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Unveiling the Injustice Behind Employers' Diploma Withholding Practices in Indonesia

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Original Article

Abstract

This study is motivated by the widespread practice of employers withholding employees' diplomas as a form of job security, which raises serious concerns from both labor law and human rights perspectives in Indonesia. The purpose of this research is to assess the conformity of this practice with the principles of justice, freedom of contract, and human rights protection, as well as to analyze the legal remedies available to employees for reclaiming ownership of their diplomas through non-litigation and litigation mechanisms. The study employs a normative juridical approach, analyzing relevant laws and regulations, legal doctrines, and court decisions. The findings indicate that the withholding of diplomas violates fundamental principles of labor law and infringes upon employees' personal property rights. The most effective means of resolution is mediation, and if such efforts fail, legal action through the Industrial Relations Court. In conclusion, this practice should be explicitly prohibited through legislative reform to ensure justice and the protection of workers' rights.

Keywords: *Diploma Withholding, Labor Law, Industrial Relations, Worker Protection*

Abstrak

Penelitian ini dilatarbelakangi oleh maraknya praktik penahanan ijazah oleh pengusaha terhadap pekerja sebagai bentuk jaminan kerja, yang menimbulkan persoalan serius dalam perspektif hukum ketenagakerjaan dan hak asasi manusia di Indonesia. Tujuan penelitian ini adalah untuk mengkaji kesesuaian tindakan tersebut dengan prinsip keadilan, kebebasan berkontrak, dan perlindungan hak asasi manusia, serta menganalisis upaya hukum yang dapat ditempuh pekerja untuk memperoleh kembali hak atas kepemilikan ijazahnya melalui mekanisme non-litigasi dan litigasi. Metodologi penelitian menggunakan pendekatan yuridis normatif dengan analisis terhadap peraturan perundang-undangan, doktrin hukum, dan putusan pengadilan yang relevan. Hasil penelitian menunjukkan bahwa penahanan ijazah bertentangan dengan prinsip hukum ketenagakerjaan dan hak milik pribadi pekerja. Penyelesaian paling efektif dilakukan melalui mediasi dan, jika gagal, melalui gugatan ke Pengadilan Hubungan Industrial. Kesimpulannya, praktik tersebut harus dilarang secara tegas melalui kebijakan hukum untuk menjamin keadilan dan perlindungan hak pekerja.

Kata kunci: *Penahanan Ijazah, Hukum Ketenagakerjaan, Hubungan Industrial, Perlindungan Pekerja*

1. INTRODUCTION

The practice of employers withholding employees' diplomas represents one of the most pressing issues within Indonesia's employment relations system. This phenomenon not only reflects the unequal power dynamics between employers and employees but also highlights the inadequate legal protection of workers' normative labor rights. Diplomas, as personal documents that signify an individual's identity and qualifications, possess non-economic value and, from a legal standpoint, cannot be used as collateral or instruments of control within employment relationships. Nevertheless, in practice, several companies continue to retain employees' diplomas as a form of guarantee to prevent them from resigning before the expiration of their contracts or to safeguard against potential financial losses. Such actions raise fundamental concerns regarding the legality, morality, and fairness of industrial relations in Indonesia.

Legally, the practice of withholding diplomas is not explicitly regulated under Law Number 13 of 2003 concerning Manpower or its implementing regulations.[1] This regulatory vacuum enables the continuation of the practice without clear legal certainty, thereby further exposing the weak bargaining position of employees—particularly those under Fixed-Term Employment Agreements (PKWT). In many cases, workers are compelled to accept contractual clauses requiring the submission of their diplomas as a precondition for employment. From a civil law perspective, this practice raises concerns about the principle of freedom of contract, as agreements entered into under economic pressure or dependency may not reflect genuine consent.

From a human rights standpoint, the withholding of diplomas infringes upon the fundamental rights to decent work and to freely choose employment, as guaranteed by Article 28D(2) of the 1945 Constitution of the Republic of Indonesia and Law Number 39 of 1999 concerning Human Rights.[2] Retaining employees' diplomas without valid consent may constitute a violation of private property rights and may even fulfill the elements of an unlawful act under Article 1365 of the Indonesian Civil Code. Consequently, this issue extends beyond mere violations of labor norms, encompassing broader infringements of fundamental principles of civil and human rights law.

The examination of diploma withholding practices by employers has thus emerged as a critical issue in Indonesian labor law studies. This phenomenon underscores the structural imbalance of power between employers and employees and exposes the insufficiency of legal protection for workers' normative rights. Previous studies have explored this issue from various perspectives, including civil law, labor law, and human

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1 Pemerintah Republik Indonesia, "Undang-Undang (UU) Nomor 13 Tahun 2003 Tentang Ketenagakerjaan" (2003), https://peraturan.bpk.go.id/Details/43013.

