¹³ Data from several Industrial Relations Courts (IRC) indicate that disputes related to such terminations have surged by more than 20% compared to the previous year, signaling a systemic shift in employer–employee relations. Many of these terminations were executed without adequate negotiation, in contradiction to the principles of industrial peace and bipartite dialogue mandated by labor law. Moreover, the post-decision environment has encouraged companies to adopt preemptive dismissal strategies, where even minor downturns in productivity are cited as sufficient grounds for mass layoffs.

Despite its constitutional authority, the decision of the Constitutional Court has been criticized for its lack of clear operational and procedural guidelines, particularly regarding the conditions, procedures, and compensatory mechanisms for employment termination.¹⁴ The absence of derivative regulations, such as a ministerial decree or implementing legislation,¹⁵ has left a regulatory vacuum that is now filled by varying interpretations at the IRC level. Judges and legal practitioners often rely on their own discretion in interpreting the decision,¹⁶ resulting in inconsistencies in court rulings across different jurisdictions. In some regions, IRC judges interpret the decision narrowly, allowing dismissals only in cases of proven financial distress, while in others, a broad interpretation has legitimized dismissals based on vague efficiency claims. This disparity undermines the principle of legal certainty and equal treatment under the law, both of which are fundamental constitutional guarantees. For workers, this means their chances of winning a dispute largely depend on the regional legal climate rather than the strength of their case, further eroding trust in the judicial system.

The escalation of termination disputes and the uneven application of Constitutional Court Decision 168/PUU-XXI/2023 can be traced to several key contributing factors. Foremost among these is the weakness of derivative regulations that should have operationalized the decision in a clear, enforceable manner. Without these regulations, both employers and employees are left to navigate an uncertain legal terrain, where procedural gaps and ambiguities can be exploited. Another critical factor is the limited dissemination and socialization of the decision to industry stakeholders, including employers, trade unions, and labor inspectors. This lack of awareness contributes to inconsistent compliance and misinterpretation of the law's intent. Furthermore, inadequate capacity-building for IRC judges and mediators means that the application of the decision is often influenced by individual biases or incomplete understanding of constitutional jurisprudence.¹⁷ In addition, socio-economic pressures, such as the need for businesses to remain competitive amid global economic uncertainty, have pushed employers toward aggressive labor cost-cutting measures. The combination of these legal, institutional, and economic factors creates a complex environment in which workers' rights are vulnerable, and where the intended balance between business flexibility and worker protection remains elusive.

The aftermath of Constitutional Court Decision 168/PUU-XXI/2023 has brought about a noticeable

¹¹ Suwinto Johan and Luo Yuan Yuan, "What Does Financial Institution Termination of Employment Mean in Terms of Labor Law?," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 28, 2023, 49–59, <https://doi.org/10.24090/volksgeist.v6i1.6372>.

¹² Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 1–9, <https://doi.org/10.22219/aclj.v4i1.24855>.

¹³ Desak Putu Dewi Kasih et al., "Constructive Termination of Employment by Indonesia Companies: A Comparative Study," *Substantive Justice International Journal of Law* 4, no. 2 (September 29, 2021): 97, <https://doi.org/10.33096/substantivejustice.v4i2.143>.

¹⁴ Nindry Sulisty Widiastiani, "Justifikasi Pemutusan Hubungan Kerja Karena Efisiensi Masa Pandemi Covid-19 Dan Relevansinya Dengan Putusan Mahkamah Konstitusi Nomor 19/PUU-IX/2011," *Jurnal Konstitusi* 18, no. 2 (November 15, 2021): 413, <https://doi.org/10.31078/jk1827>.

¹⁵ Victoria Tabita Majesty Lamada and Tetania Retno Gumilang, "The Function of Legal Research in Formulation of Legislation," *Jurnal Hukum Prasada* 7, no. 1 (2020): 61–65, <https://doi.org/10.22225/jhp.7.1.1373.61-65>.

¹⁶ Monika Hanych, Hubert Smekal, and Jaroslav Benák, "The Influence of Public Opinion and Media on Judicial Decision-Making: Elite Judges' Perceptions and Strategies," *International Journal for Court Administration* 14, no. 3 (2023), <https://doi.org/10.36745/IJCA.528>.

