

Reforming Legal Safeguards for Unpaid Internships in Indonesia's Creative Industry

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Abstract

This article examines the imperative for legal reform of the unpaid internship regulation in Indonesia's creative industry through a normative-juridical methodology grounded in three complementary legal theories: Legal Protection Theory (Philipus M. Hadjon), Justice Theory (John Rawls), and Legal Effectiveness Theory (Soerjono Soekanto). The study identifies a structural conflict of norms between the constitutional guarantee of the right to work under Article 28D (2) of the 1945 Constitution and the minimalistic, unenforceable provisions of Minister of Manpower Regulation No. 6 of 2020 on Domestic Internships. Doctrinal analysis reveals that the existing regulatory architecture fails to provide the preventive and repressive legal protection required by Hadjon's framework, fails to satisfy the demands of Rawlsian distributive justice, and fails across all five determinant factors of Soekanto's legal effectiveness theory. These normative deficiencies are further situated within a global comparative framework encompassing legal regimes in the European Union, France, Australia, Japan, and Malaysia, with particular attention to the conditions under which foreign regulatory models may be transplanted into Indonesia's civil law system. The article concludes with

proposed draft amendments to Permenaker No. 6/2020, incorporating a mandatory minimum stipend tied to the Municipal Minimum Wage, capped working hours for interns, compulsory social security enrollment, a graduated administrative and criminal sanctions regime for violations, and the establishment of an independent internship oversight authority modeled on Australia's Fair Work Ombudsman.

Keywords

Internship Legal Protection, Creative Industry Labor Law, Regulatory Reform, Indonesian Manpower Law, SDGs.

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Introduction

Indonesia's 1945 Constitution establishes an unambiguous normative mandate for labor protection. Article 28D paragraph (2) guarantees that every citizen has the right to work and to receive fair and appropriate compensation and treatment in employment relations. Article 28C paragraph (1) affirms the right to self-development through education and technology as a precondition for individual welfare. These constitutional guarantees are not merely aspirational pronouncements; they impose a positive obligation upon the state to enact legislation capable of giving them substantive effect. The existing regulatory framework governing internships has systematically and structurally failed to discharge this constitutional obligation.¹

The primary legal problem this article addresses is a conflict of norms between formal regulatory entitlements and their enforceability. Article 13 paragraph (1)(d) of Minister of Manpower Regulation No. 6 of 2020 on the Implementation of Domestic Internships stipulates that internship participants are entitled to receive a stipend. Yet the same regulation neither prescribes a minimum threshold for this stipend, nor establishes administrative sanctions for non-compliance, nor classifies interns within the scope of worker protections under Law No. 13 of 2003 on Manpower or Law No. 6 of 2023 on Job Creation. This normative gap between stated rights and enforceable entitlements constitutes a legal vacuum that enables the systematic deployment of interns as *de facto* workers in the creative sector without corresponding legal obligations on the part of employing enterprises.²

The U.S. Department of Labor does not provide an official definition of an internship or apprenticeship, but there is a general distinction between the two terms.³

¹ Edi Sarwono and Azis Budianto, "Legal Protection and Legal Certainty Given by the State to Internship Participants in Employment Relations," *Journal of Social Science (JoSS)* 4, no. 7 (2025): 320–36, <https://doi.org/10.57185/joss.v4i7.471>.

² Aafiyah Salsabila Ramadhan et al., "INTERNSHIP REMUNERATION FOR STUDENTS UNDER INDONESIAN LAW," *Problematika Hukum* 7, no. 1 (2021).

³ Apprenticeship USA, "What Is the Difference between an Apprenticeship and an Internship," n.d.

Table 1. The Difference Between Internships and Apprenticeships

Aspect	Internship	Apprenticeship
Time Period	Short term	Long term
Structure	Without plans, the focus is solely on general entry-level work experience, with the aim of learning.	Structured plan, focus on mastering specific skills required by employers.
Guidance	Without fixed guidance	Personal guidance from experienced mentors
Pocket Money	Unpaid	Paid
Certification	No	Industry-recognized credential certification
University Intervention	College credit conversion	No

Source: Apprenticeship USA

Prior legal scholarship has documented the phenomenon of exploitation in descriptive terms.⁴ These studies establish the empirical contours of the problem but have not adequately theorized why existing law fails, nor have they offered specific, technically grounded reform proposals. The gap in the literature is threefold: first, there is no systematic application of legal effectiveness theory to diagnose the multiple dimensions of regulatory failure; second, comparative analyses have remained at a surface level, describing foreign models without analyzing transplant feasibility; and third, reform proposals have been vague, stopping at generalizations about the need for ‘stronger legal instruments’ without articulating specific statutory language.