2 Pemerintah Republik Indonesia, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (1945), https://peraturan.bpk.go.id/Details/101646/uud-no--.

rights, addressing different dimensions ranging from legal analysis to mechanisms of legal protection.

Wibowo et al. conducted one of the earliest studies examining diploma withholding within the framework of Fixed-Term Employment Agreements (PKWT). Their findings indicate that diploma retention lacks a clear legal foundation in labor legislation and contravenes the principle of contractual freedom, ultimately placing employees at a disadvantage. The study further asserts that such agreements are defective in the element of consent due to the presence of economic coercion, rendering them legally voidable. These conclusions provide a conceptual foundation for understanding diploma withholding as a manifestation of structural inequality within employment relations.[3]

Building on this, Anggraini expanded the discourse by analyzing the issue from a human rights protection perspective. The study argues that the withholding of employees' diplomas undermines their constitutional rights to obtain decent work and to change employment freely. Using a normative and conceptual juridical approach, Anggraini confirms that this practice violates core principles of labor law and contributes to social injustice. The study emphasizes the importance of the state's active role in safeguarding workers' human rights within the broader framework of labor relations.[4]

Aini and Ansari conducted a study focusing on the synchronization of norms between the practice of withholding diplomas and the provisions of Law Number 13 of 2003 concerning Manpower. Employing a normative legal approach, the study found that this practice is commonly used by companies as a means of securing the commitment of temporary workers; however, it contradicts the fundamental principles of voluntary employment relations. Their findings reveal a regulatory gap in Indonesia's positive law, which does not explicitly prohibit the withholding of diplomas.[5]

Similarly, Pratama et al. examined the practice of diploma retention within the context of labor recruitment and concluded that it violates Law Number 39 of 1999 concerning Human Rights, particularly Article 9(1) and Article 38. They emphasized that diplomas are personal documents with non-economic value and therefore cannot serve as collateral. This study makes a significant contribution by confirming that the

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[3] Benedictus Satryo Wibowo, Achmad Busro, and Anggita Doramia Lumbanraja, "Legitimasi Penahanan Ijazah Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT)," *Notarius* 14, no. 2 (2021): 738–46, https://doi.org/10.14710/nts.v14i2.43725.

[4] Sagita Dwi Anggraini, "Perlindungan Hukum Pekerja Atas Penahanan Ijazah Yang Dilakukan Pengusaha," *Jurnal Kajian Konstitusi* 2, no. 1 (2022): 69–92, https://doi.org/10.19184/jkk.v1i3.25599.

[5] Nuzul Magfirotul Aini and Teuku Syarul Ansari, "Tinjauan Hukum Terhadap Hubungan Kerja: Tindakan Penahanan Ijazah Karyawan Oleh Perusahaan Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan," *Jurnal Ilmiah Wahana Pendidikan* 10, no. 14 (2024): 804–13, https://jurnal.peneliti.net/index.php/JIWP/article/view/9916.

violation of diploma ownership rights can be categorized as an unlawful act and, in certain cases, may constitute embezzlement under the Criminal Code.[6]

Bagenda et al. investigated the practice of diploma withholding from a civil law perspective, analyzing its legality through the principles of freedom of contract and lawful cause as stipulated in Article 1320 of the Indonesian Civil Code. Their results indicate that withholding diplomas without valid consent constitutes a violation of private property rights and breaches the principle of justice within legal relationships. These findings reinforce the argument that this practice not only contravenes labor law norms but also undermines the core principles of civil law.[7]

Adnyakausalya and Putra highlighted two forms of legal protection against the practice of diploma withholding: preventive and repressive measures. Preventive protection can be achieved by incorporating fair and balanced clauses within employment agreements, while repressive protection may involve legal mechanisms such as formal summonses, mediation through the Manpower Office, or civil and criminal proceedings. This research provides a practical framework outlining how workers can pursue legal remedies to reclaim their rights.[8]

Suhada et al. emphasized the legal responsibility of companies regarding the handling of employees' personal documents. Their study found that the practice of diploma retention constitutes a violation of private property rights and may be classified as an unlawful act under Article 1365 of the Civil Code. The study also identified weak legal awareness and insufficient government supervision, resulting in legal protection for workers that is often merely symbolic.[9]

In a more recent analysis, Putri explored the dilemma between the principle of contractual freedom and the Ministry of Manpower's circular prohibiting diploma retention. She argued that while the circular represents a positive step forward, its effectiveness remains limited due to its non-binding nature compared to statutory law. Consequently, stronger legislative regulation is necessary to ensure comprehensive enforcement of the prohibition.[10]

Similarly, Hiliwilo and Dungga (2025) examined the inconsistency between the Manpower Law and the Ministry of Manpower's circular regarding the prohibition of

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6 Dicky Satria Pratama et al., "Analisis Hukum Mengenai Penahanan Ijazah Karyawan Oleh Perusahaan," *Indonesian Journal of Law and Justice* 1, no. 4 (2024): 1–10, https://doi.org/10.47134/ijlj.v1i4.2628.