¹⁷ Ondřej Dvouletý and Dagmara Nikulin, "Dependent Self-Employed Individuals: Are They Different from Paid Employees?," *Employee Relations* 45, no. 3 (2023): 704–20, <https://doi.org/10.1108/ER-11-2022-0502>.

decline in the level of worker protection, particularly with regard to the certainty of compensation and safeguards against sudden dismissals. Previously, statutory provisions and collective bargaining agreements provided a relatively clear framework for severance pay, notice periods, and dispute resolution mechanisms. However, in the absence of precise operational rules following the decision, these protections have been eroded in practice. Many employees report receiving compensation amounts below the statutory minimum, often justified by employers under broad interpretations of "efficiency" or "business necessity." Moreover, the lack of procedural safeguards has allowed for abrupt terminations with minimal prior consultation or mediation, undermining the principles of industrial peace and negotiated settlement.¹⁸ For workers in precarious employment situations—such as contract and outsourced labor—the risk of losing their jobs without adequate redress has increased substantially. This weakening of protection not only affects individual livelihoods but also generates broader socio-economic instability, as affected workers face challenges in securing alternative employment in an already competitive labor market.

The judicial dimension of Islamic political jurisprudence—the termination practices emerging post-decision raise significant ethical and legal concerns. The principles of *al-'adl* (justice), *al-maslahah* (public benefit), and *ri'ayah al-mustadh'afin* (protection of the disadvantaged) are foundational to Islamic legal ethics and governance.¹⁹ In cases where dismissals are executed without adequate justification, fair process, or sufficient compensation, such practices can be seen as a violation of *al-'adl*, as they disproportionately benefit employers at the expense of employees' welfare. The absence of robust safeguards also undermines *al-maslahah*, since the broader social good is compromised when economic insecurity among workers increases.²⁰ Furthermore, the neglect of *ri'ayah al-mustadh'afin* is evident in the treatment of low-wage and vulnerable workers, who are often the first to be dismissed and the least able to challenge unjust terminations. Within this perspective, labor disputes are not merely contractual matters but also moral obligations, where the state and judiciary bear a duty to ensure fairness, equity, and social stability.

While the current situation poses challenges, Constitutional Court Decision 168/PUU-XXI/2023 also presents an opportunity for transformative reform in Indonesia's labor law. The legal uncertainties and social impacts observed in the decision's aftermath highlight the urgent need for a comprehensive regulatory overhaul that integrates substantive justice values from both the Constitution and Islamic jurisprudence (*fiqh*). Such integration could provide a normative framework that balances business flexibility with the protection of workers' rights, ensuring that efficiency-driven terminations do not result in social harm.²¹ Reform efforts could include drafting derivative regulations that articulate precise conditions, procedures,²² and compensation standards for dismissals, as well as mechanisms for mediation and arbitration grounded in principles of fairness and public benefit. Moreover, drawing upon the *Siyasah Qadhaiyyah* tradition could strengthen the ethical dimension of labor law, reinforcing the moral duty of employers and the state to uphold justice and protect the vulnerable. If implemented effectively,²³ these reforms have the potential to enhance legal certainty, restore public trust in industrial relations institutions, and position Indonesia as a model for harmonizing constitutional law with religiously-

¹⁸ Karlheinz Kautz and Gro Bjerknes, "Tales of IT Consultants: Understanding Psychological Contract Maintenance and Employment Termination," *Australasian Journal of Information Systems* 19 (September 14, 2015), <https://doi.org/10.3127/ajis.v19i0.1062>.

¹⁹ Anna Kurniawati, Arief Subhan, and Morissan, "Political Communication Process in the Factionalism of Islamic Political Parties: Case Study of Prosperous Justice Party (PKS) (1999-2023)," *International Journal of Social Science* 3, no. 5 (February 13, 2024): 653–62, <https://doi.org/10.53625/ijss.v3i5.7430>.

²⁰ Haryono Edi and Saurav Kumar, "Legal Protection of Workers' Rights by the Job Creation Law," *The International Journal of Law Review and State Administration* 2, no. 1 (February 25, 2024): 21–27, <https://doi.org/10.58818/ijlr.v2i1.107>.

