



Legal Protection of Telecommunications Service Workers from the Perspective of Progressive Legal Theory: An Analysis of Outsourcing Implementation and Substantive Justice in Indonesia

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Abstract

The telecommunications industry is a strategic sector that plays a vital role in supporting Indonesia's digital transformation and national economic development. Behind the rapid expansion of telecommunications infrastructure, most telecommunications service workers are employed through multilayered outsourcing arrangements involving telecommunications operators, vendors, and subvendors, giving rise to legal issues concerning employment certainty, occupational safety and health, employment social security, and the allocation of legal responsibility. This study aims to analyze the effectiveness of legal protection for telecommunications service workers under Indonesia's positive legal framework from the perspective of Satjipto Rahardjo's Progressive Legal Theory and to formulate a reconstructed legal protection model that better reflects the characteristics of employment relationships in the telecommunications sector. This research employs normative legal research using statutory, conceptual, and philosophical approaches. The novelty of this study lies in reconstructing a legal protection model based on the concept of joint responsibility, which allocates legal responsibility among telecommunications operators, vendors, and subvendors according to the principle of substantive control, rather than solely on formal contractual relationships. The findings reveal that the principal weakness of the existing legal protection framework lies not in the inadequacy of statutory regulations but in the ineffective implementation of legal protection within multilayered employment arrangements, resulting in an accountability gap between the party exercising substantive control over the work and the party formally bearing legal responsibility. Accordingly, the study proposes strengthening the principle of joint responsibility, enhancing occupational safety and health standards, optimizing employment social security coverage, reinforcing labor inspection mechanisms, and establishing sector-specific regulations for telecommunications service workers to ensure greater legal certainty and substantive justice.

Keywords: Legal Protection; Telecommunications Service Workers; Outsourcing; Progressive Legal Theory; Joint Responsibility.

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INTRODUCTION

The rapid advancement of information and communication technologies has driven significant digital transformation across various sectors of society. The telecommunications industry has emerged as a strategic sector, serving as critical infrastructure that supports national connectivity, promotes the growth of the digital economy, and accelerates regional development across Indonesia.¹ The growing public demand for internet services, data

¹ Kalamullah Ramli, Muhammad Suryanegara, and Fithra Faisal Hastiadi, *Accelerating Digital Transformation in Indonesia: Technology, Market, and Policy* (Jakarta: Economic Research Institute for ASEAN and East Asia (ERIA), 2023), 1-8.

communications, cloud computing, and network-based technologies has continued to increase in line with the Fourth Industrial Revolution and the transition toward a digital society. These developments have prompted telecommunications operators to continuously expand their network infrastructure through the deployment of Base Transceiver Stations (BTS), the expansion of fiber-optic networks, the modernization of telecommunications equipment, and the enhancement of service quality.²

The successful development of telecommunications infrastructure is inseparable from the contributions of telecommunications service workers who are responsible for the installation, maintenance, operation, and expansion of telecommunications networks. These workers include fiber-optic technicians, tower climbers, transmission technicians, network access technicians, Base Transceiver Station (BTS) maintenance technicians, and various other technical professionals who perform their duties directly in the field. The nature of their work involves relatively high occupational risks, as it requires working at heights, handling high-voltage electrical equipment, traveling to remote locations, and operating under unpredictable weather conditions.³

On the other hand, employment arrangements across various industrial sectors, including the telecommunications industry, have evolved with the increasingly widespread adoption of outsourcing practices following the development of Indonesia's labor regulations. This practice allows companies to engage workforce service providers (vendors), which, in certain cases, may further involve subcontractors (*subvendors*), resulting in increasingly complex employment relationships. Such complexity may give rise to legal issues concerning the certainty of employment status, occupational safety and health protection, employment social security, and legal liability in the event of workplace accidents or violations of workers' rights.⁴

From a normative perspective, the protection of workers is constitutionally guaranteed under Article 27(2) of the 1945 Constitution of the Republic of Indonesia, which provides that every citizen has the right to work and to a decent livelihood. Furthermore, Article 28D (2) of the 1945 Constitution guarantees every person's right to work and to receive fair and equitable remuneration and treatment in employment relationships. These constitutional guarantees have subsequently been implemented through various labor regulations, including Law Number 13 of 2003 on Manpower, Law Number 6 of 2023 concerning the Enactment of the Government Regulation in Lieu of Law on Job Creation into Law, as well as various implementing regulations governing the protection of workers.