As the provincial capital of Central Java, Semarang hosts a significant creative economy cluster, particularly in graphic design, digital media, animation, and content production, while remaining structurally distinct from the hyper-competitive and over-studied Jakarta

⁴ Febi Cindy Milenia, Agus Mulya Karsona, and Holyness N Singadimedja, “Perlindungan Peserta Magang Dalam Praktik Unpaid Internship Ditinjau Dari Peraturan Ketenagakerjaan Di Indonesia,” *Jurnal Sains Sosio Humaniora* 6, no. 1 (2022): 125–43, <https://doi.org/10.22437/jssh.v6i1.19425>.

metropolitan context. Critically, Semarang is one of the very few Indonesian cities to have enacted a dedicated subnational creative economy regulation in Semarang Regional Regulation No. 12 of 2021 on the Protection and Development of the Creative Economy. This creates a layered normative environment that enables analysis of multi-level regulatory gaps. Nevertheless, Semarang's institutional characteristics make it a particularly instructive case: if regulatory protection mechanisms cannot be operationalized where subnational law is comparatively most developed, the implication for less-regulated jurisdictions is severe.⁵

The Indonesian creative economy has grown rapidly.⁶ Investment realization in the sector reached Rp43.2 trillion in the first quarter of 2025, representing 31.7% of the annual target of Rp136.28 trillion.⁷ The government aims for an 8% growth rate in the creative economy by 2029. Sub-sectors including graphic design, animation, digital games, and content production are among the most prolific users of intern labor. This economic dynamism, however, has not been accompanied by proportional improvements in labor protection for young workers. The structural paradox, a booming creative sector sustained in part by unpaid internship labor, demands a legal reform response grounded in constitutional principles of justice and equality. On the other hand, the creative industry, as a sector that continues to grow and contribute to national economic growth, has not yet had a proportional impact on the welfare of its young workers. Sub-sectors such as graphic design, digital media, animation, and content production show high demand for interns, but their contribution to GDP remains low. This imbalance

⁵ Dina Dellyana, Nina Arina, and Tribowo Rachmat Fauzan, "Digital Innovative Governance of the Indonesian Creative Economy: A Governmental Perspective," *Sustainability (Switzerland)* 15, no. 23 (2023): 1–14, <https://doi.org/10.3390/su152316234>.

⁶ Muh. Afif Mahfud dan Naufal Hasanuddin Djohan, "The Expansion of Investor Access to Cultivation Rights: A Socio-Legal Analysis on Agrarian Injustice in Indonesia," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 2 SE-Articles (Desember 2024): p.61, <https://doi.org/10.30631/alrisalah.v24i2.1500>.

⁷ Owo, "Kuartal I-2025, Realisasi Investasi Ekraf Capai 31,7 Persen," *Harian Ekonomi Neraca*, 2025.

shows that the creative sector relies more on cheap human resources as a driver of productivity.⁸ The reliance on unpaid interns weakens incentives to build a professional and fair work system.

One of the causes of exploitation in this sector is the absence of industry standards regulating apprenticeship practices. There are no standard references on the duration of apprenticeships, the types of work appropriate for apprentices, or limits on workloads. In such situations, internship practices are carried out arbitrarily, depending on each company's internal policies. The creative industry's reliance on interns also slows the development of a fair work ecosystem for young workers. When the productivity of this sector continues to be supported by cheap labor from interns, the incentive to create a humane and professional work system becomes distorted.⁹ Indonesia needs to immediately formulate affirmative policies that ensure equal legal protection for all workers, including interns, so that internship practices do not become a tool for covert exploitation.

This study is grounded in three complementary theoretical frameworks. Philipus M. Hadjon's theory of legal protection (1987) distinguishes between preventive and repressive protection as two dimensions that must function simultaneously and coherently. This framework is employed to evaluate the deficiencies of Permenaker No. 6/2020, which demonstrably fails to provide *ex ante* protective mechanisms against exploitation or *ex post* remedies once violations have occurred.¹⁰ John Rawls' theory of justice (1971), particularly the equal liberty principle and the difference principle, is applied to examine how the absence of adequate compensation in internship arrangements not only infringes upon interns' fundamental rights but also deepens structural inequality that disproportionately burdens students from

⁸ Wil Hunt and Peter Scott, "Stepping Stones or Trapdoors? Paid and Unpaid Graduate Internships in the Creative Sector," *British Journal of Sociology of Education* 44, no. 4 (2023): 585–605, <https://doi.org/10.1080/01425692.2023.2187309>.