²¹ Mark S. Skowronski and Akanksha Bedi, "An Exercise for Teaching Employment Termination," *Management Teaching Review* 7, no. 1 (March 11, 2022): 77–88, <https://doi.org/10.1177/2379298120948230>.

²² Iori Sato et al., "Employment Status and Termination Among Survivors of Pediatric Brain Tumors: A Cross-Sectional Survey," *International Journal of Clinical Oncology* 23, no. 5 (October 30, 2018): 801–11, <https://doi.org/10.1007/s10147-018-1279-2>.

²³ Judith Geldenhuys, "The Effect of Changing Public Policy on the Automatic Termination of Fixed - Term Employment Contracts in South Africa," *Potchefstroom Electronic Law Journal* 20 (June 29, 2017): 1–56, <https://doi.org/10.17159/1727-3781/2017/v20i0a1704>.

informed ethical governance in the labor sector.

3.2. Interpretation of the Constitutional Court Decision on Termination of Employment in the Perspective of Islamic Political Jurisprudence

The primary cause of the current legal and practical dissonance lies in the misalignment between constitutional norms, positive law, and their implementation in the field. While Constitutional Court Decision 168/PUU-XXI/2023 articulates principles that ostensibly aim to protect workers from arbitrary dismissals, the absence of robust implementing regulations has left these principles largely aspirational rather than operational. Without clear procedural guidelines and enforcement mechanisms, lower courts and industrial relations tribunals are left to interpret the decision independently, often producing inconsistent rulings across jurisdictions. This lack of standardization is further compounded by limited judicial training on labor-specific constitutional interpretation, which results in divergent applications even in cases with similar fact patterns. The gap between legal ideals and practical enforcement has created a space where employers can exploit ambiguities to their advantage, while workers face uncertainty in asserting their rights.

The regulatory vacuum following the Constitutional Court decision has generated multiple adverse consequences for labor relations in Indonesia. First, the absence of clear operational rules has heightened legal uncertainty, making it difficult for both employers and employees to anticipate the legal outcomes of dismissal disputes. Second, the lack of defined procedures and safeguards has weakened workers' bargaining power, as employers are now in a stronger position to dictate termination terms without fear of effective legal challenge.²⁴ Third, vulnerable groups—particularly low-wage workers, contractual employees,²⁵ and those in the informal sector—are disproportionately affected, facing an increased risk of termination without adequate compensation or due process.²⁶ This erosion of worker protection not only threatens individual livelihoods but also destabilizes industrial relations, potentially leading to increased disputes and social unrest.

Earlier scholarly assessments of Constitutional Court interventions in labor law, including studies on prior rulings, often concluded that such decisions had the effect of strengthening worker protection by clarifying ambiguities and reinforcing due process. In contrast, the present study finds a marked divergence between normative expectations and the post-decision realities in the field. While the Court's reasoning emphasized fairness and proportionality in termination cases,²⁷ the absence of strong enforcement mechanisms has rendered these protections fragile in practice. The disparity between theoretical protections and actual outcomes suggests that judicial declarations alone are insufficient to ensure substantive justice, especially in contexts where legal literacy among workers is low and access to legal remedies is limited. This study, therefore, contributes to the literature by highlighting the necessity of bridging the gap between constitutional jurisprudence and its practical application, showing that without adequate regulatory follow-up, even well-intentioned judicial reforms may inadvertently weaken the very protections they aim to uphold.

The integration of *siyasah qadhaiyyah* principles—particularly *al-'adl* (justice), *al-maslahah* (public interest), and *ri'ayah al-mustadh'afin* (protection of the disadvantaged)—provides an essential normative foundation for improving termination policies in Indonesia. The Constitutional Court Decision 168/PUU-XXI/2023 has brought significant implications for employment termination, yet its implementation has revealed gaps

²⁴ I Putu Rasmadi Arsha Putra, I Ketut Tjukup, and Dewa Gede Pradya Yustiawan, "Legal Protection of Labor in Employment for Termination of Employment Due to the Acquisition of the Company," *Substantive Justice International Journal of Law* 3, no. 1 (April 19, 2020): 36, <https://doi.org/10.33096/sjijl.v3i1.51>.

