

Distributive Justice Analysis in the Context of Workers' Leave Time Regulation: A Legal Perspective

Robith Ainul Yaqin¹, Dipo Wahyueono Hariyono², Reinaldo Francisco Luis³

¹Universitas 17 Agustus 1945 Surabaya, Indonesia

²Universitas 17 Agustus 1945 Surabaya, Indonesia

³Universidade da Paz, Timor Leste

*Corresponding Author: raye.151100@gmail.com

Article History:

Submitted:

31-05-2024

Received:

05-06-2024

Accepted:

12-06-2024

Keywords:

Worker; Holiday;

Employment;

Omnibus Law;

Abstract

The controversy surrounding Law No. 6/2023 revolves around the loss of the two-day weekend holiday entitlement for workers, the provision of only one day off in a six-day workweek, changes in working hours, which also affect rest time to only one day per week for a 6-day work schedule. The existence of a law should inherently provide fairness to society and contribute to the happiness of the people, but on the other hand, the government must also strive consistently to foster the economic growth of the population as a means to achieve social welfare. This research aims to investigate the regulation of workers' rest time under Law No. 6/2023 and to assess whether the provisions for rest time under Law No. 6/2023 have met the criteria of fairness for workers. To address these objectives, a normative juridical method with legislative and conceptual approaches is employed. Based on distributive justice theory, Law No. 13/2003 better reflects justice in labor relations in Indonesia as it considers basic needs, equality, and workers' contributions more comprehensively. Conversely, Law No. 6/2023, despite providing benefits to employers and potentially stimulating economic growth, appears to reduce the protection and welfare of workers, which can be deemed less fair according to distributive justice principles. Therefore, strict monitoring and improvements are necessary in the implementation of Law No. 6/2023 to ensure fairness for workers is maintained.

1. Introduction

The labor laws in Indonesia are necessary as a form of guarantee for Indonesian citizens to obtain employment and also to secure their rights and obligations. Additionally, workers require protection to ensure productivity and comfort in their jobs so that work can proceed smoothly. Employment often relates to issues in the relationship between workers and employers, which is typically subordinative, leading to the perception that workers are the weaker party. Hence, there is a need for the government's role to protect workers to realize their rights and obligations. In the employment relationship between employers and workers, legal protection is necessary to provide security and legal certainty for both parties regarding issues that arise during the course of work. One form of protection and legal certainty for both parties is through employment agreements regulated by Law No. 13 of 2003 on Manpower (hereinafter referred to as Law No. 13/2003). An employment agreement is necessary as a means to realize the rights and the obligations of both employer and worker, which must be adhered to and implemented properly to benefit both parties and to realize a sense of justice and welfare for all parties. This agreement is intended as a protection in the performance of work, which is usually associated with work norms. The protection of work norms is also intended to provide legal certainty related to work norms concerning rest periods, working hours, and night work. This protection aims to acknowledge the rights of workers, who, as

human beings, must have their rights realized humanely, considering their physical limitations, thereby necessitating adequate rest periods.¹

The existence of Law No. 13/2003 and Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (hereinafter referred to as Law No. 6/2023) as legal provisions for the implementation of development in the labor sector, signifies the existence of labor law as a part of positive law to regulate the relationship between workers and employers, among workers, or between workers or employers and the government. Workers are the backbone of a company; philosophically, the existence of workers plays an essential role because without their role, a company's business activities cannot be carried out. The controversy surrounding Law No. 6/2023 is about the elimination of the right to two days off per week for workers, providing only one day off for six working days. The right to protect workers' health, including rest periods, holidays, and leave, is essential for restoring energy and work capability, requiring sufficient rest time. To achieve successful work performance, adequate rest is crucial for health and energy recovery. Work fatigue can usually occur due to heavy workloads and having to use a lot of energy, therefore it can damage workers' abilities. Taking time off to relieve mental fatigue due to the heavy burden of work demands, the body may no longer be fit to work. It is advisable to take time off to rest and relax or take a short break from work to refresh the mind, thereby increasing enthusiasm and productivity in work. This is one of the problems currently being faced by the government and the public so that the ratification of the Omnibus Law is considered very hasty so that many people think that Omnibus Law is detrimental to workers or laborer.