Nevertheless, various legal protection issues continue to arise in employment practices within the telecommunications sector. The expanded use of outsourced labor following the labor policy reforms introduced under the Job Creation Law has sparked debate over the balance between investment interests and workers' protection.⁵ From a business perspective, such flexibility is regarded as enhancing industrial efficiency and

² Militcyano Samuel Sapulette and Pyan A. Muchtar, "Redefining Indonesia's Digital Economy," *ERIA Policy Brief* No. 2022-06 (January 2023), 1-4

³ Santi Krajaechun, Supalux Jaireung, and Thanawut Khunthong, "Occupational Safety and Health Support System for Telecommunication Tower Climbers," *ASEAN Journal of Scientific and Technological Reports* 28, no. 2 (2025), <https://doi.org/10.55164/ajstr.v28i2.254166>

⁴ Siti Kunarti et al., "The Legal Politics of Outsourcing and Its Implication for the Protection of Workers in Indonesia," *Sriwijaya Law Review* 8, no. 1 (2024), <https://doi.org/10.28946/slrev.Vol8.Iss1.2750.pp1-19>

⁵ Siti Kunarti, Nur Putri Hidayah, Hariyanto, and Muhammad Bahrul Ulum, "The Legal Politics of Outsourcing and Its Implication for the Protection of Workers in Indonesia," *Sriwijaya Law Review* 8, no. 1 (2024): 1-19, <https://doi.org/10.28946/slrev.Vol8.Iss1.2750.pp1-19>

competitiveness.⁶ From the workers' perspective, however, it may increase job insecurity, weaken workers' bargaining position, and heighten their vulnerability to termination of employment and violations of their statutory employment rights.⁷

These issues demonstrate that the legal protection of workers in the telecommunications service sector cannot be adequately analyzed solely through the lens of positive law. A legal philosophy approach is required to examine the substantive objectives of the law, particularly in promoting justice for vulnerable groups. In this context, Satjipto Rahardjo's Progressive Legal Theory provides a relevant analytical framework, as it places human beings at the center of the law's purpose.⁸ Under this perspective, the law should not be viewed merely as a body of formal rules but must also provide effective protection and realize substantive justice for society, including telecommunications service workers who occupy a disadvantaged position within industrial relations.⁹

Previous studies have generally examined outsourced workers from the perspective of labor law. Pratiwi and Andani highlighted the weakening of legal protection for outsourced workers following the enactment of the Job Creation Law,¹⁰ while Milinum examined the impact of outsourcing flexibility on workers' job security.¹¹ Furthermore, Koto and Hanifah analyzed the implementation of core business activities performed by outsourced workers from a labor law perspective,¹² whereas Riyadi discussed corporate legal responsibility toward outsourced workers.¹³ "Although these studies have made valuable contributions to the existing literature, they have not specifically addressed the legal protection of telecommunications service workers, whose employment relationships are characterized by multiple contractual layers involving telecommunications operators, vendors, and subvendors, as well as relatively high occupational risks. In light of this research gap, the present study offers a novel contribution by integrating labor law analysis with Satjipto Rahardjo's Progressive Legal Theory as an analytical framework for assessing the effectiveness of legal protection for telecommunications service workers.¹⁴ Unlike previous studies, which have primarily focused on the normative dimensions of labor law, this study emphasizes the gap between legal norms and their implementation in practice. Moreover, it specifically positions telecommunications service workers as the primary subject of analysis and proposes a reconstruction model of legal protection based on the concept of joint responsibility among telecommunications operators, vendors, and subvendors to strengthen legal certainty and promote justice for workers.

Based on the foregoing background, this study aims to examine the legal framework and implementation of legal protection for telecommunications service workers within the Indonesian legal system, analyze such legal protection through the perspective of Satjipto

⁶ Mia Rachma Fitri and A. Surya Pratama, "Legal Certainty of Outsourced Labour Agreements after Law Number 6 of 2023," *Jurnal Hukum dan Pembangunan* 54, no. 2 (2024): 201–221, <https://doi.org/10.21143/jhp.vol54.no2.1913>

⁷ Wahyu Budi Pratiwi and Dita Andani, "Perlindungan Hukum Tenaga Kerja dengan Sistem Outsourcing di Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 29, no. 3 (2022): 652–673, <https://doi.org/10.20885/iustum.vol29.iss3.art8>

⁸ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Jakarta: Penerbit Buku Kompas, 2009), 5–12.