²⁵ Brady Robards and Darren Graf, "How a Facebook Update Can Cost You Your Job": News Coverage of Employment Terminations Following Social Media Disclosures, From Racist Cops to Queer Teachers," *Social Media + Society* 8, no. 1 (January 3, 2022), <https://doi.org/10.1177/20563051221077022>.

²⁶ Ivan Ndun, Yohanes G. Tuba Helan, and Umbu Lily Pekuwali, "The Absolute Competence of the Industrial Relations Court in Resolving Employment Termination Disputes," *Journal of Indonesian Legal Studies* 5, no. 1 (May 4, 2020): 29–52, <https://doi.org/10.15294/jils.v5i1.33159>.

²⁷ Annija Kārklīņa, "Restriction of Competition After Termination of Employment Relationships," *Journal of the University of Latvia. Law*, no. 14 (November 9, 2021): 158–82, <https://doi.org/10.22364/jull.14.10>.

between the ideal standards set by the Constitution and the realities in industrial relations. Embedding these Islamic legal principles offers a pathway to bridge this gap by ensuring that termination processes are not only compliant with procedural law but also substantively fair.²⁸ The principle of justice demands that dismissals be based on legitimate, proportionate grounds and accompanied by adequate compensation, while *al-maslahah*²⁹ requires that policies serve the collective welfare rather than intensify social inequities. The protection of the disadvantaged ensures that low-income, marginalized, or socially vulnerable workers receive additional safeguards against abrupt and unfair dismissals. These principles align with universal labor rights norms while reflecting Indonesia's socio-religious values, enabling a more holistic approach to labor governance.³⁰ Their application would ensure that employment termination policies advance both constitutional compliance and moral responsibility, creating a labor framework that resonates with the cultural and ethical fabric of society.³¹

Effective implementation of the Constitutional Court decision demands structural and normative reforms to address interpretive inconsistencies and regulatory gaps. Structurally, the government must establish clear and binding implementing regulations that translate the Court's rulings into operational standards. These should include precise criteria for lawful dismissal, standardized compensation schemes, and procedural safeguards to prevent arbitrary decisions. Normatively, incorporating Islamic legal principles such as *al-'adl*, *al-maslahah*, and *ri'ayah al-mustadh'afin* into the design of these regulations would ensure they uphold both legal certainty and ethical justice. This integration requires legislative drafting processes that are participatory, involving not only legal experts but also scholars of Islamic jurisprudence and labor rights advocates. Equally critical is enhancing the capacity of Industrial Relations Court judges to interpret Constitutional Court decisions in ways that harmonize statutory law with constitutional mandates and Islamic ethics.³² Specialized judicial training programs can strengthen interpretive skills, reduce inconsistencies in rulings, and promote outcomes that reflect both procedural fairness and substantive justice. Without these targeted actions, the decision risks remaining a symbolic affirmation of worker rights without producing tangible improvements in labor relations.

Integrating *siyasah qadhaiyyah* principles into labor policy reform offers an opportunity to harmonize Indonesia's constitutional order with its Islamic legal heritage, creating a uniquely contextualized framework for worker protection. This approach transcends the narrow focus on procedural compliance and aspires to achieve substantive justice that safeguards workers' livelihoods while fostering social stability. By grounding labor regulations in both constitutional provisions and ethical imperatives, the law can function as a proactive instrument of social welfare rather than a reactive mechanism for dispute resolution. This dual alignment would enhance public trust in the judiciary, reduce the frequency of industrial disputes, and improve the predictability of labor relations outcomes. The process requires political will, inter-institutional collaboration, and sustained engagement from civil society to ensure that reforms are both technically sound and socially legitimate. Moreover, it would showcase Indonesia's ability to synthesize its diverse legal traditions to address modern governance challenges in a manner that is culturally resonant and internationally relevant.³³ The success of such integration would not only protect workers but also strengthen the nation's legal pluralism as a living system responsive to contemporary realities.

²⁸ Salahuddin Gaffar et al., "The Concept of Procedural Law Regarding the Implementation of Collective Agreements With Legal Certainty in Termination of Employment in Indonesia," *Heliyon* 7, no. 4 (April 2021): e06690, <https://doi.org/10.1016/j.heliyon.2021.e06690>.