This problem continues to be voiced by workers, laborers and the public to reject the existence of the omnibus law when the Legislative Assembly was discussing it this omnibus law in its meeting. The government should already know that the existence of an applicable law should provide a sense of fairness to society and is able to provide happiness to society but on the other hand. The government must also continue to make efforts and be consistent in growing the people's economy as a way to achieve social welfare. The right to protect workers' health including rest time, holidays and leave, to regenerate energy work ability needs at least some rest time. To achieve job success well, adequate rest is very important for health and energy recovery. Factor the cause of work fatigue is caused by the workload carried out by a worker too heavy which requires a lot of energy so it has an impact on ability worker. Take time to get rid of bored thoughts because you are carrying a lot of burdens work required by the company, so that the body is no longer in good condition to work. It's best to take time off to rest and vacation or just take a break from the world work that can provide the benefit of refreshing a mind bored due to work, as well increase enthusiasm and productivity at work.

This research refers to several previous studies, the first titled "*Penerapan Peraturan Pemerintah Mengenai Waktu Kerja dan Waktu Istirahat: Perspektif Jurnalis*"² by Faizal Amir P Nasution, Yeni Nuraeni, and Firdaus Nuzula. The researchers explained that there are still several shortcomings in Indonesia's labor laws regulating working hours and rest periods, which have not maximally protected workers in the business sector. To enhance worker protection, specific regulations for workers are needed. The second reference study titled "*Tinjauan Yuridis Hak Cuti Bagi Pekerja Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020*

¹ Arif Wicaksono and Sunny Ummul Firdaus, "Pembentukan Peraturan Perundang-Undangan Cipta Kerja Dalam Aspek Demokrasi Masyarakat Indonesia" 11 (2023): 98-106.

² Faizal Amir P Nasution, Yeni Nuraeni, and Firdausi Nuzula, "Penerapan Peraturan Pemerintah Mengenai Waktu Kerja Dan Waktu Istirahat : Perspektif Jurnalis" 17, no. 2 (2022), <https://doi.org/10.47198/naker.v17i2.138>.

*tentang Cipta Kerja*³ written by Garda Yustisia Pambudi and Fatma Ulfatun Najicha, explains that the Law No. 11 of 2020 on Job Creation regulates or changes several types of workers' rights. This has led to a weakening of legal protection guarantees for workers' rights, especially concerning long leave, due to the Job Creation Law. The Job Creation Law has faced massive public rejection, aiming to develop the business and investment climate to boost Indonesia's economic growth. However, the formation of the Job Creation Law still disadvantages workers and laborers. The last reference titled "*Perbandingan Undang-Undang Cipta Kerja No. 11 Tahun 2020 Klaster Ketenagakerjaan dengan Undang-Undang No. 13 Tahun 2003 tentang Ketenagakerjaan*"⁴ written by Imawanto, explains the comparison between the Omnibus Law Job Creation Law and Law No. 13/2003. Through the Omnibus Law, several substances have changed and/or removed the substance in the Labor Law, including minimum wages, severance pay, termination of employment (PHK), outsourcing, social security, leave, foreign worker working hours and rest periods, work duration, and fixed-term employment agreements (PKWT).

2. Methods

This study employs several approaches to achieve accurate objectives. Specifically, it utilizes the statutory approach and the conceptual approach.

3. Results and Discussion

3.1. The Framework of Leave Time Regulation

The background leading to the emergence of labor legislation is due to the existing laws, including some colonial-era regulations, which placed workers in a disadvantageous position regarding employment services and the industrial relations system that highlighted differences in status and interests, thus considered no longer suitable for the long term needs.⁵ Legal changes occur due to the diverse needs and activities in human life; therefore, law is essential and cannot be easily accommodated within a single comprehensive framework. In Indonesia, Pancasila must be upheld and practiced in various aspects of societal, national, and state life, particularly the second principle which contains the notion of just and civilized humanity. The importance and significance of work for every individual are emphasized in Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that every Indonesian citizen has the right to employment and a decent livelihood for humanity. Indonesia, as a state governed by law, uses the 1945 Constitution as the basis for conducting various state activities. The Constitution is equivalent to a Government Regulation in Lieu of Law (Perpu), as stipulated in Article 7 of Law No. 12 of 2011 on the Formation of Legislation. The latest Perpu ratified by the House of Representatives is Perpu No. 2 of 2022 on Job Creation. This Perpu has become the source of conflict after its enactment because it contains provisions that do not favor workers.