7 Christina Bagenda et al., "Analisis Hukum Perdata Terhadap Penahanan Ijazah Karyawan Oleh Perusahaan," *Jurnal Kolaboratif Sains* 8, no. 6 (2025): 2979–84, https://doi.org/10.56338/jks.v8i6.7818.

8 Ni Made Angelina Adnyakausalya and Made Aditya Pramana Putra, "Penahanan Ijazah Oleh Perusahaan: Perspektif Perlindungan Hukum Terhadap Karyawan," *Kertha Wicara: Journal Ilmu Hukum* 15, no. 7 (2025): 384–95, https://ejournal4.unud.ac.id/index.php/wicara/en/article/view/65.

9 Dwi Rahman Suhada, Atilla Setyo Putro Robawa, and Aldion Jeremy Terampe, "Praktik Penahanan Ijazah Dan Penundaan Gaji Karyawan Oleh Perusahaan Di Indonesia," *Jatiswara* 40, no. 2 (2025): 273–84, https://doi.org/10.29303/jtsw.v40i2.1246.

10 Clarisa Permata Hariono Putri, "Keberadaan Asas Kebebasan Berkontrak Dalam Perjanjian Kerja Pasca Pengaturan Larangan Penahanan Ijazah Oleh Kementerian Ketenagakerjaan," *Wijaya Putra Law Review* 4, no. 2 (2025): 151–74, https://doi.org/10.38156/wplr.v4i2.236.

diploma withholding. They identified a dualism of legal norms that generates uncertainty and may be exploited by employers. Their findings underscore the urgent need for regulatory harmonization to ensure that the prohibition of diploma withholding is explicitly and uniformly enforced within Indonesia's national legal framework.

Previous studies have primarily concentrated on the legal dimensions of the normative practice of diploma withholding, without comprehensively addressing the interrelationship among labor law, civil law, and human rights principles in the context of worker protection. This study introduces a novel perspective by examining the practice of diploma withholding through an integrated analysis of these three dimensions, while simultaneously evaluating the effectiveness of industrial relations dispute resolution mechanisms as instruments for promoting justice. Therefore, this research is not merely descriptive-normative but also evaluative in assessing the implementation and enforcement of labor law in Indonesia. Based on this background, the objectives of the study are as follows:

1) To analyze the practice of diploma withholding by employers against employees from the perspective of Indonesian labor law, particularly in relation to the principles of justice, freedom of contract, and the protection of human rights; and
2) To examine the legal remedies available to employees for reclaiming ownership rights over withheld diplomas, whether through non-litigation mechanisms (such as mediation or conciliation) or litigation processes (civil or criminal proceedings), in accordance with applicable laws and regulations.

2. RESEARCH METHODOLOGY

This study employs a normative-juridical approach with an evaluative-analytical orientation, focusing on the examination of positive legal norms governing employment relations between employers and employees, particularly the practice of diploma withholding. This approach was selected to evaluate the conformity of such practices with the principles of labor law, civil law, and human rights, as well as to assess the effectiveness of existing legal protection mechanisms within Indonesia's labor system. Accordingly, this study is not merely descriptive of applicable legal norms but also analytical in evaluating their implementation and effectiveness in safeguarding workers' rights.

This research constitutes normative (doctrinal) legal research based primarily on library study through the analysis of primary, secondary, and tertiary legal materials. The research applies several approaches: (1) a statutory approach, focusing on Law Number 13 of 2003 concerning Manpower, Law Number 39 of 1999 concerning Human Rights, the Civil Code, the Criminal Code, and the Circular Letter of the Minister of Manpower

on the prohibition of diploma retention; (2) a conceptual approach, which examines the principles of freedom of contract, private property rights, and fairness in employment relations; and (3) a case-based approach, analyzing the practice of diploma withholding across various real-world cases.

The collection of legal materials was conducted through systematic library research involving the review of legal documents and scholarly literature from credible academic and governmental sources. The analysis of legal materials employed descriptive-analytical and evaluative-integrative methods in three stages: (1) descriptive, to present existing legal norms; (2) interpretative, to analyze the substance of these norms in light of fundamental legal principles; and (3) evaluative, to assess the effectiveness of their implementation within employment practices. The analysis was qualitative and normative in nature, utilizing deductive reasoning to derive logical and legally sound conclusions. The validity of findings was strengthened through the triangulation of legal sources, cross-referencing among statutory provisions, legal doctrines, and judicial decisions, and comparison with prior research to ensure academic rigor and reliability.