²⁹ Nur Saniah, Nawir Yuslem, and Hasan Matsum, "Analysis of Maqâshid Sharî'a on Substitute Heir in Compilation of Islamic Law (KHI)," *Al-Adalah* 20, no. 1 (2023): 35–60, <https://doi.org/10.24042/adalah.v20i1.16062>.

³⁰ Robards and Graf, "How a Facebook Update Can Cost You Your Job": News Coverage of Employment Terminations Following Social Media Disclosures, From Racist Cops to Queer Teachers."

³¹ Sophie H. Klasen et al., "Efficacy of an Indicated Prevention Strategy on Sickness Absence and Termination of the Employment Contract: A 5-Year Follow-Up Study," *Scandinavian Journal of Work, Environment & Health* 47, no. 4 (May 1, 2021): 258–67, <https://doi.org/10.5271/sjweh.3945>.

³² Louisa Yesami Krisnalita et al., "The Legal Position of Amicus Curiae's Opinion on Criminal Judicial Processes in Indonesia," *Justitia Jurnal Hukum* 6, no. 1 (2022): 27–38, <https://doi.org/10.30651/justitia.v7i1.12807>.

³³ Gabrielle E. Clark, "Coercion and Contract at the Margins: Deportable Labor and the Laws of Employment Termination Under US Capitalism (1942–2015)," *Law & Social Inquiry* 43, no. 03 (December 27, 2018): 618–46, <https://doi.org/10.1111/lsi.12255>.

4. Conclusion

The results of this study demonstrate that Constitutional Court Decision 168/PUU-XXI/2023 regarding employment termination presents complex legal implications that intersect between constitutional norms, statutory provisions, and their implementation in the field. Although the decision was intended to reinforce worker protection, the absence of clear derivative regulations and standardized judicial interpretations at the Industrial Relations Court (IRC) level has led to significant legal uncertainty. This situation has weakened workers' bargaining position, reduced the predictability of outcomes in termination disputes, and, in some cases, eroded protection for vulnerable categories of labor. From the perspective of Islamic political jurisprudence, the decision's implementation reveals inconsistencies with the principles of *al-'adl* (justice), *al-maslahah* (public benefit), and *ri'ayah al-mustadh'afin* (protection of the disadvantaged). These values, which emphasize fairness, collective welfare, and safeguarding marginalized groups, can serve as a normative framework for improving termination policies. This research addresses the core problem of misalignment between the ideal objectives of the Constitutional Court decision and the actual practices observed in the labor sector. By framing the analysis through both constitutional law and Islamic legal ethics, the study offers a conceptual bridge to reconcile normative expectations with practical realities, ensuring that termination practices uphold both legal certainty and moral responsibility in labor governance.

This study underscores the potential for integrating *siyasah qadhaiyyah* principles into Indonesia's labor law framework as a means of achieving substantive justice. Such integration requires the formulation of comprehensive implementing regulations, capacity-building programs for IRC judges to interpret Constitutional Court decisions consistently, and mechanisms to embed Islamic legal values within labor dispute resolution processes. Theoretically, the research contributes to the discourse on legal pluralism in Indonesia by illustrating how constitutional adjudication and Islamic jurisprudence can be synthesized to address contemporary labor challenges in a way that respects both state law and religious norms. Nevertheless, the study acknowledges limitations, including its focus on selected case examples and the dynamic nature of labor jurisprudence, which may affect the generalizability of findings. Future research should expand empirical coverage, explore comparative insights from other jurisdictions with similar pluralistic legal systems, and develop practical guidelines for policymakers to operationalize Islamic legal values within labor policy. By doing so, labor law reforms can fulfill constitutional mandates while embodying principles of fairness, public interest, and protection for the disadvantaged, ultimately fostering a just and sustainable labor relations environment.

Declarations

Author Contribution Statement

Author Contribution Statement Kanaya Tabita served as the primary author and corresponding author, leading the research design, data collection, data analysis, and manuscript writing. Khalid assisted in the literature review and preparation of the research materials.

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The data that support the findings of this study are available from the corresponding author upon reasonable request. No publicly archived datasets were used or generated during the current research.

Declaration of Interests Statement

The authors declare that they have no known financial or personal conflicts of interest that could have influenced the work reported in this paper.

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