⁹ Satjipto Rahardjo, *Hukum Progresif: Hukum yang Membebaskan* (Jakarta: Penerbit Buku Kompas, 2009), 17–28.

¹⁰ W. B. Pratiwi and D. Andani, "Perlindungan Hukum Tenaga Kerja dengan Sistem Outsourcing di Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 29, no. 3 (2022): 652–67

¹¹ S. N. Milinum, "Problematika Fleksibilitas Outsourcing Pasca UU Cipta Kerja Klaster Ketenagakerjaan," *Jurnal Hukum Lex Generalis* 3, no. 5 (2022): 412–432

¹² I. Koto and I. Hanifah, "Aspek Hukum Pelaksanaan Pekerjaan Pokok oleh Tenaga Kerja Outsourcing di Indonesia," *Legalitas* 14, no. 2 (2023): 193–199.

¹³ R. B. Riyadi, "Tanggung Jawab Hukum terhadap Tenaga Kerja Outsourcing dalam Perspektif Undang-Undang Ketenagakerjaan di Indonesia," *Jurnal Teknik, Komputer, Agroteknologi dan Sains* 4, no. 1 (2025): 7–11

¹⁴ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Jakarta: Kompas, 2009).

Rahardjo's Progressive Legal Theory, and formulate an ideal model of equitable legal protection for telecommunications service workers to promote legal certainty, justice, and more effective legal protection.

METHODS OF THE RESEARCH

This study employs a normative legal research approach, focusing on the examination of law as a normative framework governing the employment relationship between telecommunications service workers and telecommunications service providers. This research design was selected because it seeks to analyze the consistency between positive legal norms and the principles of justice embodied in Satjipto Rahardjo's Progressive Legal Theory in providing legal protection for telecommunications service workers.¹⁵ The study adopts three complementary approaches: the statutory approach, the conceptual approach, and the philosophical approach.¹⁶ The statutory approach is used to examine legislation governing labor, telecommunications, occupational safety and health, and the outsourcing system, including the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2003 on Manpower, Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, Law Number 36 of 1999 on Telecommunications, Government Regulation Number 35 of 2021, Law Number 1 of 1970 on Occupational Safety, and Government Regulation Number 50 of 2012 on the Implementation of the Occupational Safety and Health Management System. The conceptual approach is employed to examine the concepts of legal protection, employment relationships, outsourcing, occupational safety and health, social justice, and legal responsibility in industrial relations. Meanwhile, the philosophical approach is used to analyze the research issues through the perspective of Satjipto Rahardjo's Progressive Legal Theory, which regards law as an instrument for realizing human protection and substantive justice.¹⁷ The legal materials used in this study consist of primary legal materials in the form of legislation, secondary legal materials comprising books, scholarly journal articles, research findings, and legal doctrines, as well as tertiary legal materials, including legal dictionaries, encyclopedias, and other supporting references. The legal materials were collected through library research, while the data were analyzed qualitatively using a descriptive-analytical method by applying a systematic interpretation of statutory provisions and Progressive Legal Theory to develop comprehensive legal arguments concerning the legal protection of telecommunications service workers.¹⁸

RESULTS AND DISCUSSION

A. Characteristics of Employment Relationships in Indonesia's Telecommunications Service Industry

The development of the telecommunications industry across various countries has been accompanied by a shift in employment models from direct employment toward outsourcing arrangements involving multiple contractual layers. In the modern telecommunications sector, operators no longer perform all operational activities independently; instead, they outsource certain technical functions to service providers (vendors), which may

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Kencana, 2021)

¹⁶ *Ibid*

¹⁷ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Edisi Ke-20 (Jakarta: Rajawali Pers, 2021)

¹⁸ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2013)

subsequently engage other companies (*subvendors*) to carry out field operations. This arrangement creates a multilayered outsourcing structure involving telecommunications operators, primary contractors, subcontractors, and field workers responsible for executing technical tasks.¹⁹

Unlike conventional employment relationships, which involve only an employer and an employee, employment structures in the telecommunications industry are characterized by a distinction between the formal employment relationship and substantive control over the work. Although workers are legally bound by employment contracts with vendors or *subvendors*, telecommunications operators continue to exercise significant authority over work targets, operational standards, service quality, supervisory mechanisms, and employee performance evaluations. Consequently, operators retain substantial control over the work process despite not serving as the formal employer. This arrangement reflects the characteristics of a tripartite employment relationship, a model that is increasingly prevalent in the telecommunications industry and other sectors that rely extensively on outsourcing.²⁰