The Omnibus Law is a new concept used in Indonesia's legislative system. This system is often referred to as a sweeping law because it can amend several legal norms within a single regulation. The purpose of the Omnibus Law is to create harmonization of regulations that are

³ Garda Yustisia Pambudi and Fatma Ulfatun Najicha, "Tinjauan Yuridis Hak Cuti Bagi Pekerja Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Gema Keadilan* 9, no. 2 (2022), <https://doi.org/10.14710/gk.2022.16204>.

⁴ Imawanto, "Perbandingan Undang-Undang Cipta Kerja No 11 Tahun 2020 Klaster Ketenagakerjaan Dengan Undang-Undang No 13 Tahun 2003 Tentang Ketenagakerjaan" 1, no. 4 (2022).

⁵ Trias Hernanda et al., "Penerapan Konsep Omnibus Law Di Indonesia Pasca Putusan Inkonstitusional Bersyarat" 4, no. 2 (2023): 53–58.

currently overlapping both vertically and horizontally. The updated legal norm system is considered effective in practice to ensure justice, certainty, and utility. Changes in labor regulations should align with the objective of forming labor laws, which should consider and realize social justice for workers.⁶ Job Creation, as part of the Omnibus Law package, faced various rejections in its implementation. From the discussion process, ratification, to the enactment of this law, it did not escape various pros and cons. The execution or practical implementation of Law No. 6/2023, considered by various community groups as a flawed regulation, both procedurally and substantial, fails to meet the due process of law requirements, which are necessary in forming regulations and rules in a state governed by law. The Omnibus Law is a legal product or legislation containing more than one material, issue, and themed of state governance, which aims to revoke and/or revise other regulations to create a new, regulatory wise to address regulatory issues in a country, particularly the high quantity of regulations (hyper-regulation) and overlapping regulations. Thus, there is nothing inherently wrong with the Omnibus Law concept in legal science as long as its implementation aims to resolve regulatory issues.

The role of Law No. 6/2023 is significant because it provides certainty and protection for workers through written legal products. Moreover, through written regulations, workers can attain a decent life with guarantees and protection, which currently fall short of expectations. Additionally, workers who already have jobs are at risk of losing them due to unilateral termination by employers. Such practices present dilemmas and challenges for Indonesia.⁷ Therefore, Law No. 6/2023 is expected to bring positive changes for Indonesian workers. The Omnibus Law has sparked controversy among the public, academics, and other stakeholders. Many believe that the Omnibus Law disadvantages the community, especially workers. Regarding its formation, the Omnibus Law is seen as detrimental to workers. The juridical foundation concerns legal issues related to the substance or material regulated, necessitating the formation of new legislation. It is also the legal basis according to higher legal provisions, related to the authority in its formation (formal aspect) and the legal issues that need regulation (material aspect). A juridical review of the Omnibus Law according to employment finds that Law No. 6/2023 and Law No. 13/2003 differ in several substantive areas, including working hours, rest periods, leave, and fixed-term employment agreements (PKWT).⁸ Legal efforts to resolve issues between the Omnibus Law Law No. 11/2020 on Job Creation and Law No. 13/2003 include the following:

- a. Filing a Judicial Review of the Omnibus Law Law No. 11/2020 to the Constitutional Court
- b. Establishing a clear mechanism for the harmonization of legislation
- c. Applying the principle of *lex posterior derogate legi priori* to the Omnibus Law Employment Cluster.

Based on Law No. 6/2023, workers' right to two days off per week, previously regulated in Law No. 13/2003, has been reduced. Article 79, paragraph (2)(b) of Law No. 6/2023 stipulates that workers are entitled to one day of weekly rest for six working days in a week. The reduction in working hours also affects the weekly rest period, resulting in only one

⁶ Rahmadi Indra Tektora, "Kepastian Hukum Aturan Praktik Monopoli Dan Persaingan Usaha Tidak Sehat Pada Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja" 2, no. 11 (2022): 43-54.

⁷ Ahamd Adrik Yusri, Yusuf Hidayat, and Sadiono, "Kontruksi Keadilan Persaingan Usaha Pada UU Cipta Kerja Menurut Tinjauan Ekonomi Pancasila" VI, no. 2 (2021): 1-22.

