


The Critical Study of the Omnibus Bill on Job Creation Based on John Rawls View on Justice



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ABSTRACT. This study aimed to analyze the critical study of The Omnibus Bill On Job Creation based on John Rawls view On Justice. The Government and the House of Representatives ratified the Omnibus Bill on Job Creation through a plenary meeting on October 5, 2020. This is more focused on improving economic growth or investment but does not pay attention to increase the protection and competence of human resources. The type of this research uses normative legal research, legal research that is conducted based on law and regulation, and library material. Related to this type of research, the approach used in this paper is legal, a conceptual approach, and a historical approach. According to the result of research, it can be concluded that the rules of the Omnibus Bill on Job Creation has implications for the imbalance of position between companies and workers and do not provide legal certainty for workers' protection. According to John Rawls, a justice will not sacrifice the rights of some people for the benefits enjoyed by others. Based on the opinion of John Rawls, we can know that if we sacrifice the rights of others for profit is not right. The cooperation based on a work agreement should be of benefit to all parties. These are benefits that can provide welfare to one another. Companies do not need to pay as high as company directors, but companies must be transparent about finances.

KEYWORDS. Omnibus; Labor; Justice

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Introduction

The Government and the House of Representatives ratified the Omnibus Law Bill on Job Creation through a plenary meeting on October 5, 2020. In the plenary meeting, it was noted that nine factions in the House of Representatives accepted and conveyed their views on the Omnibus Law Bill on Job Creation, while there were two factions (namely The Keadilan Sejahtera Faction and the Democratic Faction) which rejected all the results of the discussion on Omnibus Law Bill on Job Creation.²

President Joko Widodo said that the Omnibus Law would be discussed as a priority bill during his second term. There are three Omnibus Law Drafts discussed, namely the Omnibus Law Bill on Job Creation and Bill on Small and Medium Enterprises (SMEs) Protection Empowerment, as well as Taxation Terms and Facilities Law Bill. In his speech, it was explained that there were 11 clauses that were discussed in the Omnibus Law Omnibus Law Bill on Job Creation, namely: 1) Simplification of land permits; 2)

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² Vina Fadhotul Mukaromah, "Sederet Fakta Rapat Paripurna Pengesahan Omnibus Law UU Cipta Kerja, dari Interupsi hingga Walk-Out, *Kompas*, October 20, 2020, retrieved from <https://www.kompas.com/tren/read/2020/10/06/144227465/sederet-fakta-rapat-paripurna-pengesahan-omnibus-law-uu-cipta-kerja-dari?page=all>, accessed on 5 October 2020.

Investment Requirements; 3) Employment; 4) Small and Medium Enterprises (SMEs) Protection; 5) Ease of doing business; 6) Research and innovation support; 7) Government administration; 8) Imposition of Sanctions; and 9) Control of Land. In this paper the author will limit the research area to the Omnibus Law Bill on Job Creation, although the moment of writing this article is still influenced by public debate about the two draft drafts of the final draft of the bill. Based on the records of the Faculty of Law, Gadjah Mada University, the text of the Omnibus Law Bill on Job Creation, which is technically prepared using the omnibus law model, contains 174 systematic articles, but substantially contains changes and cancellations of norms on 79 multi-sector laws with 1253 topics integrated in 1074 pages. The Omnibus Law Bill on Job Creation also requires about 500 implementing regulations to complete the eleven fields. The author limits the substance of the articles on manpower as material to be tested based on the aspect of justice.³

President Joko Widodo wants to apply the concept of Omnibus Law as a solution to bureaucratic efficiency by simplifying too many regulations. Based on reports from the National Planning and Development Agency (Bappenas) from 2000 to 2015, the central government has issued 12,471 regulations with the ministry being the largest producer with 8,311 regulations.⁴ The Indonesian Center for Law and Policy Studies also said that from 2014 to October 2018 7,621 Ministerial Regulations, 765 Presidential Regulations, 452 Government Regulations, and 107 Laws were issued. This data does not include regulations published in the last year.⁵

In some legal literature, we can find the concept of Omnibus Law which became President Joko Widodo's concept in the formation of three bills. Some definitions of the Omnibus Law begin grammatically, namely the word omnibus which comes from Latin means "*for all*".⁶ In the Black's Law

