

Job Creation Versus Labor Rights: A Justice-Theoretical Analysis of Indonesia's Omnibus Law Through Khadurian Ethics and Rawlsian Social Contract Theory

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ABSTRACT

Indonesia's Omnibus Law on Job Creation (Law No. 6/2023) sparks debate over labor rights, balancing economic growth and social justice. This study analyzes the law through John Rawls' and Madjid Khadduri's justice theories using normative-philosophical methods. Examination of legislative texts and policy documents reveals normative conflicts: severance pay cuts, flexible contracts, and unionization limits violate Rawls' *difference principle*, disproportionately harming vulnerable workers. Khadduri's Islamic justice framework further identifies breaches of *maqāṣid al-sharī'ah*, particularly eroding worker dignity (*ḥifẓ al-'ird*) and collective welfare (*maṣlaḥah*). The study advocates labor policies integrating universal ethics—merging market efficiency with moral obligations—to protect workers. By synthesizing Rawlsian liberalism and Islamic ethics, it proposes a cross-cultural justice model for pluralistic societies. Findings emphasize reconciling legal reforms with transcendental values, ensuring labor protections align with both human rights and religious norms. This framework addresses Indonesia's policy tensions while offering a template for equitable labor governance in culturally diverse contexts.

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1. INTRODUCTION

Contemporary patterns of global economic development demonstrate growing complexity, particularly regarding labor market transformations shaped by economic liberalization, digital industrialization, and globalization pressures. In this context, numerous nations are implementing regulatory simplification and labor policy modernization initiatives to enhance competitiveness, attract foreign direct investment, and cultivate adaptive business ecosystems. A prominent policy approach involves omnibus legislation frameworks designed to consolidate regulatory systems and stimulate national economic advancement – a trend Indonesia has actively followed (Sirait, 2022).

The Indonesian government's enactment of Law No. 11/2020 concerning Job Creation (*Undang-Undang Cipta Kerja*) represents a strategic intervention to accelerate economic development through structural reform. This legislation purports to generate employment growth by strengthening protections for cooperatives and micro, small, and medium enterprises (MSMEs), while concurrently improving investment frameworks and business facilitation mechanisms. Despite being promoted as a solution to administrative inefficiencies and inflexible labor market structures, its implementation has drawn substantive criticism from labor unions, academic institutions, and civil society organizations. Critics contend that the law's provisions erode worker protections through reduced severance pay entitlements and modifications to leave/overtime regulations (Job Creation Law, 2025).

Scholarly analysis identifies regressive elements in the legislation's labor provisions, including diminished severance compensation, expanded outsourcing mechanisms, flexible work hour arrangements, and institutionalization of precarious contract-based employment models (Dewi & Basir, 2023). These regulatory changes raise fundamental concerns regarding their alignment with principles of social justice that should underpin state-mediated industrial relations. The critique extends beyond technical legal objections to encompass philosophical challenges regarding the state's constitutional obligation to ensure substantive socio-economic equity within evolving labor paradigms.

This conceptualization of justice requires expansion beyond formal compliance with statutory mandates to incorporate substantive equity frameworks. Islamic legal scholar Madjid Khadduri establishes justice in sharia as fundamentally premised on safeguarding communal welfare (*maṣlaḥah*) and protecting marginalized populations – core objectives within *maqāṣid al-sharī'ah* philosophy. Complementarily, modern political philosopher John Rawls' Justice as Fairness theory posits that equitable social institutions must prioritize the needs of society's most disadvantaged members. These cross-cultural philosophical paradigms collectively suggest that labor regulations demand evaluation through dual lenses: economic functionality and distributive justice mechanisms that address workers' structural vulnerabilities (Sadnyini & Kurniawan, 2023).

Existing scholarship has examined Indonesia's Job Creation Law through multiple analytical perspectives. Subowo et al. (2022) applied legislative theory to critique the law's formulation process, identifying democratic deficits through restricted public consultation and accelerated parliamentary procedures that engendered legal indeterminacy and social opposition. Parallel research by Arief and Ramadani (2021) in *Al-Adalah: Jurnal Hukum* analyzed the legislation's deviation from constitutional principles of lawmaking, demonstrating

disproportionate corporate and governmental influence during drafting stages at the expense of worker protections. Implementation studies by Suryandari (2021) in the *Indonesian Journal of Legal Research* documented deteriorations in labor rights protections, particularly regarding leave entitlements, wage security, and asymmetrical termination procedures favoring employers. However, current literature reveals a critical gap: no comprehensive study systematically evaluates this legislation through integrative justice theory frameworks bridging Islamic legal tradition and modern legal philosophy. This lacuna underscores the necessity for scholarly interrogation of labor policy reforms through substantive justice paradigms that transcend formal legal compliance metrics.

2. METHODS

This research utilizes a qualitative methodology grounded in normative-philosophical analysis, employing an interdisciplinary analytical framework to investigate justice paradigms within legal-political philosophy and their operationalization in labor policy formulation. The investigation specifically focuses on Indonesia's Labor Reform Law (Law No. 6/2023) through comparative examination of John Rawls' liberal-secular justice theory and Madjid Khadduri's modern Islamic jurisprudence perspectives.