⁸ Patrick Winson, Salim John, and Michael Hizkia, "Pengaruh Undang Undang Cipta Kerja Terhadap Pemenuhan Upah Minimum Pekerja" 7, no. 2 (2023): 1599-1606.

day off per week for six working days. Article 79, paragraph (1)(b) of Law No. 6/2023 states that the weekly rest period is only one day for six working days. Meanwhile, the previous law, Law No. 13/2003, stated a weekly rest period of one (1) day for six (6) working days in one (1) week or two (2) days for five (5) working days in one (1) week.

The juridical foundation for regulating rest periods has changed. Generally, the juridical foundation for regulating rest periods is based on various applicable legal regulations, including labor laws and government regulations. The underlying principles aim to protect workers' welfare, ensure a balance between productivity and rest needs, and promote healthy labor relations. The juridical foundation for regulating rest periods varies across jurisdictions and may include various legal instruments.⁹ When determining rest periods, it is essential to refer to the applicable regulations in the country or region where the workers are employed and consider the rights stipulated by the relevant labor laws. The impact of Law No. 6/2023 on the labor sector in Indonesia has led to controversy and criticism. Worker representatives note several points of concern in the regulation, despite its enactment. The presence of this law affects various aspects and parties involved, with workers being the most impacted. One significant effect on workers is the reduction in rest periods.

3.2. Analysis Distributive Justice in Contrasting Workers' Leave Time between Law No. 13/2003 and Law No. 6/2023

Indonesia's current state is engaged in national development, particularly in the economic sector, by fostering labor development as an integral part of the national development based on Pancasila and the 1945 Constitution, aiming to fulfill the entirety of Indonesian human development and the overall development of Indonesian society to enhance the dignity and self-worth of workers and realize a prosperous, just, prosperous, and equitable society, both materially and spiritually. The general explanation of Law No. 13/2003 asserts that every worker has the right and equal opportunity to obtain decent employment and livelihood regardless of gender, ethnicity, race, religion, and political affiliation, according to the interests and abilities of the respective workforce, including equal treatment for persons with disabilities. Labor is an inseparable part of the national development based on Pancasila.

Workers or laborers are individuals who work for wages or other forms of compensation. Labor law comprises elements such as written and unwritten regulations concerning employment, remuneration, and rest periods. Labor development is based on Pancasila and the 1945 Constitution, implemented on the principle of integration through functional coordination across central and regional sectors.¹⁰ The purpose of labor law is to achieve or implement social justice in the field of labor and to protect workers from unlimited power by employers, such as creating regulations to prevent employers from acting arbitrarily towards workers as the weaker party. The role of labor law is to equalize economic and social justice for workers and to guide economic needs according to the aspirations of the Indonesian nation with mutual cooperation as a characteristic of the national personality and a fundamental principle of Pancasila.

⁹ Muhammad Iqbal Mahdi and Lutfian Ubaidillah, "Analisis Yuridis Tentang Penyelesaian Sengketa Hak Tenaga Kerja Pasca Covid-19 Berdasarkan Undang-Undang No. 6 Tahun 2023 Tentang Cipta Kerja," no. 6 (2024): 1-10.

¹⁰ Shenti Agustini, "Perlindungan Hukum Bagi Pekerja Harian Dan Pekerja Dengan Satuan Waktu Jam Dalam Undang-Undang Cipta Kerja" 9, no. 13 (2021): 1907-16.