The adoption of outsourcing arrangements in the telecommunications industry is primarily driven by companies' need to improve operational efficiency, access workers with specialized expertise, and enhance flexibility in human resource management. In addition to generating economic benefits through cost efficiency and allowing companies to concentrate on their core business activities, outsourcing also enables telecommunications operators to gain access to advanced technologies, technical expertise, and broader operational capabilities. Nevertheless, numerous studies have shown that increasing contractual complexity within employment relationships is accompanied by greater complexity in governance arrangements and the allocation of legal responsibilities among operators, vendors, and subvendors.²¹

Such complexity has direct implications for the legal protection of workers. The literature indicates that the existence of multiple contractual layers often creates uncertainty regarding the party responsible when industrial relations disputes, violations of workers' rights, or workplace accidents occur. In many cases, legal responsibility is determined solely on the basis of the formal contractual relationship between workers and vendors, while telecommunications operators, despite exercising actual control over the work, remain outside the scope of direct legal liability. This situation may give rise to an accountability gap, referring to the disparity between the party that derives economic benefits from the work and the party that formally employs the workers. Accordingly, numerous studies emphasize the importance of strengthening outsourcing governance mechanisms, clarifying the allocation of contractual responsibilities, and enhancing oversight of multilayered employment arrangements to ensure the effective protection of workers' rights.²² In addition to the complexity of employment relationships, technical work in the

¹⁹ Lars-Henrik Kvist Nielsen, Abiola Akanmu, and Chimay J. Anumba, "Comparative Analysis of Back-to-Back Subcontracts in the Construction and Telecommunications Industries," *Built Environment Project and Asset Management* (2015), <https://doi.org/10.1108/BEPAM-10-2013-0044>

²⁰ Samson Mbanje and Orthodox Tefera, "Business Process Outsourcing in the South African Mobile Telecommunications Industry," *International Journal of Research in Business and Social Science* (2023), <https://doi.org/10.20525/IJRBS.V12I4.2544>

²¹ Rosemary Batt and Eileen Appelbaum, "The Networked Organisation"; Sumangala Damodaran, "New Strategies of Industrial Organization: Outsourcing and Consolidation in the Mobile Telecom Sector in India," *SSRN Electronic Journal*, <https://doi.org/10.2139/ssrn.2261737>

²² Chamdani, Nasution, Suhartono, and Hufon, "Legal Protection of Outsourcing Workers," *Technium Social Sciences Journal* (2022), <https://doi.org/10.47577/TSSJ.V34I1.7152>

telecommunications sector is associated with relatively high occupational risks. Field workers routinely perform tasks at height during the maintenance of telecommunications towers, work in proximity to high-voltage electrical installations, travel to remote work sites, and operate under various extreme weather conditions. Numerous studies have demonstrated that outsourcing systems involving multiple tiers of contractors may increase occupational safety risks unless they are supported by an integrated occupational safety and health management system, effective supervision, and a clear allocation of responsibilities among all parties involved. Accordingly, the nature of work in the telecommunications sector requires more comprehensive occupational safety and health protection than sectors characterized by lower levels of occupational risk.²³

In light of these characteristics, employment relationships in the telecommunications service industry can no longer be understood merely as legal relationships between workers and labor service providers. The employment structure—characterized by operational control exercised by telecommunications operators, the execution of work by vendors and subvendors, and the inherently high-risk nature of the work—demonstrates that effective legal protection for workers requires an approach that extends beyond formal contractual relationships. Such an approach should also take into account substantive control over the work, outsourcing governance, and the shared responsibility of all parties that benefit from the performance of the work. An understanding of these employment characteristics provides an essential foundation for analyzing the effectiveness of legal protection for telecommunications service workers from the perspective of Satjipto Rahardjo's Progressive Legal Theory.

A. Legal Protection of Telecommunications Service Workers Under Indonesian Positive Law

The legal protection of telecommunications service workers is firmly grounded in the 1945 Constitution of the Republic of Indonesia. Article 27 paragraph (2) guarantees every citizen the right to work and to earn a decent livelihood, while Article 28D paragraph (2) guarantees every person's right to work and to receive fair remuneration and equitable treatment in employment relationships. These constitutional provisions serve as the normative foundation for the development of labor legislation aimed at safeguarding workers' rights, including those engaged in the telecommunications service sector."