³ Budiono Kusumohamidjojo, *Teori Hukum Dilema Antara Hukum dan Kekuasaan*, Bandung, Yrama Widya, 2019, p. 272. Read: The author quotes Ulpian's opinion which states that justice is a firm and continuous will to give anyone what is their right

⁴ Bappenas, "Banyak Aturan Tumpang Tindih, Menteri Suharso Sepakat Omnibus Law sebagai Solusi Indonesia Lepas dari Middle Income Trap", *News Online*, November 13, 2019, retrieved from <https://www.bappenas.go.id/id/berita-dan-siaran-pers/banyak-aturan-tumpang-tindih-menteri-suharso-sepakat-omnibus-law-sebagai-solusi-indonesia-lepas-dari-middle-income-trap/>, accessed on 2 Oktober 2020

⁵ Muhammad Wildan, "Pakar Hukum Beri Catatan Khusus soal Omnibus Law", *Article Online*, November 4, 2019, retrieved from <https://www.pshk.or.id/rr/pakar-hukum-beri-catatan-khusus-soal-omnibus-law/>, accessed on 5 October 2020

⁶ Henry Donald Lumbangaol Toruan, "Pembentukan Regulasi Badan Usaha dengan Model Omnibus Law", *Jurnal Hukum To-Ra*, Vol. 3, No. 1, 2017, pp. 463-472. <https://doi.org/10.33541/tora.v1i1.1092>

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Dictionary, the definition of omnibus is *for all; containing two or more independent matters. Applied most commonly to a legislative bill which comprises more than one general subject.*⁷ From the omnibus definition, Black defines the omnibus law bill as: *A legislative bill including in one act various separate and distinct matters, and frequently one joining a number of different subjects in one measure in such a way as to compel the executive authority to accept provisions which he does not approve or else defeat the whole enactment.* Omnibus law is a law whose substance is to revise and / or repeal many laws. This concept developed in common law countries with anglo saxon legal systems such as the United States, Belgium, England and Canada.⁸ The concept of the omnibus law offers solutions to problems caused by too many regulations and overlapping rules. If the problem is solved in the normal way, it will take a long time, cost a lot, and are deadlocked.

The Omnibus Law Bill on Job Creation, which discusses employment, is more focused on improving the economy growth or investment and does not pay attention to increasing the competence of human resources. Article 88 of the Omnibus Law Bill on Job Creation states that the new regulation that is regulated on this bill in which aims to strengthen protection for workers and increase the role of workers in supporting the investment ecosystem. This strengthens the *developmentalism paradigm* which is very central on this bill which means that investment and economic development are the main things in the country's development. Most of the amended regulations in this bill talk a lot about efficiency and increasing labor productivity, but on this bill just do not change or make new regulations related to job training or improving worker competence. When we discuss job creation, it should be closely related to efforts to improve the competence of prospective workers. Labor protection matters are neglected because of investment and economic needs. If we examine Pancasila industrial relations, the protection of labor is the responsibility of the government. The authors limit the labor protection areas in table 1.

⁷ Henry Campbell Black, *Black's Law Dictionary, 6th ed.*, St. Paul, MN, West, 1990.

⁸ Antoni Putra. "Penerapan Omnibus Law dalam Upaya Reformasi Regulasi", *Jurnal Legislasi Indonesia* Vol. 17, No. 1, 2020, p. 10. One country adopting the omnibus law concept was Serbia in 2002 to regulate the autonomous status of Vojvodina Province. The law formed under this concept covers the jurisdiction of the Vojvodina Provincial government regarding culture, education, language, media, health, sanitation, health insurance, pensions, social protection, tourism, mining, agriculture and sports. The concept of the omnibus law has also been adopted by countries such as Argentina, Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, The Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Thailand, and United Kingdom.