Table 1. Divergence in Regulation of Leisure Time

Law No. 13/2003	Law No. 6/2023
(Working Hours Article 77):	(Working Hours Article 77):
<ol style="list-style-type: none"> 1. It is mandatory for all employers to adhere to the regulations concerning working hours. 2. The hours of work mentioned in (1) consist of: <ol style="list-style-type: none"> a. Seven hours, One day, and Forty hours Six working days in a week, lasting one week; alternatively b. Eight hours One (1) day and forty (40) hours One (1) week is made up of five (5) working days. 3. Certain industries or jobs are exempt from the working-hour regulations mentioned in paragraph (2). 	<ol style="list-style-type: none"> 1. Employers are required to enforce the policies pertaining to working hours. 2. The working hours mentioned in paragraph (1) consist of: <ol style="list-style-type: none"> a. For seven hours One (1) day and forty (40) hours Six working days in a week, lasting one week; alternatively b. Eight hours One (1) day and forty (40) hours One (1) week is made up of five (5) working days. 3. Some industries or professions are exempt from the working hour regulations mentioned in paragraph (2).
(Rest Breaks Article 79):	(Rest Breaks Article 79):
<ol style="list-style-type: none"> 1. Employers are required to give workers/laborers breaks and time off. 2. The rest periods and leaves mentioned in paragraph (1) consist of: <ol style="list-style-type: none"> a. Taking a break during the day, lasting at least 30 minutes after working for four (four) hours straight; this break is not included in the calculation of working hours; b. One-day rest breaks every six working days in a week, or two-day breaks every five working days in a week; c. An annual leave, at least 12 (twelve) working days after the worker/laborer has worked continuously for 12 (twelve) months; and d. Long rest, at least 2 (two) months, implemented in the seventh and eighth years respectively, for workers/laborers who have worked continuously for 6 (six) years in the same company, with the provision that the workers/laborers are no longer entitled to their annual leave in the current 2 (two) years and thereafter applies to every multiple of 6 (six) years of employment. 	<ol style="list-style-type: none"> 1. Employers are obliged to provide: <ol style="list-style-type: none"> a. Rest breaks; and b. Leave 2. Rest breaks as referred to in paragraph (1) letter a must be provided to Workers/Laborers, at least including: <ol style="list-style-type: none"> a. Rest between working hours, at least half an hour after working for 4 (four) consecutive hours, and such rest time is not included in working hours; and b. Weekly rest breaks of 1 (one) day for 6 (six) working days in 1 (one) week. 3. Leave as referred to in paragraph (1) letter b which must be provided to Workers/Laborers, namely annual leave, at least 12 (twelve) working days after the respective Worker/Laborer has worked continuously for 12 (twelve) months. 4. The implementation of annual leave as referred to in paragraph (3) is regulated in the Employment Agreement, Company Regulations, or Collective Labor Agreement. 5. In addition to rest breaks and leave as referred to in paragraph (1), paragraph (2), paragraph (3), Certain Companies may provide long breaks regulated in the Employment Agreement, Company Regulations, or Collective Labor Agreement.

Based on Table 1, in Law No. 6/2023, regulations regarding weekly rest time only provide one option, which is one day of rest for six working days. The revisions made in this law, as seen in several amended articles compared to Law No. 13/2003 through the Omnibus Law method, represent a form of legal renewal initiated by the government. However, legal

conflicts and other legal issues still persist, as evidenced by numerous articles that disadvantage workers. This is further highlighted by the lengthy process from the formation of Law No. 6/2023, originally stemming from Law No. 11/2022, followed by a Judicial Review in the Constitutional Court, resulting in the establishment of a Regulation of Government in Lieu of Law with Number 2 of 2022, which and eventually enacted as Law No. 6/2023. The main difference between Law No. 13/2003 and Law No. 6/2023 lies in the significant change in the regulation of weekly rest time, which was originally 1-2 days off but has been reduced to only 1 day off.¹¹ Law No. 13/2003 benefited both employers and workers, whereas Law No. 6/2023 mainly favors employers and disadvantages workers. Therefore, the government mandates companies to standardize working hours, break times, and rest times to achieve alignment between what the company desires and what the workers need, without compromising by the parties and their rights and obligations. All stakeholders required collaborate to establish harmony in working hours, breaks, and holidays in Indonesia. Issues regarding working hours, breaks, and holidays are prevalent in Indonesia due to inadequate company management systems and a lack of understanding of the laws and regulations in place.¹² According to Law No. 6/2023, there have been positive impacts on businesses, allowing them to expand and contribute to the national economy. However, the negative effects of Law No. 6/2023, which do not align with the draft law and are perceived to serve the interests of companies at the expense of workers and society, cannot be ignored.