The implementation of these constitutional guarantees is further regulated through Law Number 13 of 2003 on Manpower, as amended by Law Number 6 of 2023 concerning the Enactment of the Government Regulation in Lieu of Law on Job Creation into Law. These laws recognize a broad range of fundamental labor rights, including the right to fair wages, employment social security, occupational safety and health (OSH), rest periods, protection against discrimination, and freedom of association. Within the telecommunications sector, these legal guarantees play a particularly important role because a significant proportion of technical workers continue to be employed through outsourcing arrangements, thereby placing them in a relatively more vulnerable position compared with directly employed workers.

Labor policy reforms introduced through the Job Creation Law have expanded the flexibility of outsourcing arrangements as part of broader efforts to improve investment

²³ Harrianto Tualeka, Pujiantara, and Robby, "Contractor Safety Management System," *Syntax Literate* (2023), <https://doi.org/10.36418/SYNTAX-LITERATE.V8I6.12782>

competitiveness and business efficiency. From an economic perspective, greater labor flexibility is considered capable of enhancing productivity and reducing operational costs. Nevertheless, from the standpoint of labor protection, these reforms have generated considerable debate due to their potential implications for employment security, statutory labor rights, and workers' bargaining position within industrial relations. Consequently, the expansion of labor flexibility should be accompanied by effective legal safeguards to ensure that economic efficiency does not undermine workers' constitutional and statutory rights.²⁴

In addition to regulating employment relationships, occupational safety and health (OSH) constitutes an essential component of legal protection for telecommunications service workers. The inherently hazardous nature of telecommunications fieldwork – including working at heights, exposure to electrical hazards, extensive work-related mobility, and adverse environmental conditions – requires the implementation of comprehensive occupational safety standards. Indonesia's legal framework governing OSH is principally regulated under Law Number 1 of 1970 on Occupational Safety, Law Number 13 of 2003 on Manpower, and Government Regulation Number 50 of 2012 concerning the Implementation of Occupational Safety and Health Management Systems. Despite the existence of these regulations, empirical studies indicate that challenges remain regarding compliance with safety standards, provision of personal protective equipment, safety training, and the effectiveness of labor inspections, particularly in outsourcing-intensive industries.²⁵

Legal protection is further strengthened through Indonesia's employment social security system administered by *BPJS Ketenagakerjaan*, which provides protection through programs covering Work Accident Insurance (*Jaminan Kecelakaan Kerja*), Death Benefits (*Jaminan Kematian*), Old-Age Security (*Jaminan Hari Tua*), Pension Security (*Jaminan Pensiun*), and Job Loss Insurance (*Jaminan Kehilangan Pekerjaan*). For telecommunications service workers, whose occupations involve substantial occupational risks, these programs constitute an important mechanism for mitigating economic losses arising from workplace accidents and other employment-related risks. Nevertheless, studies continue to show that many outsourced workers experience inadequate access to employment social security benefits, indicating that the implementation of statutory labor protection remains inconsistent in practice.²⁶

Overall, Indonesia's positive legal framework provides a relatively comprehensive normative basis for protecting telecommunications service workers. However, the effectiveness of this legal protection continues to be constrained by the multilayered employment relationships generated by outsourcing arrangements, limited effectiveness of labor law enforcement, and suboptimal implementation of occupational safety and social security protections. These conditions demonstrate the existence of a persistent gap between the law in books and the law in action, thereby justifying a more substantive legal analysis through the perspective of Progressive Law.

²⁴ Indah Kesuma and Aloysius Uwiyo, "Legal Protection of Outsourcing Workers Post Validity of Job Creation Law," *Unram Law Review* 6, no. 1 (2022). <https://doi.org/10.29303/ulrev.v6i1.220>

²⁵ Rafael Friederich Ribeiro et al., "Occupational Safety Risks during Maintenance of Telecommunication Towers," *Production* 31 (2021): e20200108. <https://doi.org/10.1590/0103-6513.20200108>

²⁶ Caca Marwan, Abu Nawas, and Rasman Habeahan, "Legal Protection of Outsourced Workers Under Indonesia's Job Creation Law: Between Labor Market Flexibility and Workers' Rights," *Adalah: Buletin Hukum dan Keadilan* 10, no. 2 (2026). <https://doi.org/10.15408/adalah.v10i2.51243>