Tabel 1. Source: Omnibus Law Bill on Job Creation

No	Matter	Problem
1	Fixed Term Work Agreement (Contract Worker)	The Omnibus Law Bill on Job Creation changes the provisions of the Labor Law regarding Specified Time Employment Agreements. The previous rule was limited to a maximum of 2 years and may only be extended once for a maximum period of 1 year. Article 56 of the Omnibus Law Bill (<i>a quo</i>) does not limit the period of the Fixed Time Work Agreement and based on the agreement. The government role is eliminated and the elimination of provisions regarding the possibility of changing the Fixed-Time Work Agreement into an Indefinite / Permanent Work Agreement) As a result, the Omnibus Law Bill on Job Creation creates more and more contract workers.
2	Agency Workers (Outsourcing)	The Omnibus Law Bill on Job Creation abolishes Article 64 and Article 65 of the Labor Law while maintaining Article 66. The amendment to these provisions still allows for the provision of agency workers/ outsourcing. As we know, this triangular outsourcing relationship does not provide protection for the workforce.
3	Minimum wage	The Labor Law stipulates that the Minimum Wage can be based on the province or the Regency/City Minimum Wage. The Omnibus Law Bill on Job Creation does not clearly stipulate a Minimum Wage. Article 88C provides that: "1) The governor is obliged to determine the provincial drinking wage; 2) The governor can set district / city minimum wages with certain conditions ... ". There is a phrase "mandatory" in Article 88C point 1 and "can" in Article 88C point 2. The meaning of the phrase obligatory means an obligation for the Governor to

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	determine the provincial minimum wage. Meanwhile, the phrase "can" distorts the meaning of obligation to become an alternative policy which is not an obligation. The governor can determine and also cannot determine the district or city minimum wage. If the district or city minimum wage is not determined, it is not a violation of the law on the Omnibus law bill. The Regency / City Minimum Wage must be pegged higher than the Provincial Drinking Wage.
4 Furlough	Article 93 of the Omnibus Law Bill on Job Creation amends Article 93 of the Labor Law regarding the exception to the principle of " <i>no work no pay</i> ". This article stipulates that entrepreneurs are obliged to pay wages according to the unit of time and yield.
5 Severance pay	Article 156 of the Omnibus Law Bill on Job Creation provides that the maximum severance pay is given according to the rules of the Omnibus Law Bill on Job Creation. The Labor Law stipulates that severance pay is given at least in accordance with the provisions of the Manpower Act.

The author will focus on the problem in Articles a quo table 1 because it particularly discusses the labor protection and justice. Based on the background that has been described, the author formulates the problem of how a critical study of labor protection in the Omnibus Law Bill on Job Creation according to the concept of justice John Rawls?

Method

The type of this research uses normative legal research, a legal research that is conducted based on law and regulation and library material. Related with this type of research, the approach used in this paper are legal approach, conceptual approach, and historical approach. These approaches are applied by reviewing the law and regulations related to the problem that

is being discussed in this research and this research also conduct a review on justice concepts.

Research Result and Discussion

A. Thinking of the Meaning of Justice

The discussion about the contractual relationship between the company and the labor cannot be separated in relation to the issue of justice. A employment contract as a forum that brings the interests of one party with another demanding a form of fair exchange of interests.⁹ The question of what is justice is a complex and abstract question when it comes to many interests.¹⁰ Aristoteles defined justice as doing well or *Justice consists in treating equals equally and unequals unequally, in proportion to their inequality*. Upianus argued that justice is a continuous will and continues to give to each of what is due to him or to give everyone what his right is.¹¹ The formula for justice written by Upianus recognizes the rights of each person towards the other and what should be part of it. Justinian defined justice as the basic rules of law which are related to living properly and not harming others and giving others what they should have.¹²

Cicero said that people can see from his justice behavior. In his opinion there are three moral virtues, namely: justice, self, and courtesy.¹³ Thomas Aquinas defines justice as three basic structures of justice, namely:¹⁴

- a. Relations between individuals;
- b. Relations between communities as a whole with individuals;
- c. The relationship between individuals and society as a whole

According to Thomas Aquinas, distributive justice is basically a respect for the human person and his nobility. In the context of distributive justice, justice and appropriateness are not achieved only by determining actual values, but also on the basis of equality between one thing and another. There are two forms of similarity, namely:

- a. Proportional equality;

⁹ Agus Yudha Hernoko, *Hukum Perjanjian Asas Proporsionalitas dalam Kontrak Komersial*. Jakarta, Prenada Media Grup, 2014, p.47

¹⁰ Robert Reiner dalam tulisannya berjudul "Justice" menyatakan bahwa perdebatan tentang keadilan sebagai suatu "essentially contested concept", hal ini bermakna bahwa sebagai sebuah konsep, keadilan merupakan konsep abstrak dan interpretatif. Dalam James Penner, *Introduction to Jurisprudence and Legal Theory*, London, Butterworhts, 2002, p.719.