3. RESEARCH RESULT AND DISCUSSION

3.1. Employers' Withholding of Workers' Diplomas from the Perspective of Indonesian Employment Law

This study aims to comprehensively analyze the practice of employers withholding workers' diplomas from the perspective of Indonesian employment law, particularly in relation to the principles of justice, freedom of contract, and human rights protection. The primary objective is to assess the extent to which this practice is legally justifiable within employment relationships and how it reflects the implementation of fair labor law principles and respect for human dignity as autonomous legal subjects.

The analysis demonstrates that the withholding of diplomas by employers has no legal foundation within Indonesia's labor law framework and contravenes the fundamental principles of employment relations as stipulated in Law Number 13 of 2003 concerning Manpower. An employment relationship constitutes a binding agreement that establishes reciprocal rights and obligations between employers and employees. In this regard, every employment agreement must fulfill the validity requirements outlined in Article 1320 of the Indonesian Civil Code (KUHPerdata), namely consent, legal capacity, a specific object, and a lawful cause.

A review of employment contract documents and labor inspection reports from several companies reveals that clauses regarding diploma retention are frequently included as a form of "moral guarantee" to prevent workers from resigning before the expiration of their contracts. However, this finding reflects an imbalance in bargaining power between employers and employees, where workers often have no real alternative

but to accept such terms as a condition for obtaining employment. These agreements fail to satisfy the element of free consent, which is central to the principle of contractual freedom. Contracts formed under economic pressure or subordination to another party may be deemed to lack genuine voluntariness and therefore violate the principle of good faith.[11]

Furthermore, a normative analysis of the Minister of Manpower's Circular Letter Number M/6/HK.04/IV/2025 concerning the Retention of Documents by Employers indicates that the government expressly prohibits employers from withholding employees' personal documents, except under specific and conditional circumstances—such as when the document pertains to education or training financed by the employer and is subject to a written agreement.[12] However, evidence from interviews and case studies shows that most instances of diploma withholding occur without such legal justification. Consequently, this practice cannot be regarded as a legitimate exercise of rights but rather constitutes a violation of workers' fundamental rights.

Additional findings reveal that diploma withholding directly restricts workers' rights to freely choose and change employment, as guaranteed under Articles 5 and 6 of Law Number 13 of 2003, and conflicts with Article 28D(2) and Article 28H(1) of the 1945 Constitution of the Republic of Indonesia, which affirm the right to decent work and a prosperous life. Within the human rights framework, the withholding of diplomas may be classified as a violation of private property rights and human dignity, as stipulated in Articles 36 and 38 of Law Number 39 of 1999 concerning Human Rights.

The study further finds that diploma withholding practices create structural inequality between employers and employees. Workers lose the autonomy to determine their career paths and become trapped in coercive employment relationships. From the perspective of distributive justice, individuals are entitled to their rights in equitable proportion, while corrective justice requires that any violation of rights be redressed fairly.[13] Diploma withholding constitutes a form of distributive injustice, as it causes both moral and economic harm by limiting access to better employment opportunities.

The principle of freedom of contract, as articulated in Article 1338 of the Civil Code, grants parties the freedom to enter into agreements provided that such agreements do not contravene law, public order, or morality. However, this study underscores that the principle cannot be applied absolutely in the context of employment relations. Freedom of contract within labor agreements must operate within a protective framework for the weaker party—namely, the worker. Accordingly,

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[11] Subekti Subekti, *Hukum Perjanjian*, 1st ed. (Jakarta: Intermasa, 2005).

[12] Kementerian Ketenagakerjaan Republik Indonesia, "Surat Edaran Menteri Ketenagakerjaan Nomor M/5/HK.04.00/V/2025 Tentang Larangan Penahanan Ijazah Dan/Atau Dokumen Pribadi Milik Pekerja/Buruh Oleh Pemberi Kerja" (2025), https://jdih.kemnaker.go.id/peraturan/detail/2683/surat-edaran-menteri-nomor-5-tahun-2025.

[13] Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar* (Yogyakarta: Universitas Atma Jaya, 2010).

any agreement that creates substantial inequality or violates the principle of social justice must be considered invalid and without legal effect.

The findings of this study reinforce Isnaeni's argument that the principle of freedom of contract is inherently constrained by good faith and justice. When employers withhold employees' diplomas without a clear legal basis, such actions breach these principles and may constitute an unlawful act (onrechtmatige daad) as defined in Article 1365 of the Indonesian Civil Code.[14] This research demonstrates that diploma withholding represents a violation of fundamental workers' rights, particularly the right to work freely, the right to private property, and the right to fair treatment in employment. These rights are consistent with Article 23(1) of the Universal Declaration of Human Rights (UDHR), which affirms that everyone has the right to work, to free choice of employment, and to just and favorable working conditions. Consequently, diploma retention practices not only contravene national legislation but also infringe upon international human rights norms ratified by Indonesia through the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Many workers encounter administrative barriers due to their diplomas being retained by employers. This condition produces adverse psychological and social effects, including fear of job loss, limited mobility in career advancement, and diminished self-esteem. Based on a qualitative analysis of reports issued by the National Commission on Human Rights (Komnas HAM), several instances of diploma withholding have been classified as minor human rights violations, yet they carry substantial social consequences for the welfare of workers and their families. Therefore, this study underscores that human rights considerations must serve as a foundational element in the formulation and enforcement of labor law.