B. Critical Analysis of the Regulatory and Practical Challenges of Outsourcing in Indonesia's Telecommunications Sector

Labor policy reforms introduced through Law Number 6 of 2023 have expanded the flexibility of outsourcing arrangements as part of a broader strategy to enhance investment and improve business efficiency. From an economic perspective, these reforms provide companies with greater flexibility to align their workforce with evolving business demands. From the perspective of industrial relations, however, such flexibility has also raised concerns regarding employment security and the effectiveness of legal protection for workers.²⁷

In the telecommunications sector, outsourcing arrangements typically involve a multilayered employment structure consisting of telecommunications operators, primary vendors, subvendors, and field workers. Under this structure, workers are formally employed by vendors or subvendors, while operational control—including the determination of work targets, operational standards, and performance evaluations—is, in practice, largely exercised by telecommunications operators. Consequently, when violations of workers' rights or workplace accidents occur, identifying the party legally responsible often becomes problematic, as each party tends to rely on its formal contractual relationship in determining the scope of its liability.²⁸

These circumstances illustrate a gap between *das sollen* and *das sein* in the legal protection of workers. From a normative perspective, Indonesian legislation provides comprehensive protection with respect to workers' rights, occupational safety and health, and employment social security. In practice, however, its implementation continues to face significant challenges, including uncertainty regarding employment status, weak labor law enforcement, the suboptimal implementation of occupational safety and health standards, the unclear allocation of legal responsibility within multilayered employment arrangements, and the incomplete participation of outsourced workers in the employment social security system.²⁹

Regulatory developments following the Constitutional Court's decisions demonstrate the government's efforts to clarify the legal framework governing outsourcing through implementing regulations that both limit the categories of work eligible for outsourcing and strengthen workers' protection. Nevertheless, these regulations have not fully addressed the distinctive employment arrangements in the telecommunications sector, where operators, vendors, and subvendors are simultaneously involved in a single chain of work execution. As a result, legal protection continues to focus primarily on formal contractual relationships and has yet to fully accommodate the realities of employment relationships as they have evolved in practice.³⁰

Comparative studies indicate that jurisdictions such as Spain and the Philippines have developed the concepts of joint liability and shared responsibility, whereby the principal company may continue to bear certain legal responsibilities toward outsourced workers in cases involving violations of statutory employment rights or workplace accidents. These

²⁷ Kunarti et al., "The Legal Politics of Outsourcing," ;

²⁸ Nielsen, Akanmu, and Anumba, "Comparative Analysis of Back-to-Back Subcontracts

²⁹ Virginia Doellgast and Howard Gospel, "Outsourcing and Human Resource Management," in *The Oxford Handbook of Human Resource Management* (Oxford: Oxford University Press, 2012)

³⁰ Indah Kesuma and Aloysious Uwiyo, "Legal Protection of Outsourcing Workers Post Validity of Job Creation Law," *Unram Law Review* 6, no. 1 (2022), <https://doi.org/10.29303/ulrev.v6i1.220>

mechanisms have been developed to reduce the accountability gap inherent in multilayered employment arrangements and to ensure that companies deriving economic benefits from the work also assume responsibility for protecting workers.³¹

These findings suggest that the principal challenge in protecting telecommunications service workers does not lie solely in the limitations of the legal framework itself, but rather in the ineffective implementation of existing regulations in addressing the multiparty employment relationships that characterize the telecommunications industry. The complex relationships among telecommunications operators, vendors, subvendors, and field workers create a separation between the entity that formally acts as the employer and the entity that exercises actual control over the work. This situation gives rise to an accountability gap, which may undermine the effectiveness of legal protection when liability is imposed exclusively on vendors as the formal employers.³²

Accordingly, the legal protection of telecommunications service workers requires an approach that is not only oriented toward legal certainty but is also capable of achieving substantive justice through a more proportionate allocation of responsibility among telecommunications operators, vendors, and subvendors. Such an approach is consistent with the evolution of modern outsourcing governance, which recognizes workers' protection as a shared responsibility of all parties that derive economic benefits from the employment relationship.³³

C. Progressive Legal Theory as the Basis for Reconstructing Legal Protection

Satjipto Rahardjo's Progressive Legal Theory places human beings at the center of the law's purpose. Accordingly, the effectiveness of a legal rule should not be assessed solely on the basis of normative certainty, but also on its capacity to provide meaningful protection and achieve substantive justice. Rather than treating law as an end in itself, Progressive Legal Theory emphasizes that law exists to serve human welfare and should continuously adapt to social realities.³⁴