¹¹ K. Bertens, *Pengantar Etika Bisnis*, Yogyakarta, Kanisius, 2000, pp. 86-87.

¹² O. Notohamidjojo, *Masalah Keadilan*, Semarang, Tirta Amerta, 1971, p.7.

¹³ E. Sumaryono, *Etika Profesi Hukum*, Yogyakarta, Kanisius, 1995, p. 124

¹⁴ *Ibid*, pp. 125-126

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b. Quantity similarity;

Thomas Aquinas argued that respect for person can be realized if something is shared/given to someone in proportion to what he should receive. In his opinion, recognition of person should be aimed at recognizing appropriateness and reward distributed proportionally on the basis of human dignity. Paul Tillich argued that the justice contained in attributive, distributive, and retributive justice is proportional¹⁵

According to some distinctions of the justice concepts, distributive justice is considered as all the beginnings of all types of theories of justice. The debate about the concept of justice that develops in society in the arguments of experts is generally based on the theory of distributive justice.¹⁶ In connection with the nature of justice in contracts, several scholars put forward their thoughts on contract-based justice, including John Locke, Rousseau, Immanuel Kant, and John Rawls. These thinkers realized that without contracts and the rights and obligations that result from them, the business community will not work.¹⁷ Therefore, without a contract, people will not be willing to be bound and dependent on the statements of other parties. The contract provides a way of ensuring that each individual will fulfill his promise and in turn this allows for transactions between them

Rawls's theory of justice is a theory that is considered phenomenal and debated by scholars. Rawls's theory of justice stems from his criticism of the failure of the developed theories of justice previously.¹⁸ According to John Rawls, justice is the main virtue in social institutions. A law or institution should be reformed or abolished if it is unfair. Everyone has honor based on justice so that the whole society cannot cancel it. On this basis, justice denies the loss of freedom for some people.¹⁹ In a just society, the freedom of citizens is considered good, the rights guaranteed by justice are not subject to political bargaining or social interest calculations. John Rawls thinks that the theory of justice must fulfill the sense of justice in society.²⁰ The aspect that distinguishes Rawls's theory of justice from existing theories of justice is the principle of independence and equality in a single conception of social justice and the establishment of independence as a priority. Rawls claims that

¹⁵ Paul Tillich, *Cinta, Kekuasaan, dan Keadilan*, Surabaya, Pustaka Eureka, 2004, pp. 74-75

¹⁶ Ridwan Arifin, Legal Reform Discourse in Indonesia and Global Context: How Does the Law Respond to Crime, *Journal of Law and Legal Reform*, Vol. 1 No. 2, 2000, pp. 193-196.

¹⁷ Raymond Wacks, *Jurisprudence*. London, Blackstone Press Limited, 1995, p.191

¹⁸ Andre Ata Ujan, *Keadilan dan Demokrasi (Telaah Filsafat Politik John Rawls)*, Yogyakarta, Kanisius, 1999, p.21.

¹⁹ John Rawls, *Teori Keadilan*, Yogyakarta, Pustaka Pelajar, 2001, p.3.

²⁰ Bur Rasuanto, *Keadilan Sosial: Pandangan Deontologis Rawls Habermas, Dua Teori Filsafat Politik Modern*. Jakarta, IKAPI, 2001, p. 39

the strength of his theory of justice is supported by two principles, namely the priority of independence and equality.²¹ The claim of independence must be fulfilled first, then the claim of equality. Freedom of thought and freedom of conscience. Freedom of human persons and civil liberties. What is now understood to be a human right must not be sacrificed for political independence.