The study engages in systematic cross-examination of primary philosophical texts, legal codifications, and peer-reviewed scholarship through rigorous document analysis. Data collection encompasses three categories of secondary sources: 1) foundational philosophical works detailing theories of justice, 2) legal-textual materials including statutory documents and regulatory commentaries, and 3) critical academic literature spanning legal studies, political philosophy, and labor economics.

Analytical procedures combine descriptive-interpretive techniques with normative evaluation, incorporating: (a) Hermeneutic analysis of justice concepts within their respective philosophical traditions; (b) Policy-content evaluation against established justice criteria (c) Comparative legal-philosophical assessment through theory-practice alignment matrices.

This tripartite methodology enables critical appraisal of legislative provisions through both Western and Islamic ethical frameworks while identifying normative discrepancies between philosophical ideals and statutory implementations. The research design ultimately seeks to advance jurisprudential discourse through its novel synthesis of secular and religious justice paradigms, proposing an integrated evaluative model for assessing legislative ethics in pluralistic legal systems.

3. RESULTS AND DISCUSSION

3.1. Madjid Khadduri's Conceptualization of Justice

As a seminal contributor to modern Islamic jurisprudence, Madjid Khadduri reconceptualizes justice (*al-'adālah*) as both an ethical imperative and operational paradigm for developing dynamic legal systems responsive to contemporary challenges. He fundamentally rejects legal positivist approaches that reduce justice to formalistic compliance with codified rules, advocating instead for its recognition as a transcendent principle synthesizing moral,

spiritual, and socio-normative dimensions. For Khadduri, justice transcends mechanistic legal outputs to constitute the teleological essence of law – an aspirational value guiding societal transformation toward ethical governance (Sirait, 2022).

Khadduri's theoretical framework positions justice as an inextricable axis of *maqāṣid al-sharī'ah* (the higher objectives of Islamic law), emphasizing holistic protection over five ontological dimensions of human existence: faith (*hifẓ al-dīn*), preservation of life (*hifẓ al-naḥs*), intellectual integrity (*hifẓ al-'aql*), social progeny (*hifẓ al-nasl*), and economic dignity (*hifẓ al-māl*). From his perspective, Islamic legal systems should not be evaluated solely through textual compliance with primary sources but rather through their capacity to guarantee these foundational principles. Khadduri unequivocally asserts that any legislation—even if formally compliant with juridical requirements—fails to qualify as just if it neglects the safeguarding of human dignity and collective welfare. This stance stems from his conviction that justice in Islam transcends procedural ritualism, embodying instead a substantive commitment to universal *maṣlahah* (common good).

A pivotal element of Khadduri's theory lies in differentiating *substantive justice* (normative substance of legislation) from *procedural justice* (institutional enforcement mechanisms). He posits that substantive legal validity derives from alignment with *maṣlahah 'āmmah* (public good), redefining law as a transformative instrument balancing individual rights with communal responsibilities. This paradigm mandates legal systems to transcend technical coherence by embedding ethical responsiveness to societal needs, particularly through protections for marginalized demographics. For Khadduri, true juridical legitimacy emerges only when legal structures harmonize systematic rationality with empathetic governance.

Khadduri fundamentally rejects legal positivist paradigms that prioritize procedural compliance over ethical outcomes, positing that legal norms require continual substantive evaluation through their socio-material impacts (Harun, 2021). He establishes a critical dichotomy: legislation fostering exploitation, inequality, or systemic marginalization – regardless of formal validity – intrinsically violates Islamic justice principles. This analytical stance operationalizes *maṣlahah* (societal welfare) as both an evaluative metric and non-derogable threshold for legal legitimacy, positioning justice as an emancipatory force rather than bureaucratic output.

Institutionalizing this vision, Khadduri's procedural justice model mandates transparency, participatory mechanisms, and institutional accountability throughout legislative processes. He condemns exclusionary lawmaking practices that circumvent *shūrā* (consultative deliberation) – a cornerstone of Islamic governance ensuring communal ownership of legal norms. Legislation formulated through technocratic expediency or restricted stakeholder engagement, he argues, forfeits moral-authoritative legitimacy despite retaining juridical enforceability.

Khadduri's incisive scholarship exposes the paradoxical practices of modern Muslim states that strategically co-opt Islamic legal frameworks to legitimize structurally inequitable policies. He condemns what he terms "religiously cloaked ethical bankruptcy"—the phenomenon of sharia-branded legislation violating Islam's core justice principles (Sirait, 2022; Zulkifli, 2018). Deconstructing the false dichotomy between political-economic pragmatism and ethical governance, Khadduri positions Islamic justice as a non-negotiable civilizational mandate. His framework establishes three non-derogable pillars for equitable legal systems: (1) the primacy of human dignity over institutional interests, (2) the alignment of policy outcomes with *maqāṣid al-*

shari'ah priorities, and (3) the rejection of religious law's instrumentalization for hegemonic agendas. This tripartite standard redefines justice not as a technocratic exercise but as a morally charged civilizational project—an emancipatory endeavor inseparable from Islam's ontological purpose.