⁹ Hunt and Scott.

¹⁰ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat di Indonesia: Sebuah Studi Tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara*, 1987.

economically vulnerable backgrounds.¹¹ Soerjono Soekanto's theory of legal effectiveness (1983) furnishes a diagnostic framework organized around five determinant factors: the quality and coherence of the legal instrument, the competence of law enforcement personnel, the availability of institutional infrastructure, the level of legal awareness among the regulated community, and the compatibility of legal norms with prevailing social culture.¹² All five factors are identified as systemically deficient in the implementation of Permenaker No. 6/2020, and each directly informs the reform proposals advanced in the discussion section.

This study employs a normative-juridical method, combining doctrinal legal analysis with primary field data to examine the gap between law in the books and law in action. The component involves systematic analysis of the hierarchical structure of legal sources governing internship arrangements in Indonesia, encompassing the 1945 Constitution, Law No. 13 of 2003 on Manpower, Law No. 6 of 2023 on Job Creation, Ministerial Regulation No. 6 of 2020 on Domestic Internships, and Semarang City Regional Regulation No. 12 of 2021 on the Protection and Development of the Creative Economy. The comparative dimension extends this analysis to five international regulatory frameworks, namely the EU Quality Framework for Traineeships (2014), French Law No. 2014-788, Australia's Fair Work Act 2009, Japan's Technical Intern Training Act, and Malaysia's Employment Act 1955, each assessed for its transplant compatibility with Indonesia's civil law legal system. In accordance with the qualitative principle of depth over statistical representativeness as articulated by Creswell and Poth (2018), thematic saturation was achieved across all primary research dimensions. The authors explicitly acknowledge that the empirical findings are not statistically generalizable to broader populations; the qualitative component is designed to illustrate,

¹¹ John Rawls, *A Theory of Justice* (Massachusetts: The Belknap Press, 1971).

¹² Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Pengakuan Hukum* (Jakarta: Rajawali Pers, 2019).

corroborate, and contextually enrich the national quantitative data provided by the Ministry of Manpower (2024).¹³

A. Constitutional Guarantees and the Statutory Gap

The constitutional foundation for the protection of interns is more robust than the existing regulatory framework acknowledges. Article 28D paragraph (2) of the UUD 1945 guarantees the right to work and to receive fair and appropriate compensation in employment relations. Article 28C paragraph (1) affirms the right to self-development through education. When read conjunctively, these provisions supply a constitutional basis for demanding that internships, which are simultaneously educational and labor-related, be governed by standards that protect both the educational purpose and the economic rights of participants. The failure of Permenaker No. 6/2020 to establish enforceable compensation floors or social security mandates for interns, therefore, constitutes not merely a regulatory deficiency, but a failure to operationalize a constitutional guarantee.

At the statutory level, the central problem is a conflict between formal entitlements and structural enforceability. The Manpower Law (Law No. 13 of 2003) establishes, through Article 22, that internship agreements must be in writing and that interns are entitled to social security coverage. Permenaker No. 6/2020 amplifies this through Article 13, which enumerates intern rights including guidance, safety and health facilities, a stipend, social security enrollment, and a certificate of completion. However, neither instrument prescribes a minimum stipend, establishes sanctions for non-compliance, or provides an accessible enforcement mechanism.¹⁴ The elucidation to Article 22(2) of the Manpower Law, which confirms interns' entitlement to social security, has proven unenforceable in practice, as companies in the creative sector routinely exclude interns from BPJS Ketenagakerjaan and BPJS Kesehatan coverage without legal consequence.

¹³ John W Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 3rd ed. (Thousand Oaks, CA: Sage Publications, 2013).

¹⁴ Anis Widyawati et al., "Legal Challenges in Criminal Execution of The Environmental Crime Cases in Indonesia: Efforts Toward Criminal Law Reform" 9, no. 1 (2026): 53–88, <https://doi.org/10.22437/jlj.9.1.53-88>.