Justice according to John Rawls is that humans must have equal rights and opportunities. Rawls does not directly eliminate the inequality between humans and another²² but he wants to ensure that all human beings are entitled to equal rights and opportunities. Practically companies should not differentiate between permanent workers and agency workers or permanent workers and contract workers while they are in the workplace. While working at a company that uses outsourcing services, the worker has become part of the company that uses the service. So according to John Rawls, justice is everyone has equal rights and opportunities. Justice must be felt by every human being.²³

In the context of *political morality of liberal* democracy, there are several dominant views that underlie social cooperation, namely libertarians with claims of individual natural rights and utilitarians who pursue human happiness by identifying individual interests with public interests. Rawls rejects the view of utilitarianism because the principle of "total net maximum happiness for as many people as possible" can result in an unfair distribution of burdens and destinies. He also rejected libertarians because his concept of justice was focused not on the basic structure of society but on transactions between individuals. Rawls' theory of justice does not directly eliminate the inequality between humans and one another but wants to ensure that all humans are entitled to equal rights and opportunities.

B. Outsourcing Rules

In Article 66 point (1) the Omnibus Law Bill on Job Creation still imposes outsourcing which stipulates that "the work relationship between the outsourcing company and the workers it employs is based on a work agreement, either a work agreement for a certain time or an unspecified work agreement". Outsourcing is seen as the act of transferring some of the

²¹ *Ibid.*, p. 67

²² Ridwan Arifin & Lilis Eka Lestari, Penegakan dan Perlindungan Hak Asasi Manusia di Indonesia dalam Konteks Implementasi Sila Kemanusiaan yang Adil dan Beradab. *Jurnal Komunikasi Hukum (JKH)*, Vol. 5 No. 2, 2019, pp. 12-25.

²³ John Rawls, *Teori Keadilan*, Yogyakarta, Pustaka Pelajar, 2001, p.20.

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company's activities and decision-making rights to other parties where this action is bound in a cooperation contract. Outsourcing can also be defined as the use of labor to produce or carry out a company work through a labor provider company.²⁴ This means that there is a company that specifically prepares, trains, hires workers for the benefit of other companies. Meanwhile, outsourcing employees are contract employees provided by a company to help other companies to employ special jobs that are not related to the core work. The problem of outsourcing is fairness in wages. Practically, workers who have worked for a long time are paid according to the minimum wage standard, even though the employing company has paid a higher wage. However, outsourcing companies that provide labor services or workers also take advantage, the wages paid are still low.²⁵ In Article 66 of the Omnibus Law Bill on Job Creation, the government does not intervene in terms of the maximum percentage of deductions that can be made by labor service providers or outsourcing workers from the wages received by workers.

Based on Article 66 of the Omnibus Law Bill on Job Creation, discussing the outsourcing provisions, it does not regulate the issue of wages that *outsourcing workers* /agency worker must receive from service providers. The absence of regulations that limit the percentage reduction that must be done by outsourcing service providers results in the outsourcing company's business being unfair to agency workers. The outsourcing provision also does not regulate the length of time the outsourced worker must work in a employment contract. Lack of provisions concerning the length of the employment contract that must be served by workers, termination of employment can occur at any time. The Omnibus Law Bill on Job Creation also does not regulate the regulations on leave that must be obtained by outsourced employees that leave is also a right that must be accepted by workers or workers.

C. Minimum Wage Provisions

The Labor Law stipulates that the Minimum Wage can be based on the province or district/city. The Omnibus Law Bill on Job Creation does not clearly stipulate a Minimum Wage. Article 88C provides that: “1) The governor is obliged to determine the provincial minimum wage; 2) The governor may set district/city minimum wages with certain conditions ... ”. There is a phrase “*obliged*” in Article 88C point 1 and “*may*” in Article 88C

²⁴ Danang Sunyoto, *Hak dan Kewajiban Bagi Pekerja dan Pengusaha*, Yogyakarta, Pustaka Yustisia, 2013, p. 129.