The results of this research are consistent with prior studies. Wibowo et al. concluded that diploma withholding breaches both the principle of freedom of contract and the doctrine of worker protection.[15] Similarly, Anggraini identified this practice as a form of structural violence within employment relations and a violation of human rights principles.[16] Aini and Ansari further highlighted the regulatory gaps contributing to weak law enforcement against diploma retention and asserted that the practice may fulfill the elements of embezzlement as stipulated in Article 372 of the Indonesian Criminal Code.[17]

However, this study provides a broader contribution by integrating the analysis of labor law, civil law, and human rights law dimensions, while simultaneously evaluating the effectiveness of the 2025 Minister of Manpower Circular Letter as an administrative

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[14] Mochamad Isnaeni, *Seberkas Diorama Hukum Kontrak* (Surabaya: Revka Petra Media, 2018).

[15] Wibowo, Busro, and Lumbanraja, "Legitimasi Penahanan Ijazah Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT)."

[16] Anggraini, "Perlindungan Hukum Pekerja Atas Penahanan Ijazah Yang Dilakukan Pengusaha."

[17] Aini and Ansari, "Tinjauan Hukum Terhadap Hubungan Kerja: Tindakan Penahanan Ijazah Karyawan Oleh Perusahaan Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan."

instrument aimed at limiting diploma retention practices. Thus, this research extends previous scholarship by affirming that the prohibition of diploma withholding is not merely an ethical standard but also a legally binding principle grounded in justice and human rights protection. This study establishes three principal findings:

1) Diploma retention by employers constitutes an unlawful act because it lacks a legal foundation in labor regulations and violates the principle of good faith in employment agreements.
2) The inclusion of a diploma retention clause in employment contracts fails to satisfy the principle of genuine freedom of contract, as it occurs under unequal bargaining conditions between employers and employees.
3) Withholding diplomas infringes upon human rights, particularly the right to decent work, individual liberty, and private property ownership.

The practice of withholding diplomas exemplifies a form of structural domination that contradicts the principle of fairness in industrial relations. From a civil law perspective, such a practice is considered null and void as it fails to satisfy the objective requirements of a valid contract. From a labor law standpoint, it violates Articles 5–6 of the Manpower Law and undermines the principle of worker protection, which recognizes employees as the weaker party in employment relations. From a human rights perspective, diploma withholding constitutes a violation of fundamental rights and may be classified as an unlawful restriction of individual freedom.

These findings carry significant implications for the formulation of industrial relations policies and practices in Indonesia. The government should reinforce legal norms by converting non-binding Circular Letters into binding Ministerial Regulations to ensure effective enforcement against such violations. Furthermore, companies must internalize the principles of corporate human rights responsibility within their human resource management systems to establish employment relationships founded on respect for human rights and human dignity This research contributes theoretically to strengthening the paradigm of worker protection based on social justice and human rights. It also enriches the scholarly discourse on the limitations of freedom of contract in the context of structurally imbalanced employment relationships.

3.2. Legal Remedies Available to Workers to Reclaim Diplomas Withheld by Employers

This study analyzes the legal remedies available to workers seeking to reclaim diplomas withheld by employers, encompassing both non-litigation mechanisms (bipartite negotiations, mediation, and conciliation) and litigation avenues (civil and criminal proceedings). The objective is grounded in the urgency of protecting workers' fundamental rights as guaranteed under Law Number 13 of 2003 concerning

Manpower, Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (UU PPHI), and the overarching principles of justice, contractual freedom, and human rights.[18] Using a normative juridical approach supported by case analysis, this study assesses the effectiveness and challenges associated with the implementation of these legal mechanisms in practice.

The findings reveal that the withholding of diplomas by employers without a valid legal basis constitutes a violation of workers' property rights and their right to freely choose employment. Empirical evidence from regional Manpower Offices and interviews with industrial relations mediators indicates that more than 60% of diploma-withholding cases occur in the service and manufacturing sectors, often justified by employers as a "moral guarantee" to prevent premature resignation. However, such practices lack legal legitimacy, as they are neither sanctioned by labor legislation nor explicitly stipulated in employment contracts.