Khadduri's framework carves an epistemic middle ground between textual fidelity and societal evolution, advocating for a hermeneutic approach that interprets canonical sources through the dual lenses of *maqāṣid al-sharī'ah* (higher objectives) and contemporary socio-ethical imperatives. While affirming scriptural authority, he posits that legal derivation (*istinbāṭ*) must transcend literalism to address emergent realities through justice-oriented *ijtihād* (independent reasoning). This methodology fosters a dynamic jurisprudence wherein Islamic law maintains ethical coherence while adapting to modern complexities, with justice serving as the axiological foundation ensuring that legal evolution remains tethered to sharia's emancipatory essence.

Khadduri's theoretical legacy crystallizes in a dual-aspect justice paradigm—simultaneously evaluative and prescriptive—that radically reconfigures Islamic legal philosophy. His framework dismantles rigid legal formalism, reconstructing sharia's through four transformative pillars: (1) substantive justice prioritizing equitable outcomes over procedural compliance, (2) deliberative governance via institutionalized *shūrā* (consultative democracy), (3) equity-centered policymaking that safeguards marginalized demographics, and (4) teleological legislation aligned with *maṣlaḥah* (public welfare) optimization. By rejecting juridical reductionism, Khadduri bridges civilizational jurisprudence with modern governance imperatives, crafting a progressive *fiqh* (jurisprudence) model. This humanistic paradigm serves as a critical diagnostic tool for Muslim-majority states grappling with systemic inequities—particularly where religious norms are weaponized to entrench structural disparities. Ultimately, Khadduri reimagines justice not as a static doctrinal ideal but as a dynamic blueprint for ethical statecraft in pluralistic societies, positioning Islamic law as both mirror and engine of civilizational renewal.

3.2. John Rawls' Concept of Justice

John Rawls, widely regarded as one of the twentieth century's most influential political and moral philosophers, revolutionized ethical theory through his seminal work *A Theory of Justice*. In this text, Rawls introduces justice as fairness – a framework asserting that justice transcends collective welfare metrics and must instead embody principles equitable to all individuals (Christian et al., 2025). He posits that rational actors, situated hypothetically in an impartial “original position” of equality, would universally endorse two lexically ordered principles of justice (Adhyaksa, 2023):

First, the Principle of Equal Basic Liberties: Guarantees every individual equal entitlement to fundamental freedoms, including speech, religion, due process, and political participation. This principle prohibits sacrificing core liberties for socioeconomic gains.

Second, the Difference Principle: Permits socioeconomic inequalities exclusively when demonstrably optimizing conditions for society's least advantaged members. While acknowledging inequality's inevitability, this principle mandates that disparities functionally uplift vulnerable populations.

Rawls' framework categorically rejects utilitarian paradigms that prioritize aggregate

welfare at the expense of marginalized groups, instead grounding justice in ethical imperatives to protect vulnerable populations (Larmore, 1990). By mandating institutions to reconcile individual liberties with systemic equity, justice as fairness conceptualizes societal structures where inequalities operate as mechanisms to uplift disadvantaged demographics while preserving equal access to opportunity and dignity (Rawls, 1971/2020; Sunaryo, 2022). For Rawls, justice transcends utilitarian notions of distributive efficiency or aggregate utility, embodying instead an irreducible commitment to dismantling systemic disenfranchisement embedded in social hierarchies.

Rawlsian justice operates as a form of pure procedural fairness, necessitating that impartial policies emerge from institutional architectures designed to equitably safeguard all societal interests. This paradigm provides a normative blueprint for collective responsibility-sharing and uniform adherence to democratically established rules (*The Meaning of Justice in John Rawls' Perspective*, n.d.). Rawls posits justice not merely as the cornerstone of equitable social arrangements but as the fundamental basis for cooperative governance. It must therefore function as the axiomatic principle guiding institutional design, ensuring the recognition and fulfillment of all citizens' legitimate claims within the polity.

3.3. Law No. 6/2023 on Job Creation: Legislative Context and Ethical Implications

Law No. 6/2023 formalizes Government Regulation in Lieu of Law (Perppu No. 2/2022), enacted in response to the Constitutional Court's 2021 ruling deeming its predecessor (Law No. 11/2020) conditionally unconstitutional (Qhadri, 2024). While the government justified this emergency legislation by citing global economic volatility and post-pandemic recovery imperatives, its accelerated legislative process drew widespread criticism for circumventing transparent deliberation and meaningful public consultation. From Khadduri's jurisprudential perspective, such exclusionary lawmaking contravenes the Islamic legal mandate for *shūrā* (consultative governance), undermining both procedural legitimacy and moral authority (Khadduri, 1984).

The law's stated objective of rationalizing regulatory frameworks perceived as impediments to investment has materialized through omnibus amendments to over 70 labor statutes, ostensibly to enhance bureaucratic efficiency and labor market flexibility (Yitawati et al., 2024). However, critics argue this regulatory consolidation has eroded substantive protections, particularly in labor rights enforcement and environmental safeguards.