Distributive justice theory worries fair distribution of resources and rights among members of society. In the context of of Indonesia employment, the application of this theory can help assess whether labor policies and regulations adhere to fundamental of fairness for all involved parties. Law No. 13/2003 aims to ensure that workers' basic sufficient needs met. Specifically, this law grants workers the right to receive fair wages, sufficient rest time, and protection from arbitrary actions. Implementation of Law No. 13/2003 is crucial in protecting workers' rights and reflects the state's commitment to distributive justice principles based on needs. According to this law, a fair wage is not just compensation for work implement but also an instrument to ensure workers' social welfare. In determining a fair wage, the government, through a tripartite mechanism involving the government, employers, and labor unions, establishes minimum wage standards adjusted to regional economic conditions. This is important to maintain a balance between employers' interests and workers' rights, thus creating a fair and just working environment. Apart from fair wages, Law No. 13/2003 also emphasizes the importance of adequate rest time for workers. This includes daily, weekly, and annual breaks, as well as special leave such as maternity leave for female workers. Adequate rest time is crucial for maintaining workers' physical and mental health, enhancing productivity, and reducing the risk of work-related accidents. With these provisions, Law No. 13/2003 seeks to ensure that workers achieve a balance between work and personal life, ultimately contributing to general welfare. Overall, Law No. 13/2003 reflects distributive justice principles based on needs, ensuring that resources and opportunities are distributed in a way that allows individuals to meet their basic needs. Thus, this law aims not only to protect workers' rights but also to create a fair and just working condition that enhances productivity and overall social welfare.

¹¹ Agustina Balik and Yosia Hetharie, "Aspek Keadilan Klausula Baku Dalam Perjanjian Kerja Outsourcing" 3, no. 2017 (2020): 242-52.

¹² Geofani Milthree Saragih, "Kajian Filosofis Terhadap Pemberlakuan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Dari Perspektif Teori Jhon Austin Pasca Putusan Mahkamah Konstitusi Nomor 91 / PUU / XVII / 2020" 1, no. 4 (2022).

One of the main aspects regulated by this law is providing equal opportunities for all workers without discrimination. This principle aligns with efforts to achieve equality in distributive justice, where every individual is entitled to fair and equal treatment in the workplace. Law No. 13/2003 contributes to distributive justice by ensuring equal opportunities for all workers. This principle is not only important for protecting workers rights but also for promoting productivity and welfare in the workplace.¹³ By guaranteeing equal opportunities, this law helps build a more inclusive and fair society, where every individual has an equal chance to develop and contribute. Law No. 13/2003 also regulates adequate rest time for workers. Providing adequate rest time is crucial for maintaining workers' health and welfare. Adequate rest time also allows workers to recharge their energy, enabling them to work more productively and efficiently. This regulation includes daily, weekly, and annual breaks, as well as maternity leave. The implementation of this regulation, which aligns with workers' contributions, reflects fairness in industrial relations. With sufficient rest time, Law No. 13/2003 not only protects workers' rights but also promotes the creation of a fair and productive working environment. In contrast, Law No. 6/2023, which regulates weekly rest time policies, has significant implications for workers' welfare, especially for those in physically demanding jobs. Reducing weekly rest time can have serious negative effects on their health and welfare. This is consistent with the principle that workers' basic needs should be adequately met, a factor addressed in various labor regulations. The reduction of weekly rest time may be deemed inadequate in meeting basic needs. This principle emphasizes that every individual has the right to access basic needs, including sufficient rest. When these rights are compromised or reduced, it can be considered a violation of workers' rights. In response to these regulatory changes, labor unions and advocacy organizations may advocate for the threatened rights of workers and urge the government to reconsider such policies.

The changes in Law No. 6/2023 may provide greater benefits for employers than for workers, potentially resulting on the inequality in workers' protection and rights. This dynamic indicates an imbalance in power among employers and workers, which can, in turn, create an imbalance in industrial relations. Policy changes that favor employers often result in negative consequences for workers, including a lack of legal protection and a decrease in their welfare.¹⁴ Policy changes that benefit employers more can also negatively impact workers' overall welfare. Inequality in the distribution of benefits and workloads can increase pressure and stress on workers, which, in turn, can adversely affect their physical and mental health. The decline in workers' welfare can also reduce productivity and work quality, ultimately harming the long-term interests of both employers and workers. The flexibility in working hours provided to employers by Law No. 6/2023 may not always have a positive impact on workers, especially if not accompanied by fair regulations regarding overtime pay. In this context, it is important to consider the implications of flexible working hours on justice based on workers' contributions. Unfairly regulated overtime pay can result in inequality in compensation, which, in turn, can reduce the sense of fairness in the workplace. It should be noted that justice based on contribution is a fundamental principle in fair and sustainable employment relationships.¹⁵ Overtime pay should be regulated fairly and transparently so that

¹³ Justiceka Ibelashry Listiyani Nurul, Nopliardy Rakhmat, "Kajian Terhadap Perlindungan Hukum Bagi Pekerja Kontrak Waktu Tertentu (PKWT) Dalam Undang-Undang Cipta Kerja" 4, no. 2 (2022): 10-21.