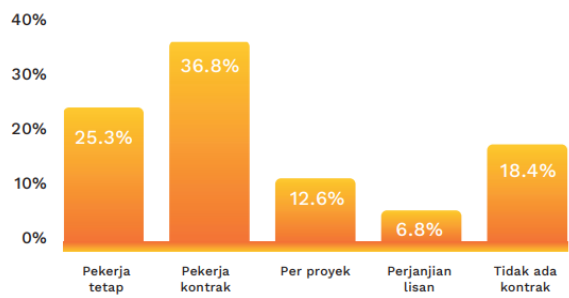
A further normative conflict arises at the subnational level. Article 21, paragraph (1) of Central Java Provincial Regulation No. 13 of 2023 on the Implementation of Manpower explicitly recognizes employers' right to 'utilize the work' of internship participants. This provision is fundamentally incompatible with the pedagogical principle of internships as an educational rather than productive mechanism. By normalizing the productive use of intern labor at the regional regulatory level, the provincial regulation effectively legitimizes the exploitation that national law ostensibly prohibits. This contradiction between national and subnational norms exemplifies what legal scholars term a 'norm conflict' in the hierarchy of Indonesian legislation, one that, under Article 7 of Law No. 12 of 2011 on the Establishment of Legislative Regulations, must be resolved in favor of the higher-ranking norm. Yet in practice, provincial regulation shapes employer behavior more directly than ministerial regulation, because enforcement is delegated to the provincial Manpower Office.

Article 10 paragraph (3) of Permenaker No. 6/2020 provides that an internship conducted without a written agreement is invalid, and the intern shall automatically be deemed an employee of the company. The absence of a written agreement should, by operation of law, be classified as employees entitled to full worker protections under the Manpower Law and the Job Creation Law.¹⁵ The systematic non-enforcement of this provision represents a structural failure that implicates both the labor inspection apparatus and the judicial system.

The absence of a contract shows that workers are in a vulnerable position and that there is an imbalance of power between the employer and the workers.¹⁶ Referring to the results of research conducted by SINDIKASI (2021):

¹⁵ Irfan Dhiaulhaq A.R. Muhammad and Dodik Setiawan Nur Heriyanto, "Striking a Balance Between Job Creation and Sustainability: The Need to Establish a True Environmental Protection Authority in Indonesia," *Jambe Law Journal* 7, no. 1 (2024), <https://doi.org/10.22437/home.v7i1.317>.

¹⁶ SINDIKASI, "KERJA LAYAK: Survei Tentang Kondisi Pekerja Media Dan Industri Kreatif Di Indonesia," 2022.



Grafik B1.1. Kepemilikan Kontrak/Perjanjian Kerja

Source: SINDIKASI

Based on interviews in July 2025, the informants stated that, as creative industry interns, they have the same responsibilities and workflow as permanent employees. All respondents said that interns’ working hours are 5 working days, with an average working hour of 8 hours and 45 minutes. Ikhsan (2025), the General Chairperson of SINDIKASI, stated that the internship has a main objective: an educational program that provides participants with opportunities to see the working world firsthand, rather than setting goals for them to serve as backup for employees or workers.

Based on the Internship Program Policy published by Muhammad Ali, S.S., M.A., Ph.D., The Director of Vocational Training and Internship at the Ministry of Manpower of the Republic of Indonesia, the government-organized internship programs are the National Internship and Field Work Practices (PKL) or Prakerin.¹⁷

Table 2. National Internship and Prakerin Comparison

	National Internship	PKL/Prakerin
Participant Status	Job Seeker	Student
Legal Basis	✓	✓

¹⁷ JDIH Kementerian Ketenagakerjaan Republik Indonesia, “Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2025,” 2025.

Competent Standard	✓	Possible
Agreement	✓	X
Allowance	✓	Possible
Working Practices	✓	✓
Insurance	✓	X
Mentor/Instructor	✓	Possible
Structure	✓	X
Skills Certification	✓	X
Time Period	Maximum 12 months	3-4 months

Source: Internship Program Policy by the Minister of Manpower

Based on the Internship Program Policy published by Muhammad Ali, S.S., M.A., Ph.D., The Director of Vocational Training and Internship at the Ministry of Manpower of the Republic of Indonesia, the government-organized internship programs are the National Internship and Field Work Practices (PKL) or Prakerin.