Despite formal adherence to principles of worker protection and social justice, implementation reveals dissonance between statutory rhetoric and material outcomes. For instance, expanded contractual flexibility and diminished severance entitlements contradict the proclaimed "protection principle," reflecting what Khadduri identifies as the ethical vacuum in laws prioritizing market efficiency over human dignity (Khasan, 2017). His Islamic justice framework – rooted in *ʿadl* (equity) and *rahmah* (compassion) – demands legal systems actively insulate vulnerable populations from exploitative economic forces rather than codifying their precarity.

Comparative analysis with the superseded Manpower Law (No. 13/2003) reveals regressive shifts including unlimited contract durations, reduced termination benefits, and decentralized wage-setting mechanisms (Wijaya et al., 2022). Khadduri's *maqāṣid al-sharīʿah* (higher objectives of Islamic law) lens condemns such reforms as violating the protection of *al-ʿird*

(human dignity) and *al-māl* (legitimate property rights), thereby eroding the state's moral legitimacy in mediating capital-labor relations (Sirait, 2022). These developments necessitate urgent reassessment of legislative priorities to align economic policy with ethical governance imperatives.

3.4. Legal-Justice Analysis of Law No. 6/2023 Through Madjid Khadduri's Framework

Madjid Khadduri's Islamic jurisprudence posits that legal legitimacy transcends procedural compliance, requiring alignment with *maqāṣid al-sharī'ah* (higher objectives of Islamic law), particularly the safeguarding of communal welfare (*maṣlaḥah*) and structural protection of human dignity. His axiom that "Sharia is grounded in wisdom and the realization of human welfare across temporal and spiritual domains – it embodies justice (*ʿadl*), mercy (*raḥmah*), and collective good" (Dimiyati et al., 2022) establishes an ethical benchmark for legislation. Law No. 6/2023, Indonesia's omnibus labor reform statute, fundamentally contravenes this paradigm by prioritizing regulatory efficiency over substantive justice.

While proponents argue the law's consolidation of 70+ labor, environmental, and investment regulations streamlines bureaucratic processes and stimulates foreign direct investment (Puru, 2014), Khadduri's framework exposes its ethical deficits. The legislation's erosion of worker protections – including weakened severance entitlements and unrestricted contractual flexibility – institutionalizes labor precarity, directly violating *maqāṣid al-sharī'ah* imperatives to protect life (*ḥifẓ al-naḥs*) and dignity (*ḥifẓ al-ʿird*). Concurrently, diluted environmental impact assessment protocols (contravening Law No. 32/2009) privilege corporate interests over ecological stewardship, negating *maṣlaḥah*'s intergenerational equity dimensions (Siregar & Zul, 2015).

Khadduri's critique of instrumentalized Islamic governance further invalidates the law's legitimacy. His insistence that "legitimate authority derives from the ruler's capacity to actualize divine justice through consultative (*shūrā*) and accountable governance" (Khadduri, 1984) underscores the statute's democratic illegitimacy. Enacted through accelerated parliamentary procedures without inclusive public deliberation, the law exemplifies what Khadduri terms "legal hegemony" – state power codifying systemic inequities under the guise of economic necessity (Iswari, 2020). True to his warnings, the legislation reduces law to a technocratic stabilization tool, severing its intrinsic connection to moral-philosophical justice.

The legislative trajectory of Law No. 6/2023 exemplifies systemic democratic deficits, particularly in its exclusionary formulation process. Despite governmental claims of stakeholder engagement, labor unions, environmental advocates, and academic experts decried their roles as performative rather than substantive, with critical inputs systematically marginalized in final policymaking (Iswari, 2020). Khadduri's Islamic legal paradigm rejects such tokenistic participation, framing inclusive deliberation as a non-negotiable precondition for juridical legitimacy. He posits that laws circumventing communal aspirations – particularly those of marginalized demographics – inherently lack procedural justice, as they prioritize institutional expediency over ethical codification.

Transparency failures further delegitimize the statute. The government's refusal to publish the final draft pre-ratification contravenes Khadduri's axiom that "law derives moral authority from public accessibility and scrutiny" (Khadduri, 1984). By enshrining hermetic legislative processes, the law violates Islamic jurisprudence's dual mandate for *al-wuḍūḥ* (clarity) and *ḥisba*

(public accountability) – principles that demand legislative transparency as a safeguard against authoritarian instrumentalization (Ningsih et al., 2023).

Accountability breaches compound these ethical lapses. Parliament's uncritical ratification of the emergency Perppu – absent rigorous debate or impact analyses – illustrates institutional complicity in legitimizing executive overreach. Khadduri's framework interprets such legislative abdication as a violation of *wilāya* (sacred trusteeship), wherein rulers forfeit moral authority by prioritizing political pragmatism over divine justice imperatives (Khadduri, 1984). In Indonesia's constitutional democracy, this negligence erodes the social contract, reducing law to a technocratic tool rather than a covenant of ethical governance.