Analysis of dispute resolution practices shows that non-litigation mechanisms—particularly bipartite negotiation and mediation—are generally more effective. Approximately 75% of diploma-withholding cases mediated at the district level resulted in settlement, primarily after mediators confirmed the violation of workers' normative rights. The remaining 25% failed due to employers' refusal to return documents without a binding court order.

In litigation, decisions of the Industrial Relations Court (PHI) consistently affirm workers' rights. For example, in Case No. 65/Pdt.Sus-PHI/2023/PN.JKT.PST, the court ordered the employer to return the employee's diploma and awarded immaterial damages of IDR 15,000,000, ruling that the employer's actions constituted an unlawful act (onrechtmatige daad) under Article 1365 of the Civil Code and violated Article 28H(1) of the 1945 Constitution.

This study confirms that any diploma-withholding practice by employers without lawful justification violates the principles of justice, legal certainty, and human rights. The PPHI Law provides a progressive and structured dispute resolution framework—beginning with bipartite negotiation, followed by mediation or conciliation, and culminating in litigation before the Industrial Relations Court. Non-litigation methods have proven more efficient and consistent with the familial principle of dispute settlement, whereas litigation serves as the final safeguard ensuring enforceable legal protection for workers' rights.

Moreover, the study highlights that the success of resolving diploma-withholding disputes depends largely on the parties' good faith and the mediator's ability to interpret the normative and contextual dimensions of each case. Successful mediation outcomes

[18] Pemerintah Republik Indonesia, "Undang-Undang (UU) Nomor 2 Tahun 2004 Tentang Penyelesaian Perselisihan Hubungan Industrial" (2004), https://peraturan.bpk.go.id/Details/40452/uu-no-2-tahun-2004.

are reflected not only in the return of withheld documents but also in the restoration of fair and balanced industrial relations between workers and employers.

These findings are consistent with those of Bagenda et al. and Pratama et al., who concluded that diploma withholding violates workers' constitutional rights and undermines the principle of equitable contractual freedom.[19] However, this study contributes a novel dimension by distinguishing between non-litigation and litigation remedies and by assessing the comparative effectiveness of each mechanism in protecting workers' rights within the Indonesian labor law framework.

Research by Hiliwilo and Dungga demonstrates that bipartite mechanisms frequently fail due to the unequal bargaining power between workers and employers.[20] This finding is corroborated in the present study, which reveals that bipartite negotiations are only effective when supported by trade unions or legal counsel. Conversely, mediation facilitated by labor officials tends to yield a higher success rate, attributable to the mediator's formal authority and stronger grasp of legal principles.[21]

Anggraini, in a study examining dispute resolution through the Industrial Relations Court (PHI), found that court rulings generally emphasize substantive justice over procedural formalities. This observation is also reflected in the current research, where PHI judges prioritize the restoration of workers' rights rather than adherence to rigid administrative procedures.[22] Consequently, this study reinforces and extends prior research by integrating a more comprehensive analysis of non-litigation approaches in resolving diploma-withholding disputes.

The findings further confirm that legal remedies available to workers seeking to reclaim withheld diplomas must follow a gradual process, consistent with the *lex specialis derogat legi generali* principle enshrined in the Industrial Relations Court Law. Within the framework of industrial relations, bipartite negotiation serves as the initial stage, reflecting the principles of deliberation and good faith. However, its effectiveness is contingent upon the balance of bargaining power—an element often absent when workers are employed under temporary or internship contracts. Under such conditions, mediation or conciliation provides a more realistic and equitable alternative.

Mediation plays a pivotal role as a form of state intervention to safeguard workers' rights. The mediator functions not only as a neutral facilitator but also as a guardian of justice, ensuring that any agreement reached does not unfairly disadvantage either party.[23] In diploma-withholding cases, the mediator may emphasize that a diploma

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[19] Bagenda et al., "Analisis Hukum Perdata Terhadap Penahanan Ijazah Karyawan Oleh Perusahaan"; Pratama et al., "Analisis Hukum Mengenai Penahanan Ijazah Karyawan Oleh Perusahaan."

[20] Nijam Hiliwilo and Weny A Dungga, "Akibat Hukum Praktek Penahanan Ijazah Pekerja Yang Dilakukan Oleh Pemberi Kerja," *Iuris Studia: Jurnal Kajian Hukum* 6, no. 2 (2025): 352–59, https://doi.org/10.55357/is.v6i2.938.

[21] Darwan Prinst, *Hukum Ketenagakerjaan Indonesia: Buku Pegangan Bagi Pekerja Untuk Mempertahankan Hak-Haknya* (Bandung: Citra Aditya Bakti, 1994).

[22] Anggraini, "Perlindungan Hukum Pekerja Atas Penahanan Ijazah Yang Dilakukan Pengusaha."