On compensation, reported receiving no stipend or a stipend substantially below the Semarang Municipal Minimum Wage (UMK). This directly contravenes Article 13(1)(d) of Permenaker No. 6/2020 and, more fundamentally, implicates Article 28D(2) of the UUD 1945, which guarantees ‘fair and appropriate compensation in employment relations.’ The argument that interns fall outside the scope of employment relations, and therefore outside the scope of Article 28D(2), is legally untenable in cases where: (a) no written agreement was concluded, triggering the Article 10(3) reclassification provision; (b) interns performed work substantively indistinguishable from that of permanent employees; and (c) the output of interns’ labor generated economic benefit for the employing enterprise. Under established principles of Indonesian civil law, an arrangement that exhibits the three constitutive elements of an employment relationship, work, wages, and

subordination, must be classified as employment, regardless of the formal label applied by the parties.¹⁸

On working hours, working six-day weeks of nine hours per day, totaling 54 hours per week. Additional participants reported working 40 to 48 hours per week. Article 77 paragraphs (1) and (2) of the Manpower Law set the maximum working week at 40 hours for a five-day work week. Article 18 of Permenaker No. 6/2020, which provides that intern working hours shall be adjusted to the host company's working hours, does not establish a ceiling; it merely references the company's own policy. This creates a circular and exploitable provision: if the company's policy itself mandates 54-hour weeks, the regulation offers no protection. The absence of a working-hour ceiling for interns constitutes a significant normative gap that facilitates exploitation while maintaining a veneer of regulatory compliance.

Regarding mentoring, some informants reported the absence of substantive mentoring. This directly violates Articles 13(1)(a) and 7 of Permenaker No. 6/2020, which respectively require guidance to be provided and prescribe qualification requirements for mentors. The legal consequence of this violation is undertheorized in existing scholarship. When an internship fails to deliver the educational content that constitutes its legal purpose under Indonesian contract law, the internship agreement is rendered partially void. Interns who received no mentoring received no consideration for their labor, an arrangement that fails the test of performance under Article 1234 of the Civil Code. This contractual analysis strengthens the case for reclassifying such interns as employees.

On social security, we were not enrolled in BPJS Ketenagakerjaan or BPJS Kesehatan. This violates Article 13(1)(e) of Permenaker No. 6/2020 and the elucidation of Article 22(2) of the Manpower Law. More broadly, it violates the right to social security guaranteed under Article 28H paragraph (3) of the UUD 1945. The SINDIKASI chairperson, Ikhsan (2025), confirmed in an interview that SINDIKASI has established a mechanism to enroll creative-sector interns in Jamsostek coverage through a direct agreement with a partner company in Jakarta,

¹⁸ Sarwono and Budianto, "Legal Protection and Legal Certainty Given by the State to Internship Participants in Employment Relations."

a private-sector workaround for the state's failure to enforce a mandatory constitutional right. This institutional gap highlights the need for a systemic regulatory solution rather than ad hoc advocacy.¹⁹

The aggregate picture that emerges from the field data is one of systemic, multi-dimensional rights deprivation. Applying Hadjon's framework, neither preventive nor repressive legal protection is operative. Applying Soekanto's framework, all five dimensions of legal effectiveness are compromised. Applying Rawls' difference principle, the costs of this regulatory failure are borne disproportionately by the least advantaged: students from peripheral districts such as Demak, Kendal, and Grobogan who must finance their own transportation and subsistence costs to access Semarang's creative industry internship market, without any stipend, social security, or institutional support.

B. Global Comparative Analysis and Legal Transplant Feasibility

A meaningful comparative analysis requires attention not merely to the substantive content of foreign legal models but also to the structural conditions, legal systems, institutional capacities, and cultural contexts that enable or constrain their transplantation. Indonesia operates within a civil law system of Roman-Dutch heritage, modified by customary and religious law. This creates both possibilities and constraints for legal transplantation from common law jurisdictions such as Australia and from continental European civil law models that are more structurally analogous to Indonesia's own system.

The European Union Quality Framework for Traineeships (2014) and France's Law No. 2014-788 on Traineeships offer the most structurally transferable models.²⁰ France mandates a minimum monthly allowance for internships exceeding two months, currently set at 15% of the hourly social security ceiling (approximately €600/month). The

¹⁹ Fithriatus Shalihah and Siti Alviah, "Examining the Role of BPJS Employment Indonesia in Ensuring Social Security for Migrant Workers in Hong Kong," *Journal of Indonesian Legal Studies* 8, no. 2 (2023): 1197–1266, <https://doi.org/10.15294/jils.v8i2.74703>.