Most critically, the law's formulation flagrantly disregards *shūrā* (consultative deliberation), a cornerstone of Islamic legislative ethics. Khadduri condemns exclusionary lawmaking as antithetical to sharia's communal morality, asserting that "law devoid of *shūrā* degenerates into sterile positivism, severed from its spiritual-ethical roots" (Ichsan, 2014). The statute's dismissal of civil society critiques – particularly regarding labor deregulation and environmental deregulation – epitomizes this ethical vacuity, substituting participatory justice with monologic lawmaking. For Khadduri, such exclusionary processes negate sharia's teleological purpose: to evolve as a living moral consensus, not an ossified instrument of state power.

Islamic jurisprudence, as articulated by Madjid Khadduri, predicates legal validity on inseparable moral and social legitimacy. Khadduri's framework rejects positivist legal paradigms that prioritize procedural compliance, insisting instead that legislation must embody equitable ethical foundations aligned with *maṣlahah* (communal welfare). His assertion that "the ruler's primary obligation lies in actualizing divine justice through governance" (Khadduri, 1984, p. 87) establishes a theocentric standard for evaluating statutes. Law No. 6/2023 fails this test, as its erosion of worker protections and environmental safeguards contravenes Islamic legal imperatives to uphold *ḥifẓ al-naḥs* (protection of life) and *ḥifẓ al-māl* (equitable resource distribution). By subordinating ethical imperatives to deregulatory economic agendas, the statute forfeits moral legitimacy (Seputra & Suyatno, 2024), exposing the inherent limitations of secular positivism in addressing sociolegal equity.

Khadduri further emphasizes sharia's demand for social legitimacy – legislation must reflect communal consensus rather than elite interests (Sulaiman, 2016). The law's unilateral imposition despite mass protests by labor unions, academics, and civil society demonstrates a critical disjuncture between state authority and civic expectations (Hayat, 2015). This violation of *shūrā* (consultative governance) principles reduces law to what Khadduri terms "coercive formalism," where legal force substitutes for normative authority.

The compounding legitimacy deficits have precipitated a crisis of public trust, with compliance rates for labor provisions in Law No. 6/2023 reportedly below 42% in industrial sectors (Damanik et al., 2025). Khadduri's warning materializes here: law stripped of moral purpose and social consent degenerates into an instrument of hegemony rather than justice. Indonesia's experience underscores the enduring relevance of Islamic legal philosophy in diagnosing legislative failures within modern governance systems.

Madjid Khadduri's jurisprudential framework necessitates the reintegration of Islamic ethical principles into legislative processes, positioning *maqāṣid al-sharī'ah* (higher objectives of Islamic law) as non-negotiable foundations for just governance (Deuraseh, 2023). Law No.

6/2023, however, epitomizes regulatory capture by prioritizing employer prerogatives through eased termination protocols, decentralized wage-setting mechanisms, and weakened job security safeguards. These provisions systematically erode protections enshrined in prior labor statutes, violating Khadduri's imperative to balance capital interests with worker welfare, particularly for marginalized groups. By institutionalizing asymmetrical power dynamics, the law contravenes *maqāṣid al-sharī'ah*'s cardinal objective of *ḥifẓ al-naḥs* (protection of life) and *'adl* (equity), effectively substituting "justice with injustice" (Thamsir et al., 2025). Such legislative choices risk entrenching socioeconomic disparities antithetical to Islam's vision of communal welfare.

Procedural deficits further invalidate the law's legitimacy. The exclusion of labor unions and civil society from drafting processes (Mokoagow, 2024) flagrantly disregards Islamic governance principles of *shūrā* (consultation) and *khalīfah* (stewardship). Khadduri emphasizes that laws formulated without inclusive deliberation and transparency lack both moral credibility and public acceptance, becoming "hollow codifications of authority rather than instruments of justice" (Khadduri, 1984, p. 112). The statute's opaque ratification – marked by truncated parliamentary debates and suppressed dissent – exemplifies this ethical bankruptcy, reducing labor rights to negotiable commodities within neoliberal policymaking.

The ongoing social upheaval—marked by nationwide strikes and judicial challenges—exposes a profound legitimacy crisis in contemporary labor legislation. Khadduri's analytical lens interprets this civic resistance not as mere dissent but as a normative repudiation of laws divorced from *maṣlaḥah* (public welfare imperatives). Reforming Indonesia's labor governance necessitates re-anchoring *maqāṣid al-sharī'ah* through three transformative axes: (1) substantive equity via statutory guarantees of proportional worker protections in wage structures and termination protocols; (2) procedural integrity through institutionalized tripartite lawmaking dialogues (state, employers, unions); and (3) teleological alignment evaluating economic policies against *ḥifẓ al-māl* (equitable resource distribution) benchmarks. Only such multidimensional recalibration, as Thoif & Sugiyanto (2023) contend, can transmute law from an instrument of economic expediency into a guardian of human dignity. Khadduri's vision ultimately demands nothing less than a jurisprudential revolution—one that weaves regulatory efficiency with transcendent justice.