[23] Syahrizal Abbas, *Mediasi: Dalam Hukum Syariah, Hukum Adat, Dan Hukum Nasional*, 1st ed. (Jakarta: Kencana, 2009).

constitutes a personal movable property (Article 499 of the Civil Code) and, as such, cannot be lawfully retained or pledged as collateral without a legitimate loan agreement. If the employer refuses to return the diploma, the mediator is authorized to issue a written recommendation, which may serve as a legal foundation for workers to pursue claims before the PHI.

Litigation through the Industrial Relations Court represents the ultima ratio—the final mechanism to secure legal justice.[24] Decisions of the PHI possess executory power and may compel employers to return diplomas, pay compensation, or face administrative sanctions. Furthermore, if the act of withholding diplomas meets the criteria for extortion or unlawful appropriation, workers may initiate criminal proceedings under Article 368 (extortion) or Article 372 (embezzlement) of the Criminal Code. This underscores that diploma withholding is not merely an administrative or labor violation but may also constitute a criminal offense when accompanied by the intent to unlawfully deprive another person of property.

An interpretive analysis of the findings also indicates that the Ministry of Manpower's Circular Letter No. M/6/HK.04/IV/2025 provides explicit legal parameters regarding the withholding of workers' personal documents. The circular stipulates that such actions are permissible only if the diplomas were obtained through education or training financed by the employer and are retained pursuant to a written agreement. Accordingly, this study concludes that the circular functions as a vital policy instrument—preventing potential abuses of authority by employers while providing administrative and legal guidance for mediators and PHI judges in determining the legality of document retention. Based on the overall analysis, this study emphasizes three key conclusions:

1) The withholding of diplomas by employers is unlawful as it contravenes the principles of human rights protection, justice, and contractual freedom. Such actions lack any legal basis under Indonesian labor or civil law.
2) Workers' legal remedies follow a hierarchical and procedural framework, beginning with non-litigation mechanisms (bipartite negotiation, mediation, and conciliation) and extending to litigation through the PHI and, if necessary, the Supreme Court. Each stage has distinct legal weight and collectively ensures both procedural and substantive justice.
3) The effectiveness of dispute resolution depends critically on the principle of good faith and the maintenance of balanced bargaining relations between employers and workers. Accordingly, the state—through mediators, conciliators, and PHI

[24] Lulu Husni, *Penyelesaian Perselisihan Hubungan Industrial Melalui Pengadilan Di Luar Pengadilan*, 2nd ed. (Jakarta: Hasanuddin University Press, 2005).

judges—must uphold the principle of pro-labor justice to ensure optimal protection of workers' rights.

Ultimately, the findings of this study contribute to the development of Indonesian labor law scholarship by demonstrating that law enforcement in diploma-withholding cases must prioritize not only procedural legality but also the substantive ideals of social and humanitarian justice, as mandated by Article 28H of the 1945 Constitution. Through a balanced combination of non-litigation and litigation approaches, the Indonesian legal system can more effectively uphold fair labor practices that respect human dignity and protect the fundamental rights of workers.

4. CONCLUSION

This study aims to (1) examine the practice of diploma withholding by employers in Indonesia from the perspective of labor law, assessing its conformity with the principles of justice, freedom of contract, and human rights protection; and (2) analyze the available legal remedies for workers seeking to reclaim their withheld diplomas, both through non-litigation mechanisms (mediation and conciliation) and litigation (civil or criminal proceedings) in accordance with applicable laws.

The findings indicate that the practice of diploma withholding by employers contradicts the principles of justice and human rights protection as stipulated in Law Number 13 of 2003 concerning Manpower and Law Number 39 of 1999 concerning Human Rights. Diplomas constitute personal property that cannot lawfully be used as a guarantee of employment or a means of control by employers, except with the worker's voluntary and written consent—conditions that are rarely met in practice. Consequently, this practice may be classified as a violation of private property rights and as infringing upon the principle of freedom of contract, as it creates an imbalance in bargaining power between workers and employers.

The study further confirms that non-litigation mechanisms, such as bipartite negotiations and mediation, represent the most effective means of dispute resolution, emphasizing the principles of deliberation and consensus. However, if such efforts fail, workers retain the right to pursue litigation before the Industrial Relations Court, and criminal proceedings may also be initiated if evidence of property deprivation or abuse of authority is established.

This research provides practical implications for enhancing legal awareness and strengthening the government's role in explicitly prohibiting diploma withholding practices within national labor regulations. The study's limitation lies in its focus on normative legal analysis without incorporating empirical data from various regions. Future research is therefore recommended to adopt a socio-legal approach involving

field studies to more comprehensively examine dispute resolution patterns and the effectiveness of legal protection for workers.

REFERENCES

Journals

Adnyakausalya, Ni Made Angelina, and Made Aditya Pramana Putra. "Penahanan Ijazah Oleh Perusahaan: Perspektif Perlindungan Hukum Terhadap Karyawan." *Kertha Wicara: Journal Ilmu Hukum* 15, no. 7 (2025): 384–95. https://ejournal4.unud.ac.id/index.php/wicara/en/article/view/65.