²⁰ European Parliament, "Resolution on Unpaid Traineeships: Towards a European Quality Framework," *Strasbourg: European Parliament*, 2022.

French model is particularly apt for transplantation because: (i) France and Indonesia share a civil law heritage, making the legislative drafting techniques compatible; (ii) the formula-based approach, tying the intern allowance to a percentage of the social security ceiling rather than to a fixed sum, is more flexible and inflation-resistant than a nominal minimum; and (iii) France's enforcement model, through the Labour Inspectorate (*Inspection du travail*), mirrors Indonesia's existing labor inspection apparatus more closely than Australia's separate independent agency model.²¹

Australia's Fair Work Act 2009 and the Fair Work Ombudsman (FWO) provide a compelling model for institutional reform.²² The FWO possesses proactive inspection authority, including the power to enter workplaces without prior notice, and distinguishes legally between genuine vocational placements (which need not be remunerated) and productive work arrangements disguised as internships (which must be compensated at minimum wage). This distinction is directly applicable to Indonesia's creative sector, where the line between educational and productive intern labor is chronically blurred. However, transplanting the FWO model requires acknowledging that Australia's common law system assigns stronger executive enforcement powers to independent agencies than Indonesia's civil law tradition typically permits. A modified version, a Directorate of Internship Supervision under the Ministry of Manpower, with statutory inspection authority and sanction-imposing capacity, would be more constitutionally and institutionally feasible in the Indonesian context.²³

The standard of supervision in Australia through the Fair Work Ombudsman is the Fair Work Act and the Work Health and Safety Act, which aims to ensure the protection of workers' rights, including internship participants in various sectors, including the creative industry

²¹ Jeffri Arlinandes Chandra et al., "An Indonesia-France Comparison: The Design Mechanism for Legislation Establishment and Legislation Regulation Evaluation," *Journal of Court and Justice* 1 (2022): 1–13, <https://doi.org/10.56943/jcj.v1i2.132>.

²² Commonwealth Consolidated Act, "Fair Work Act 2009," n.d.

²³ Anis Widyawati, Ade Adhari, and Ridwan Arifin, "Who Executes Justice? Comparative Institutional Paths from Verdict to Prison," *Jambura Law Review* 8, no. 1 (2026): 160–89, <https://doi.org/10.33756/jlr.v1i1.31642>.

sector.²⁴ Compared to Indonesia, Australia's supervision of internship implementation is much more structured. The following is a comparison of the supervision of internship implementation in Indonesia and Australia.²⁵

Table 2. Comparison of Internship Supervision Implementation in Indonesia and Australia

Legal Aspect	Indonesia	Australia
Regulation	Minister of Manpower Regulation No. 6/2020 on the Implementation of Domestic Internship	Fair Work Act (2009)
Implementation	Labor Inspection Officer	Fair Work Ombudsman
Professional Recognition	An entitled internship certificate, although the certificate's value is unrecognizable in the field, sometimes	Under the Right to Record of Employment, the Fair Work Ombudsman also recognizes internships as a form of job training.
Role of Government	Central & Local Government through District/Municipal Manpower Office	Delegation of functions to the FWO and working with the Work Health and Safety Act
Protection Against Exploitation	Internships are often used as additional labor who do not receive reciprocity for their work.	Fair Work Ombudsman provides protection.

²⁴ Fair Work Ombudsman, "Unpaid Work," n.d.; Ade Yuliasih et al., "Constitutional Consistency of Indonesia's Job Creation Law and Its Impact on Regional Autonomy," *Jambura Law Review* 8, no. 1 (2026): 190–209, <https://doi.org/10.33756/jlr.v1i1.34262>.

²⁵ Fair Work Ombudsman, "Compliance and Enforcement," n.d.

Supervision and Enforcement	Periodic supervision and inspection by the government or the District/City Manpower Office remains limited in scope and insufficiently comprehensive.	The Fair Work Ombudsman conducts strict supervision in distinguish internships from employment relationships.
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Source: Fair Work Ombudsman

Japan’s Technical Intern Training Act offers a cautionary countermodel. Originally conceived as a skills transfer mechanism, the program has been widely criticized by the International Labor Organization and by the Japanese government’s own reform commission, as functioning in practice as a labor importation scheme that systematically deprives participants of worker protections. Indonesia’s existing internship system exhibits analogous structural risks. The lesson from Japan is that formal pedagogical framing, without strong oversight and sanction mechanisms, is insufficient to prevent exploitation.