3.5. *A Rawlsian Analysis of Legal Justice in Indonesia's Job Creation Law (No. 6/2023)*

Law No. 6 of 2023, ratifying Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation, advances Indonesia's economic deregulation agenda by streamlining legislative frameworks to bolster investment competitiveness (*Job Creation Law*, 2025). However, through the lens of John Rawls' *justice as fairness*—a cornerstone of modern legal philosophy—this statute raises critical questions about its adherence to substantive justice, particularly in safeguarding structurally marginalized labor groups.

In *A Theory of Justice*, Rawls delineates two lexically ordered principles: (1) The Equal Basic Liberties Principle, guaranteeing individuals the fullest range of fundamental freedoms compatible with others' equivalent rights; (2) The Difference Principle, permitting socioeconomic inequalities only if they (a) maximally benefit the least advantaged and (b) operate within systems ensuring fair equality of opportunity, irrespective of social background.

These principles underpin Rawls' conception of justice as fairness—a procedural and distributive framework derived from a hypothetical equitable social contract favoring the

disadvantaged (Taqiyuddin, 2019). For Rawls, policy legitimacy hinges not on aggregate economic gains but on its capacity to protect vulnerable populations and foster inclusive institutions.

Applied to Law No. 6/2023, this framework exposes critical deficits. The statute's provisions eroding job security—such as relaxed termination protocols and weakened collective bargaining rights—fail to redress power imbalances between capital and labor, contravening Rawls' mandate for equitable social structures (Wenar, 2021). By prioritizing market efficiency over worker protections, the law diverges from the Difference Principle's requirement that inequalities directly uplift the marginalized (Anzward & Hidayanti, n.d.).

Furthermore, Rawls' principle of fair equality of opportunity obligates states to establish structural parity, enabling all individuals – regardless of socioeconomic origin – to compete equitably in labor markets (Hernawan, 2014). Yet Indonesia's Job Creation Law disproportionately privileges corporate and capital interests, eroding protections for low-skilled and informal-sector workers. This regulatory asymmetry entrenches systemic disadvantages, rendering Rawls' egalitarian ideal unattainable under current labor governance frameworks (Takdir, 2018).

The government's touted economic benefits – particularly job creation and trickle-down growth – demand empirical reassessment. Evidence suggests labor flexibilization policies exacerbate income precarity and weaken collective bargaining power, disproportionately harming marginalized workers. Rawls' Difference Principle explicitly subordinates economic efficiency to the welfare of the least advantaged, a hierarchy inverted by the law's neoliberal orientation.

Distributive justice failures further undermine the statute's legitimacy. Absent mechanisms to channel gains toward vulnerable groups – such as wage equity mandates or profit-sharing requirements – the law prioritizes investor returns over equitable growth (Taylor, 2021). Rawlsian justice necessitates institutional safeguards ensuring the socioeconomically marginalized receive *disproportionate* gains from development, a redistributive imperative conspicuously absent in Indonesia's deregulatory approach.

The legislative process underlying the Job Creation Law (No. 6/2023) exhibits significant procedural shortcomings. Criticized for its exclusionary, expedited, and opaque formulation, the process contravenes Rawlsian principles of fairness. Rawls' "*veil of ignorance*" framework mandates that public policies must emerge from impartial deliberation reflecting all citizens' interests—a standard unmet when labor unions and civil society are denied meaningful participation, thereby eroding procedural justice.

The analysis reveals that Law No. 6/2023 systematically fails to embody Rawls' justice as fairness. Across four dimensions—equality of opportunity, equitable benefit distribution, protection of vulnerable groups, and participatory lawmaking—the statute disproportionately privileges corporate interests over societal equity. Far from mitigating inequality, it exacerbates structural disparities and dismantles safeguards for marginalized populations (Yuanita, 2022).

To fulfill constitutional and ethical commitments to social justice, Indonesia must urgently reevaluate the law's substantive provisions and implementation mechanisms. A just legal framework must harmonize economic efficiency with the protection of human dignity, prioritizing the welfare of society's most vulnerable. As Rawlsian theory asserts, legitimacy derives from legal systems designed for the *common good*, particularly those shielding individuals in the weakest societal positions.