²⁵ Lalu Husni, *Pengantar Hukum Ketenagakerjaan Indonesia*. Jakarta, Raja Grafindo, 2014, p. 174

point 2. The meaning of the phrase “*obligatory*” means an obligation for the Governor to determine the provincial minimum wage. Meanwhile, the phrase “*may*” distorts the meaning of obligation to become an alternative policy which is not an obligation. The governor may determine and also may not determine the district or city minimum wage. If the district or city minimum wage is not determined so it is not a violation of the law. The Regency / City Minimum Wage is obliged to be set higher than the Provincial Minimum Wage. If the Governor does not determine the district or city minimum wage, all workers in his jurisdiction must comply with the provincial minimum wage, which is the fair average calculation of all living costs obtained from all districts / cities. So eliminating the obligation to have a district or city minimum wage can distort the welfare of workers because the determination of district or city drinking wages is not an obligation for a governor.

D. Severance Pay Rules

Article 28 D paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that: “*everyone has the right to work and to receive fair and proper compensation and treatment*”. Based on these provisions, it can be seen that the state in this case seeks to provide protection for workers by providing decent wages to workers. The definition of wages can be defined as the price that must be paid to workers for services in producing wealth. The measure of this proper wage then becomes the basis for the determination of the minimum wage standard, with the hope that with this, every worker can fulfill his living needs properly based on the wage he gets.

Article 156 of the Omnibus Law Bill on Job Creation regulate that the maximum severance pay is given according to the rules of the Omnibus Law Bill on Job Creation. Meanwhile, the Labor Law stipulates that severance pay is given at least according to the Law on Manpower. The phrase “*at most*” in the Omnibus Law Bill on Job Creation means that the amount of severance pay can be given regardless of the amount not greater than the amount that is issued by the Omnibus Law Bill on Job Creation. For example: Article 156 point 2 stipulates that the work period is one year or more but less than two years, two months of wages. This provision still does not provide legal certainty and justice for workers because the phrase “*the most*” because whatever amount is received under two months of wages, it is legally deemed “*correct*” by the Omnibus Law Bill on Job Creation.

E. Furlough Rules

Article 79 of the Omnibus Law Bill on Job Creation stipulates that employers are required to provide time off and furlough. Mandatory furlough is addressed to workers, namely annual furlough, at least twelve working days after the worker has worked for twelve months continuously. Annual furlough is stipulated in work agreements, company regulations, or cooperation agreements. The article still has multiple interpretations because the requirement for workers to receive annual furlough after working for twelve months. The phrase “continuously” means that female workers are not allowed to take furlough due to illness or childbirth. If you do not work continuously, the opportunity for continuously is lost. Furlough due to religious holidays, leave due to illness, menstruation or childbirth is also eliminated.

According to Kartasapoetra and Indraningsih as quoted by Asikin, this worker protection includes *Work Norms* which include²⁶ protection for workers related to working time, wage system, rest, furlough, work, women, children, morality according to their respective religions recognized by the government, the social obligation activities in order to maintain enthusiasm and morale that ensures high work efficiency and maintains treatment in accordance with dignity human and moral.

Workers have an important role. Without workers, it is impossible for a company to run and participate in the development era. Thus justice for workers is also needed so that workers can carry out their jobs properly and contribute well to the company.²⁷ One of many factors affecting workers work thier jobs well is a protection, it is protection of the recognition of human rights, physical and technical protection, as well as social and economic conditions through the prevailing norms in the work environment.

Soepomo divides the protection of these workers into three types, namely:²⁸

1. Economic protection, which is a type of protection related to efforts to provide workers with an sufficient income to have daily needs for him and his family, including in the case that the worker is unable to work because of something against his will.

²⁶ Zainal Asikin, *Dasar-Dasar Hukum Perburuhan*. Jakarta, Raja Grafindo, 2007, p. 96.

²⁷ Abdul Rachmad Budiono, *Hukum Perburuhan di Indonesia*, Jakarta, RajaGrafindo Persada, 1995, p. 95.

²⁸ *Ibid.*, p. 97.

2. Social protection, which is protection related to community efforts, the purpose of which is to enable the worker to experience and develop his life as a human being in general, and as a member of the community and family member or what is commonly known as occupational health;
3. Technical protection, which is a type of protection related to efforts to protect workers from the danger of accidents that can be caused by planes or other work tools or by materials processed or worked on by the company. This is called work safety.