Malaysia’s experience is particularly instructive given its geographical, cultural, and economic proximity to Indonesia. Following the Malaysian Ministry of Higher Education’s mandatory internship requirement in 2010, the number of interns surged. However, because interns are excluded from the Employment Act 1955 and the National Wages Consultative Council Act 2011, Malaysia’s minimum wage increase from RM1,200 to RM1,500 in May 2022 did not benefit interns. Malaysia’s regulatory gap, formal labor legislation that explicitly excludes interns, is a model Indonesia must avoid replicating through ambiguous ministerial regulation. The Malaysian experience reinforces the case for statutory-level reform in Indonesia rather than for incremental ministerial adjustments.²⁶

The EU’s forthcoming directive on internship quality, expected to be adopted by 2025, takes a rights-based approach that is broadly consistent with Indonesia’s constitutional framework. The directive’s key elements, prohibition of internships that substitute for regular

²⁶ *Malaysia Employment Act 1955 (Act 265)* (Kuala Lumpur, 2022).

employment, mandatory written agreements, access to social protection, and equal treatment in working conditions, all find constitutional anchors in the UUD 1945 and could be operationalized through the specific statutory amendments proposed in the following section.

The following draft amendments are proposed based on the normative analysis (Section IV.A), the legal deconstruction of field findings (Section IV.B), and the comparative legal analysis (Section IV.C). They are designed to address all five dimensions of regulatory ineffectiveness identified through Soekanto's framework:

1. Amendment to Article 13: Mandatory Minimum Stipend

Current Article 13(1)(d): 'Internship participants have the right to receive a stipend.'

Proposed revision: 'Internship participants have the right to receive a monthly stipend of not less than 75% of the applicable Municipal Minimum Wage (UMK) or Regional Minimum Wage (UMP) in the relevant district or city, whichever is higher, to be paid no later than the final working day of each calendar month. For internships of a duration not exceeding thirty (30) calendar days, the stipend shall be calculated on a pro-rata daily basis.'

Justification: A percentage-based formula (75% of UMK/UMP) mirrors the French model and is calibrated to provide genuine subsistence support without imposing costs equivalent to a full minimum wage, which might deter SME participation. The 75% threshold is recommended over 100% to acknowledge the educational component of internships while establishing a floor that meaningfully addresses the exploitation dynamic documented in the field data.²⁷

2. New Article 13A: Maximum Working Hours for Interns

Proposed new Article 13A: '(1) The maximum working hours for internship participants shall not exceed seven (7) hours per day or thirty-five (35) hours per week. (2) Internship participants shall not be required or permitted to work beyond the limits established in paragraph (1). (3) Any hours worked by internship participants in excess of the limits in paragraph (1)

²⁷ *French Law No. 2014-788* (France, n.d.).

shall be compensated at a rate of not less than 1.5 times the pro-rata equivalent of the applicable Municipal Minimum Wage (UMK) or Regional Minimum Wage (UMP), and shall be recorded in the internship activity log required under Article 10.

(4) An internship arrangement in which participants are regularly required to work more than thirty-five (35) hours per week shall be presumed by operation of law to constitute an employment relationship, triggering the reclassification provision of Article 10 paragraph (3).⁹

Justification: The 35-hour weekly cap, five hours below the statutory employee maximum, creates a meaningful distinction between intern and employee working hours, operationalizing the pedagogical character of internships. The automatic reclassification trigger at 35 hours addresses the most common exploitation pattern identified in field data, and in the SINDIKASI representative's judgment, the most common exploitation pattern.

3. New Article 13B: Mandatory Social Security Enrollment

Proposed new Article 13B: '(1) Internship providers are required to enroll all internship participants in the Work Accident Insurance (JKK) and Death Insurance (JKM) programs of BPJS Ketenagakerjaan, with premiums to be borne entirely by the internship provider, within three (3) working days of the commencement of the internship. (2) For internships of duration exceeding three (3) months, internship providers are additionally required to enroll internship participants in the Health Insurance program of BPJS Kesehatan at the Class III tier, with premiums to be borne by the internship provider. (3) Failure to enroll internship participants as required under paragraphs (1) and (2) shall constitute a violation subject to the administrative sanctions established under Article 13C.'