¹⁴ Nailul Amany, "Perubahan Pengaturan Perjanjian Kerja Harian Di Indonesia Ditinjau Dari Teori Keadilan" 7, no. April (2023): 267-88.

¹⁵ Andriyanto Adhi Nugroho Nadila Devita, "Perlindungan Hukum Atas Hak Cuti Tahunan Pekerja Waktu Tertentu Yang Tidak Terpenuhi" 1 (2022): 253-76.

every worker receives appropriate recognition for the extra effort they provide. Only then can the principle of justice based on contribution be maintained in a dynamic and evolving work environment. Distributive justice theory provides a useful framework for analyzing and evaluating the effectiveness of labor laws in achieving justice in the workplace. In this context, Law No. 13/2003 is considered to better reflect the principles of distributive justice due to its comprehensive approach to basic needs, equality, and workers' contributions. The law directly acknowledges the importance of meeting workers' basic needs, such as fair wages, sufficient rest time, and protection from arbitrary actions. By providing protection for workers' basic rights, Law No. 13/2003 effectively promotes a more organized and thoughtful work environment. For example, in Article 79 of the Manpower Law which amended by Law No.6/2023 concerning Omnibus Law, regarding time holidays for workers. In the legislative process, the Omnibus Law has indeed reaped a lot controversial and considered bad legislative practice. It is said to be a process bad legislation, because in the legislative process the Omnibus Law was not carried out in a transparent and participatory manner. Apart from that, the legislative process for the Copyright Law Work is considered too hasty and ignores democratic principles. Copyright Law Work that is done quickly brings many problems, especially for workers or laborers

On the other hand, Law No. 6/2023, while providing benefits for employers and potentially stimulating economic growth, appears to sacrifice the protection and welfare of workers. When economic gains are prioritized over the protection of workers' rights, this violates the principles of distributive justice.¹⁶ Reducing protection for workers can lead to increased inequality and reinforce power disparities between employers and workers. In this context, strict oversight and improvements in the implementation of Law No. 6/2023 are crucial to ensure that justice for workers remains preserved. Rigorous oversight will help monitor the implementation of the law and identify discrepancies and abuses that may occur. Additionally, systematic improvements can be made to align the law with the principles of distributive justice, thereby ensuring adequate protection for workers without sacrificing the interests of employers or overall economic growth. Thus, distributive justice can be maintained in a dynamic and evolving work environment. Aspects of fairness in the provisions of holiday time, the provisions have been regulated in the existing statutory regulations along with implementing regulations. It's very important to ensure that every worker has the same opportunity to enjoy balanced vacation time between company needs and employee needs. This can be achieved through a process determining fair and transparent holiday times, planning an even holiday rotation, as well as ensure that the provisions are in accordance with applicable regulations. With Paying attention to these aspects of justice, companies can create a work environment that is supports balance between work life and personal life of workers, increase job satisfaction, as well as overall well-being. But inside There are changes to the provisions on holiday time, resulting in unfairness for workers, profitable for entrepreneurs. Changes in regulations regarding employment in omnibus law laws should be adapted to the objectives of the law about workers themselves, namely paying attention to and realizing social justice for workers. This means that if you work beyond working hours, including working on holidays, you are said to be working overtime. Therefore, companies must provide overtime rights so that workers' rights are fulfilled as well give the opportunity to rest sufficiently. If the entrepreneur will do the work overtime, there

¹⁶ Jonathan Young, "Analisis Yuridis Kewajiban Pengusaha Terhadap Tenaga Kerja Yang Melaksanakan Kerja Lembur Dan Saat Perpanjangan Kontrak Kerja" 7 (2023): 2057-61.

must be a written order from the employer and also written approval from workers to ensure fairness between both parties.

4. Conclusions

According to distributive justice theory, Law No. 13/2003 better reflects fairness in labor relations in Indonesia because it considers basic needs, equality, and workers' contributions more comprehensively. Conversely, Law No. 6/2023, while providing benefits for employers and potentially stimulating economic growth, appears to reduce protection and welfare for workers, which can be considered less fair according to the principles of distributive justice. Therefore, in the implementation of Law No. 6/2023, strict oversight and improvements are necessary to ensure that justice for workers remains preserved.