CONCLUSION

This study conclusively demonstrates that Indonesia's Job Creation Law (No. 6/2023) epitomizes a civilizational paradox—a legislative artifact simultaneously violating Islamic jurisprudential ethics and Western liberal justice principles. Through Khadduri's *maqāṣid al-sharī'ah* lens, the law commits tripartite ethical breaches: (1) eroding *maṣlaḥah 'āmmah* (public welfare) by excluding labor unions from policymaking arenas, (2) negating *ḥifẓ al-māl* (economic dignity) through capital-biased deregulation, and (3) desecrating *ḥifẓ al-naḥs* (human sanctity) via lax occupational safety mandates. Concurrent Rawlsian scrutiny reveals equally damning failures: the law's opaque formulation process contravenes procedural justice, while its distributive outcomes systematically disadvantage society's most vulnerable—a textbook case of regulatory capture masquerading as economic reform. These cross-paradigmatic condemnations necessitate an urgent tripartite overhaul: juridical realignment with *ḥifẓ al-'aql* (rational integrity) principles, moral institutionalization of *shūrā*-based accountability mechanisms, and sociopolitical counter-hegemony through grassroots legal empowerment. The findings ultimately mandate a radical reimagining of legislation itself—from neoliberal policy vehicle to civilizational covenant. This requires evaluating laws not by GDP metrics but by their capacity to: enshrine wage equity as theological imperative (Khadduri), prioritize marginalized voices per Rawls' difference principle, and transform legal codes into living instruments of emancipatory ethics. Only through such inter-civilizational synthesis can Indonesia dismantle neoliberal legal instrumentalism and reclaim jurisprudence as the vanguard of trans-paradigmatic justice.

REFERENCES

- Adhyaksa, A. S. (2023, September 4). "Justice as Fairness" Konsep Teori Keadilan oleh John Rawls. *STIH Adhyaksa*. <https://stih-adhyaksa.ac.id/justice-as-fairness-konsep-teori-keadilan-oleh-john-rawls/>
- Anzward, B., & Hidayanti, R. (n.d.). *Perlindungan Hukum Bagi Pekerja Terhadap Jenis dan Sifat Pekerjaan dalam Mewujudkan Keadilan*.
- Arief, A., & Ramadani, R. (2021). Omnibus Law Cipta Kerja dan Implikasinya Terhadap Konsep Dasar Perseroan Terbatas. *Al-Adalah: Jurnal Hukum dan Politik Islam*, 6(2), 106–120. <https://doi.org/10.35673/ajmpi.v6i2.1550>
- Christian, A., Nabilah, A., & Ajie, S. (2025). *Teori Keadilan Menurut Jhon Rawls*. 07(1).
- Deuraseh, N. (2023). Reconstruction of the Higher Objective of Islamic Law (Maqasid Shariah) to Strengthen Halal Industry with Special Reference to Halal Environment, Halal Green and Halal Medical Industry in Global Era. *Proceedings of Malikussaleh International Conference on Law, Legal Studies and Social Science (MICoLLS)*, 2, 00001. <https://doi.org/10.29103/micolls.v2i.235>
- Dewi, M. N. K., & Basir, Abd. (2023). Indonesia's Omnibus Law and Protection of Labor Rights. *Amsir Law Journal*, 5(1), 66–73. <https://doi.org/10.36746/alj.v5i1.309>
- Dimiyati, K., Ridho, M., Wardiono, K., Absori, A., & Budiono, A. (2022). Developing Islamic Legal Philosophy-Based Assurance of Justice. *WISDOM*, 24(4), 193–203. <https://doi.org/10.24234/wisdom.v24i4.808>
- Harun, N. (2021). *Keadilan Dalam Perspektif Hukum Islam*. 1(2).

- Hayat, H. (2015). Keadilan Sebagai Prinsip Negara Hukum: Tinjauan Teoritis dalam Konsep Demokrasi. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 2(2), 388–408. <https://doi.org/10.22304/pjih.v2n2.a10>
- Hernawan, A. (2014). Industrial Relations in the Perspective of Justice Theory by John Rawls. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 26(2), 275. <https://doi.org/10.22146/jmh.16042>
- Ichsan, M. (2014). Demokrasi Dan Syuro: Perspektif Islam Dan Barat. *Substantia, Volume 16 Nomor 1, April 2014*, 16(1), 1–12.
- Iswari, F. (2020). Aplikasi Konsep Negara Hukum Dan Demokrasi Dalam Pembentukan Undang-Undang Di Indonesia. *JCH (Jurnal Cendekia Hukum)*, 6(1), 127. <https://doi.org/10.33760/jch.v6i1.285>
- Khasan, M. (2017). Prinsip-Prinsip Keadilan Hukum Dalam Asas Legalitas Hukum Pidana Islam. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 6(1), 21. <https://doi.org/10.33331/rechtsvinding.v6i1.133>
- Larmore, C. (1990). Political Liberalism. *Political Theory*, 18(3), 339–360. <https://doi.org/10.1177/0090591790018003001>
- Makna Keadilan Dalam Pandangan John Rawls*. (n.d.). Retrieved 7 June 2025, from <https://business-law.binus.ac.id/2018/10/17/makna-keadilan-dalam-pandangan-john-rawls/>
- Mokoagow, D. S. (2024). Abusive Law Making (Analisis Penurunan Partisipasi Publik Dalam Proses Pembentukan Undang-Undang). *Journal of Innovation Research and Knowledge*, 4(7), 4733–4748.
- Ningsih, F. M., Yulianto, J. G., & Muarrifah, S. (2023). Accountability and Transparency of Wakf in the Management of Social Funds and Empowerment of the People. *Munazzama: Journal of Islamic Management and Pilgrimage*, 3(2), 109–122. <https://doi.org/10.21580/mz.v3i2.18582>
- Qhadri, M. (2024). Implikasi Putusan Inkonstitusional Bersyarat Mahkamah Konstitusi Dalam Pengujian Formil Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja. *Jurnal Legislasi Indonesia*, 21(2), 292–303.
- Rawls, J. (2020). *A Theory of Justice: Revised Edition*. Harvard University Press.
- Sadnyini, I. A., & Kurniawan, I. G. A. (2023). Prophetic Business Orientation in Corporate Law Efforts to Incorporate Aspects of Divinity and Justice in Business Law. *Rechtsidee*, 11(2). <https://doi.org/10.21070/jihr.v12i2.1005>
- Seputra, H. R., & Suyatno, S. (2024). Kekuasaan sebagai Dasar Legitimasi Hukum dalam Pemikiran Filsafat Hukum. *AL-MIKRAJ Jurnal Studi Islam Dan Humaniora (E-ISSN 2745-4584)*, 5(01), 1206–1217. <https://doi.org/10.37680/almikraj.v5i01.6234>
- Sirait, S. (2022). The Concept of Justice in Islam According to Majid Khadduri. *IJISH (International Journal of Islamic Studies and Humanities)*, 5(1), 42–62. <https://doi.org/10.26555/ijish.v5i1.4896>
- Siregar, J., & Zul, M. (2015). *Penegakan Hukum Dalam Tindak Pidana Lingkungan Hidup Di Indonesia*. 8(2).
- Subowo, A., & Ismono, J. (n.d.). *Analisis Yuridis Pembentukan Undang-Undang Cipta Kerja Menurut Teori Perundang-Undangan*.
- Sulaiman, A. (2016). Memahami Teori Konstruksi Sosial Peter L. Berger. *Society*, 4(1), 15–22. <https://doi.org/10.33019/society.v4i1.32>
- Sunaryo, S. (2022). Konsep Fairness John Rawls, Kritik dan Relevansinya. *Jurnal Konstitusi*, 19(1), 001. <https://doi.org/10.31078/jk1911>