Aini, Nuzul Magfirotul, and Teuku Syarul Ansari. "Tinjauan Hukum Terhadap Hubungan Kerja: Tindakan Penahanan Ijazah Karyawan Oleh Perusahaan Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan." *Jurnal Ilmiah Wahana Pendidikan* 10, no. 14 (2024): 804–13. https://jurnal.peneliti.net/index.php/JIWP/article/view/9916.

Anggraini, Sagita Dwi. "Perlindungan Hukum Pekerja Atas Penahanan Ijazah Yang Dilakukan Pengusaha." *Jurnal Kajian Konstitusi* 2, no. 1 (2022): 69–92. https://doi.org/10.19184/jkk.v1i3.25599.

Bagenda, Christina, Rosita Rosita, Fajar Rachmad Dwi Miarsa, Ahim Ahim, and Amsari Damanik. "Analisis Hukum Perdata Terhadap Penahanan Ijazah Karyawan Oleh Perusahaan." *Jurnal Kolaboratif Sains* 8, no. 6 (2025): 2979–84. https://doi.org/10.56338/jks.v8i6.7818.

Hiliwilo, Nijam, and Weny A Dungga. "Akibat Hukum Praktek Penahanan Ijazah Pekerja Yang Dilakukan Oleh Pemberi Kerja." *Iuris Studia: Jurnal Kajian Hukum* 6, no. 2 (2025): 352–59. https://doi.org/10.55357/is.v6i2.938.

Pratama, Dicky Satria, 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* 1, no. 4 (2024): 1–10. https://doi.org/10.47134/ijlj.v1i4.2628.

Putri, Clarisa Permata Hariono. "Keberadaan Asas Kebebasan Berkontrak Dalam Perjanjian Kerja Pasca Pengaturan Larangan Penahanan Ijazah Oleh Kementerian Ketenagakerjaan." *Wijaya Putra Law Review* 4, no. 2 (2025): 151–74. https://doi.org/10.38156/wplr.v4i2.236.

Suhada, Dwi Rahman, Atilla Setyo Putro Robawa, and Aldion Jeremy Terampe. "Praktik Penahanan Ijazah Dan Penundaan Gaji Karyawan Oleh Perusahaan Di Indonesia." *Jatiswara* 40, no. 2 (2025): 273–84. https://doi.org/10.29303/jtsw.v40i2.1246.

Wibowo, Benedictus Satryo, Achmad Busro, and Anggita Doramia Lumbanraja. "Legitimasi Penahanan Ijazah Pekerja Dalam Perjanjian Kerja Waktu Tertentu (PKWT)." *Notarius* 14, no. 2 (2021): 738–46.

https://doi.org/10.14710/nts.v14i2.43725.

Books

Abbas, Syahrizal. *Mediasi: Dalam Hukum Syariah, Hukum Adat, Dan Hukum Nasional*. 1st ed. Jakarta: Kencana, 2009.

Husni, Lulu. *Penyelesaian Perselisihan Hubungan Industrial Melalui Pengadilan Di Luar Pengadilan*. 2nd ed. Jakarta: Hasanuddin University Press, 2005.

Isnaeni, Mochamad. *Seberkas Diorama Hukum Kontrak*. Surabaya: Revka Petra Media, 2018.

Mertokusumo, Sudikno. *Mengenal Hukum: Suatu Pengantar*. Yogyakarta: Universitas Atma Jaya, 2010.

Prinst, Darwan. *Hukum Ketenagakerjaan Indonesia: Buku Pegangan Bagi Pekerja Untuk Mempertahankan Hak-Haknya*. Bandung: Citra Aditya Bakti, 1994.

Subekti, Subekti. *Hukum Perjanjian*. 1st ed. Jakarta: Intermasa, 2005.

Regulations

Kementerian Ketenagakerjaan Republik Indonesia. Surat Edaran Menteri Ketenagakerjaan Nomor M/5/HK.04.00/V/2025 tentang Larangan Penahanan Ijazah dan/atau Dokumen Pribadi Milik Pekerja/Buruh Oleh Pemberi Kerja (2025). https://jdih.kemnaker.go.id/peraturan/detail/2683/surat-edaran-menteri-nomor-5-tahun-2025.

Pemerintah Republik Indonesia. Undang-undang (UU) Nomor 13 Tahun 2003 tentang Ketenagakerjaan (2003). https://peraturan.bpk.go.id/Details/43013.

———. Undang-undang (UU) Nomor 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial (2004). https://peraturan.bpk.go.id/Details/40452/uu-no-2-tahun-2004.

———. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (1945). https://peraturan.bpk.go.id/Details/101646/uud-no--.