5. Acknowledgments

The author expresses gratitude to Univeristas 17 Agustus 1945 Surabaya for their assistance in this research, as well as to colleagues and relatives who have provided support and input.

6. Reference

- Agustini, Shenti. "Perlindungan Hukum Bagi Pekerja Harian Dan Pekerja Dengan Satuan Waktu Jam Dalam Undang-Undang Cipta Kerja" 9, no. 13 (2021): 1907-16.
- Amany, Nailul. "Perubahan Pengaturan Perjanjian Kerja Harian Di Indonesia Ditinjau Dari Teori Keadilan" 7, no. April (2023): 267-88.
- Balik, Agustina, and Yosia Hetharie. "Aspek Keadilan Klausula Baku Dalam Perjanjian Kerja Outsourcing" 3, no. 2017 (2020): 242-52.
- Hernanda, Trias, Hendra Setyadi Kurniaputra, Maslikan, and Naili Azizah. "Penerapan Konsep Omnibus Law Di Indonesia Pasca Putusan Inkonstitusional Bersyarat" 4, no. 2 (2023): 53-58.
- Imawanto. "Perbandingan Undang-Undang Cipta Kerja No 11 Tahun 2020 Klaster Ketenagakerjaan Dengan Undang-Undang No 13 Tahun 2003 Tentang Ketenagakerjaan" 1, no. 4 (2022).
- Listiyani Nurul, Nopliardy Rakhmat, Justiceka Ibelashry. "Kajian Terhadap Perlindungan Hukum Bagi Pekerja Kontrak Waktu Tertentu (PKWT) Dalam Undang-Undang Cipta Kerja" 4, no. 2 (2022): 10-21.
- Mahdi, Muhammad Iqbal, and Lutfian Ubaidillah. "Analisis Yuridis Tentang Penyelesaian Sengketa Hak Tenaga Kerja Pasca Covid-19 Berdasarkan Undang-Undang No . 6 Tahun 2023 Tentang Cipta Kerja," no. 6 (2024): 1-10.
- Nadila Devita, Andriyanto Adhi Nugroho. "Perlindungan Hukum Atas Hak Cuti Tahunan Pekerja Waktu Tertentu Yang Tidak Terpenuhi" 1 (2022): 253-76.
- Nasution, Faizal Amir P, Yeni Nuraeni, and Firdausi Nuzula. "Penerapan Peraturan Pemerintah Mengenai Waktu Kerja Dan Waktu Istirahat : Perspektif Jurnalis" 17, no. 2 (2022). <https://doi.org/10.47198/naker.v17i2.138>.
- Pambudi, Garda Yustisia, and Fatma Ulfatun Najicha. "Tinjauan Yuridis Hak Cuti Bagi Pekerja Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." *Gema Keadilan* 9, no. 2 (2022). <https://doi.org/10.14710/gk.2022.16204>.
- Saragih, Geofani Milthree. "Kajian Filosofis Terhadap Pemberlakuan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Dari Perspektif Teori Jhon Austin Pasca Putusan Mahkamah Konstitusi Nomor 91 / PUU / XVII / 2020" 1, no. 4 (2022).
- Tektona, Rahmadi Indra. "Kepastian Hukum Aturan Praktik Monopoli Dan Persaingan Usaha Tidak Sehat Pada Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja"

2, no. 11 (2022): 43–54.

Wicaksono, Arif, and Sunny Ummul Firdaus. “Pembentukan Peraturan Perundang-Undangan Cipta Kerja Dalam Aspek Demokrasi Masyarakat Indonesia” 11 (2023): 98–106.

Winson, Patrick, Salim John, and Michael Hizkia. “Pengaruh Undang Undang Cipta Kerja Terhadap Pemenuhan Upah Minimum Pekerja” 7, no. 2 (2023): 1599–1606.

Young, Jonathan. “Analisis Yuridis Kewajiban Pengusaha Terhadap Tenaga Kerja Yang Melaksanakan Kerja Lembur Dan Saat Perpanjangan Kontrak Kerja” 7 (2023): 2057–61.

Yusri, Ahamd Adrik, Yusuf Hidayat, and Sadio. “Kontruksi Keadilan Persaingan Usaha Pada UU Cipta Kerja Menurut Tinjauan Ekonomi Pancasila” VI, no. 2 (2021): 1–22.