This perspective is particularly relevant to the analysis of legal protection for telecommunications service workers engaged in multilayered employment arrangements under outsourcing systems. In practice, workers in the telecommunications sector are formally employed by vendors or subvendors. However, the actual performance of their work is largely directed by telecommunications operators through the determination of work targets, operational standards, supervisory mechanisms, and performance evaluations. This demonstrates a divergence between the formal legal relationship and the actual distribution of managerial control within the employment relationship.³⁵

From the perspective of Progressive Legal Theory, an approach that relies exclusively on formal legalism is no longer adequate to address the complexity of contemporary employment relationships. The law must respond to social realities rather than merely preserving formal contractual structures. Consequently, parties exercising substantive

³¹ Nadya Christina and Ariawan Gunadi, "Legal Liability for Violations of Outsourced Workers' Rights in Indonesia: A Comparative Study with Spain and the Philippines," *Rechtsidee* (2025)

³² Damodaran, "New Strategies of Industrial Organization"

³³ Samson Mbanje and Orthodox Tefera, "Drivers and Risk of Business Process Outsourcing in South African Mobile Telecommunication Industry," *International Journal of Research in Business and Social Science* 12, no. 4 (2023): 123-135, <https://doi.org/10.20525/IJRBS.V12I4.2544>

³⁴ Rahardjo, *Hukum Progresif: Hukum yang Membebaskan*

³⁵ Nielsen, Akanmu, and Anumba, "Comparative Analysis of Back-to-Back Subcontracts,

control over work processes and deriving direct economic benefits from workers' labor should also bear corresponding legal responsibilities for protecting workers, notwithstanding the existence of formal contractual relationships between workers and vendors or subvendors.³⁶

Such an approach reflects the concept of substantive justice, which constitutes the central objective of Progressive Legal Theory. Legal protection cannot be measured merely by the existence of statutory provisions but must also be assessed according to whether those provisions effectively secure workers' rights in practice. Within the telecommunications sector, substantive legal protection necessarily encompasses employment security, occupational safety and health, employment social security, and effective legal accountability when violations of workers' rights occur.³⁷

The implications extend beyond the obligations of employers alone. The State cannot confine its role to the enactment of legislation but must also ensure effective implementation through labor inspection, enforcement of occupational safety standards, and strengthened accountability mechanisms for all entities participating in outsourcing arrangements. Comparative studies further demonstrate that effective worker protection increasingly requires governance models that distribute legal responsibility among all parties exercising control over outsourced work rather than limiting liability solely to formal employers.³⁸

Accordingly, Progressive Legal Theory provides not only a philosophical framework for criticizing the limitations of Indonesia's current outsourcing regulations but also a normative foundation for reconstructing a more responsive legal protection model. Such a model should move beyond contractual formalism toward a system that recognizes substantive control, shared responsibility, and the realization of substantive justice as the principal objectives of labor law in the telecommunications sector.³⁹

D. A Reconstructed Model of Legal Protection for Telecommunications Service Workers

The analysis of Indonesia's positive legal framework in conjunction with Satjipto Rahardjo's Progressive Legal Theory demonstrates that the principal challenge in protecting telecommunications service workers does not lie in the inadequacy of the normative legal framework, but rather in the ineffective implementation of legal protection within multilayered employment arrangements. Accordingly, there is a need to reconstruct the existing model of legal protection in a manner that accommodates the distinctive characteristics of employment relationships in the telecommunications sector while strengthening legal certainty and ensuring greater justice for workers.⁴⁰

The reconstruction model proposed in this study is founded on the concept of joint responsibility, which advocates a proportionate allocation of legal responsibility among telecommunications operators, vendors, and subvendors. This concept is based on the reality that, although the formal employment relationship exists between workers and service providers, telecommunications operators continue to exercise substantial control over the work process while simultaneously deriving economic benefits from its performance. Consequently, responsibility for fulfilling workers' rights should not rest

³⁶ Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*,

³⁷ Rahardjo, *Hukum Progresif: Hukum yang Membebaskan*,

³⁸ Christina and Gunadi, "Legal Liability for Violations of Outsourced Workers' Rights

³⁹ Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*

⁴⁰ *Ibid*

exclusively with vendors or subvendors but should also extend to telecommunications operators as parties exercising substantive control over the employment relationship.⁴¹

The implementation of this model should be supported by strengthening labor protection standards within the telecommunications sector. Such measures include the adoption of more rigorous occupational safety and health standards that reflect the high-risk nature of telecommunications work, the optimization of workers' participation in the employment social security system, and the enhancement of labor inspection and oversight over outsourcing arrangements. These measures are essential to ensure that legal protection extends beyond the normative framework and is effectively realized in industrial relations practice.