4. New Article 13C: Administrative and Criminal Sanctions

Proposed new Article 13C: '(1) An internship provider that fails to pay the minimum stipend required under Article 13 paragraph (1)(d), or that fails to enroll internship participants in social security programs as required under

Article 13B, shall be subject to: (a) a written warning and mandatory rectification order within 14 (fourteen) working days (first violation); (b) temporary suspension of the right to recruit internship participants for a period of 6 (six) months (second violation); and (c) permanent revocation of the right to conduct internship programs, accompanied by referral to the competent prosecutorial authority (third violation). (2) If an internship arrangement is found by the supervisory authority or a court to constitute a disguised employment relationship pursuant to Article 10 paragraph (3), the internship provider shall be liable for all unpaid wages, social security contributions, and other entitlements owed to the reclassified employee from the commencement of the internship, calculated at the applicable Municipal Minimum Wage rate.'

5. New Article 13D: Independent Internship Oversight Authority

Proposed new Article 13D: '(1) The Minister of Manpower shall establish, within twelve (12) months of the entry into force of this amendment, an Internship Supervisory Directorate (*Direktorat Pengawasan Magang*, hereinafter 'DPM') as a structural unit of the Directorate General of Manpower Development and Extension. (2) The DPM shall be empowered to: (a) conduct periodic and unannounced inspections of internship providers' premises and records; (b) receive and investigate complaints from internship participants or their representatives; (c) issue remedial orders and impose administrative sanctions pursuant to Article 13C; and (d) publish an annual report on the state of internship compliance in Indonesia, disaggregated by sector, region, and enterprise size. (3) The DPM shall establish a publicly accessible electronic complaint platform enabling internship participants to report violations anonymously. (4) DPM inspectors shall hold the same investigative authority as the Labor Supervisory Officials (*Pengawas Ketenagakerjaan*) established under Articles 176–181 of the Manpower Law.'

The foregoing draft amendments operationalize, within the existing architecture of Indonesian labor regulation, the

three theoretical principles that animate this study. Hadjon's preventive protection framework is addressed by Articles 13A and 13B, which establish preemptive safeguards against exploitation. Hadjon's repressive protection framework is addressed by Article 13C, which creates meaningful sanctions for violations. Rawls' difference principle is addressed by the minimum stipend formula in the revised Article 13 and the mandatory social security enrollment in Article 13B, which redistributes the costs of intern labor from the least advantaged (interns) to the employing enterprise. Soekanto's five effectiveness factors are addressed by: (i) the clarity and specificity of the amended provisions (factor i); (ii) the creation of the DPM with defined inspection authority (factors ii and iii); (iii) the public complaint platform (factor iv); and (iv) the clear definition of the 'educational versus productive' distinction in Article 13A paragraph (4), which supplies a cultural demarcation capable of shifting industry norms over time (factor v).

Conclusion

This article has demonstrated that unpaid and under-compensated internship practices in Indonesia's creative industry constitute not merely a social problem, but a systemic legal failure with constitutional dimensions. The existing regulatory architecture fails to provide the preventive and repressive legal protection theorized by Hadjon, fails to satisfy the demands of Rawlsian distributive justice, and fails across all five dimensions of Soekanto's legal effectiveness framework. In Semarang City's creative sector, interns' rights to stipends, capped working hours, mentoring, and social security coverage are routinely violated without legal consequence, and structural features of a system in which the absence of minimum stipend thresholds, sanction mechanisms, and independent oversight create rational incentives for exploitation. Global comparative analysis further demonstrates that effective internship regulation requires statutory-level clarity, independent oversight with inspection authority, and an explicit legal distinction between educational and productive intern labor, design features drawn

respectively from the French, Australian, and EU frameworks that are structurally compatible with Indonesia's civil law system and have been incorporated into the draft amendments proposed in this article.

The proposed amendments to Permenaker No. 6/2020, encompassing a mandatory minimum stipend at 75% of the applicable minimum wage, a 35-hour weekly working hour cap with automatic reclassification provisions, compulsory social security enrollment, a graduated sanctions regime, and the establishment of an Internship Supervisory Directorate, constitute a technically grounded reform agenda directed toward realizing the constitutional guarantee of Article 28D(2) for one of Indonesia's most economically significant yet legally vulnerable worker categories. The authors acknowledge that the study's geographic scope limits statistical generalizability and that the proposed amendments have not been subjected to a legislative impact assessment. Future research should conduct large-scale quantitative surveys across multiple regions, examine compliance behavior among creative industry SMEs under varying regulatory scenarios, and evaluate the institutional feasibility of the proposed Supervisory Directorate through structured stakeholder consultation.

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