In his life, humans experienced uncertainty, that is speculative in nature or pure uncertainty always causing losses. This pure uncertainty is often referred to as risk. Risks fall into two main groups, namely fundamental risks and special risks.²⁹ This fundamental risk is collective in nature and is felt by the entire community, such as political, economic and social risks. Meanwhile, special risks are more individual in nature because they are felt by individuals, such as risks to property, to themselves, and to business failure.

Low wage levels, including various other normative rights such as social benefits and security, and termination of employment, as well as other basic necessities of living a decent life. A period of crisis that led to layoffs and a large unemployment rate. Those are problems that could hardly be prevented. This has led to more problems in the manpower sector. Even though in the current era freedom of association that has been opened, but the welfare of workers is still not good.³⁰

Fulfilling the minimum wage in the Omnibus Law Bill on Job Creation as only the Governor's obligation to make regulations at the Provincial Minimum Wage level, while the Regency / City Minimum Wage which is greater than the Provincial Minimum Wage is still only an alternative to the Governor's policy.

According to an economic perspective, it is an effort so that every worker can fulfill their needs properly as outlined under Article 27 paragraph (2) of the 1945 Constitution, namely: "*Every citizen has the right to work and a decent living for humanity*". Furthermore, specifically, the fulfillment of decent wages received by workers as stipulated in Article 28 D paragraph

²⁹ Kukuh Tejomurti, Pertanggungjawaban Hukum yang Berkeadilan terhadap Aparatur Pemerintah pada Kasus Pengadaang Barang dan Jasa. *Dialogia Iuridica: Jurnal Hukum Bisnis dan Investasi*, Vol. 8 No. 2, 2017, pp. 42-52. DOI: <https://doi.org/10.28932/di.v8i2.722>

³⁰ Eggi Sudjana, *Bayarlah Upah Sebelum Keringatnya Mengering*, Jakarta, Persaudaraan Pekerja Muslim Indonesia, 2000, p.10.

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(2), which states that: "Everyone has the right to work and to receive fair and proper remuneration and treatment in an employment relationship".

The rules of the Omnibus Law Bill on Job Creation has implications for the imbalance of positions between companies and workers and do not provide legal certainty for worker protection. According to John Rawls, justice will not sacrifice the rights of a few for the benefits enjoyed by others. From John Rawls's opinion, we can see that it is not true that we sacrifice the rights of others for profit. In cooperation which is based on a work agreement, it should be able to provide benefits to all parties.³¹ These benefits are benefits that can provide welfare to one another. Companies do not need to pay as high as company directors but companies must be transparent about finances.³² For example, if a company is getting a profit or loss, it must be notified to all parties in the company, including workers.

Justice according to John Rawls is that humans must have equal rights and opportunities. Rawls does not directly eliminate the inequality between humans and another but he wants to ensure that all human beings are entitled to equal rights and opportunities. Practically companies should not differentiate between permanent workers and agency workers or permanent workers and contract workers while they are in the workplace. While working at a company that uses agency (outsourcing) services, the worker has become part of the company that uses the service. Thus according to John Rawls, justice is everyone has equal rights and opportunities. Justice must be felt by human being.

Conclusion

According to the result of research and discussion that has been explained in the previous chapter, it can be concluded that the rules of the Omnibus Law Bill on Job Creation has implications for the imbalance of position between companies and workers and do not provide legal certainty for workers' protection. According to John Rawls, justice will not sacrifice the rights of some people for the benefits enjoyed by others. Based on the opinion of John Rawls, we can know that if we sacrifice the rights of others for profit is not right. The cooperation based on a work agreement should be of benefit to all parties. These are benefits that can provide welfare to one

³¹ John Rawls, *Op., Cit*, p. 4.

³² Kukuh Tejomurti & Munawar Kholil, Environmental Investment Protection in The Era of Industrial Revolution 4.0. In *IOP Conference Series: Earth and Environmental Science*, Vol. 519, No. 1, p. 012022). IOP Publishing, 2020, June. DOI: 10.1088/1755-1315/519/1/012022

another. Companies do not need to pay as high as company directors but companies must be transparent about finances. For example, if the company is making a profit or loss, it must be notified to all parties in the company, including workers.

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