Furthermore, this study highlights the need for sector-specific legislation governing telecommunications service workers. Such legislation is necessary to provide legal certainty regarding the allocation of responsibilities among telecommunications operators, vendors, and subvendors; establish minimum standards for occupational competence and workplace safety; and strengthen mechanisms for regulatory oversight and law enforcement. A more specialized regulatory framework would be better equipped to accommodate the distinctive characteristics of employment relationships in the telecommunications sector than the existing general labor legislation.⁴²

Ultimately, the proposed reconstruction model is expected to establish a legal protection system that is more responsive to the evolving telecommunications industry, provides greater certainty in the allocation of legal responsibilities, and ensures more effective and equitable protection for telecommunications service workers. Under this model, legal protection would no longer be based solely on formal contractual relationships but would also take into account the actual relationship of substantive control that develops in practice as a basis for allocating legal responsibility.⁴³

In the practice of constructing and maintaining telecommunications networks, workplace accidents involving telecommunications tower technicians and fiber-optic network technicians continue to demonstrate that multilayered employment arrangements often create uncertainty regarding the parties responsible for fulfilling workers' rights. These circumstances indicate that the allocation of legal responsibility based solely on formal contractual relationships has not been sufficient to provide effective legal protection.

These findings further reinforce the need to adopt a joint responsibility model by recognizing substantive control as one of the principal bases for allocating legal responsibility. Such an approach enables legal protection to be provided more effectively by ensuring that all parties involved in the work process share responsibility for fulfilling workers' rights in accordance with their respective roles and levels of control.

Issue	Legal Framework	Implementation Challenges	Proposed Reconstruction Model
Employment relationship status	Law Number 6 of 2023	Multilayered employment arrangements	Joint Responsibility

⁴¹ Christina and Gunadi, "Legal Liability for Violations of Outsourced Workers' Rights"

⁴² Mbanje and Tefera, "Drivers and Risk of Business Process Outsourcing" Mbanje and Tefera, "Drivers and Risk of Business Process Outsourcing"

⁴³ Batt and Appelbaum, "The Networked Organisation"

Issue	Legal Framework	Implementation Challenges	Proposed Reconstruction Model
Occupational safety and health (OSH)	Law Number 1 of 1970 on Occupational Safety	Inadequate regulatory oversight	Strengthened OSH audits and regulatory oversight
Employment social security	National Social Security System Law (SJSN Law) and BPJS Law	Incomplete enrollment of workers	Expanded participation in the BPJS Employment Program
Outsourcing	Government Regulation Number 35 of 2021	Unclear allocation of legal responsibility	Sector-specific telecommunications regulation
Digital employment relationships	No specific legal framework	Operator control exercised through digital systems	Recognition of the concept of <i>substantive control</i>

CONCLUSION

This study demonstrates that the legal protection of telecommunications service workers in Indonesia is supported by an adequate normative framework through legislation governing labor, occupational safety and health, and employment social security. Nevertheless, its implementation remains constrained by several challenges, particularly those arising from outsourcing arrangements and multilayered employment relationships, which create uncertainty regarding the allocation of legal responsibility, weaken the implementation of occupational safety and health (OSH) protection, and hinder the effective fulfillment of workers' rights. From the perspective of Satjipto Rahardjo's Progressive Legal Theory, legal protection should be directed toward achieving substantive justice by recognizing workers as the primary subjects of legal protection. Accordingly, a more responsive legal protection framework requires strengthening the principle of joint responsibility between telecommunications operators and vendors, enhancing labor inspection and enforcement, and developing sector-specific regulations that better accommodate the distinctive characteristics of employment relationships in the telecommunications service industry. Based on these findings, several recommendations are proposed. First, the government should strengthen oversight of outsourcing practices and improve the enforcement of occupational safety and health standards within the telecommunications sector. Second, telecommunications operators and vendors should adopt the principle of joint responsibility to ensure the effective fulfillment of workers' rights, including occupational safety and health protection and employment social security. Finally, future research should employ empirical approaches to examine the effectiveness of implementing legal protection for telecommunications service workers in practice and to assess the applicability of the proposed reconstruction model in addressing contemporary challenges within the telecommunications industry.

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