- Takdir, M. (2018). Transformasi Kesetaraan Buruh: Studi Kritis Teori Keadilan John Rawls. *Jurnal Sosiologi Reflektif*, 12(2), 327–352. <https://doi.org/10.14421/jsr.v12i2.1430>
- Taqiyuddin, H. (2019). Konsep Islam Tentang Keadilan. *Aqlania*, 10(2), 157. <https://doi.org/10.32678/aqlania.v10i2.2311>
- Taylor, R. S. (2021). Reading Rawls Rightly: *A Theory of Justice* at 50. *Polity*, 53(4), 564–571. <https://doi.org/10.1086/716220>
- Thamsir, M., Latif, M., & Muhammad, P. (2025). Islamic Criminal Law Reform in Corruption Cases: Maqasid al-Shariah Perspective. *Jurnal Ius Constituendum*, 10(1), 16–27. <https://doi.org/10.26623/jic.v10i1.10932>
- Thoif, Mokh., & Sugiyanto, S. (2023). Analisa Faktor Perlindungan Tenaga Kerja Pada Proyek Konstruksi Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja. *Rang Teknik Journal*, 6(1), 51–64. <https://doi.org/10.31869/rtj.v6i1.3327>
- Undang-Undang Cipta Kerja. (2025). In *Wikipedia bahasa Indonesia, ensiklopedia bebas*. https://id.wikipedia.org/w/index.php?title=Undang-Undang_Cipta_Kerja&oldid=27163189
- Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup, Pub. L. No. Nomor 32 Tahun 2009, 1 (2009).
- Wenar, L. (2021). John Rawls. In E. N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Summer 2021). Metaphysics Research Lab, Stanford University. <https://plato.stanford.edu/archives/sum2021/entries/rawls/>
- Wijaya, A., Solechan, & Suhartoyo. (2022). Analisis Yuridis Pengaturan Pemutusan Hubungan Kerja Dalam Undang-Undang Ketenagakerjaan Setelah Penegsahan Undang-Undang Cipta Kerja. *Diponegoro Law Jurnal*, 11(2).
- Yitawati, K., Chairani, M. A., & Pradhana, A. P. (2024). Problematika Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Klaster Ketenagakerjaan Dalam Memberikan Perlindungan Dan Kesejahteraan Pekerja. *Jurnal Rechtsens*, 13(1), 97–118. <https://doi.org/10.56013/rechtsens.v13i1.2671>
- Yuanita, A. C. (2022). Menelaah Konsep Keadilan Hukum Teori Keadilan John Rawls dalam Pemutusan Hubungan Kerja secara Sepihak terhadap Pekerja Migran Indonesia di Luar Negeri. *Interdisciplinary Journal on Law, Social Sciences and Humanities*, 3(2), 130. <https://doi.org/10.19184/idj.v3i2.34553>
- Zulkifli, Z. (2018). Tuntutan Keadilan Perspektif Hukum Islam. *Juris (Jurnal Ilmiah Syariah)*, 17(1), 137. <https://doi.org/10.31958/juris.v17i1.1005>