

Legal Protection of Workers Against Overtime Work Practices Without Wage Payment Based on Law Number 6 of 2023 Concerning Job Creation

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Keywords:	Abstract
Legal Protection of Workers; Overtime Work; Overtime Wage; Normative Rights; Job Creation	Problems regarding the implementation of overtime work without the payment of overtime wages are still frequently found in employment relationships, even though the protection of these rights has been regulated under Law Number 6 of 2023 concerning Job Creation and Government Regulation Number 35 of 2021. This study aims to examine the forms of legal protection for workers who do not receive overtime wages and to analyze the law enforcement mechanisms applied to companies that disregard workers' normative rights. This study uses a normative juridical method with a conceptual approach, strengthened by interview data from the Manpower Office, the Regional Technical Implementation Unit (Unit Pelaksana Teknis Daerah/UPTD) for Manpower Supervision Region III Cirebon, and workers. The results of the study show that the provision of overtime wages is a legal obligation that must be fulfilled by companies for workers who work beyond normal working hours. However, violations of this obligation still occur for various reasons, including limitations in companies' financial conditions and companies' operational demands. Legal protection for workers is carried out through preventive measures in the form of guidance, public dissemination, and labor supervision, as well as repressive measures through inspections, the issuance of inspection memorandums, and the application of criminal sanctions. These findings show that the effectiveness of legal protection for overtime wage rights still requires strengthened supervision and law enforcement so that workers' normative rights can be optimally fulfilled.

INTRODUCTION

Work is an important activity in human life that is carried out to meet basic needs and build family welfare (Fauser et al., 2024; Organization, 2024; Pratama et al., 2023; Sangadji et al., 2023). Every individual has the right to work and to obtain a decent livelihood, as stipulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "Every citizen has the right to work and to a decent livelihood for humanity." This provision emphasizes that the state is obliged to guarantee legal protection for workers as part of human rights (Aleshoush & Almakhzoumi, 2024; Almakhzoumi & Alhunieti, 2024; Antai et al., 2024; Ekardt et al., 2023; Nampewo et al., 2022).

The relationship between workers and employers is not limited to employment contracts but also includes legal relationships that provide protection for workers' rights (Aleshoush & Almakhzoumi, 2024; Berg et al., 2023; Mahy, 2022; Rolf et al., 2022). One of the rights that must be fulfilled is the right to receive remuneration in the form of decent wages, including the payment of overtime wages for workers who work beyond predetermined working hours. The definition of wages is provided in Article 1 number 30 of Law Number 6 of 2023, which emphasizes that wages are workers' rights that are received

and expressed in the form of money as remuneration from employers or companies to workers, determined and paid in accordance with employment agreements, agreements, or laws and regulations, including allowances for workers and their families for work and/or services that have been or will be performed.

Wages play an important role in ensuring the welfare of workers and their families (Mahardhika et al., 2025; Hossain et al., 2024). Therefore, the government provides guarantees through laws and regulations to protect workers' rights to a decent livelihood (Mahardhika et al., 2025; Prasetyo & Nurmaningsih, 2023). Labor law regulates various aspects concerning workers, including efforts to provide equal employment opportunities, protect workers to achieve welfare, and encourage the improvement of the quality of workers and their families (Prasetyo & Nurmaningsih, 2023; Hidayat et al., 2024; Hossain et al., 2024).

In addition to basic wages or monthly wages, one form of wages that constitutes a company's obligation to workers is overtime wages (Sari et al., 2024; Firensya & Kartika, 2024). Overtime wages are mandatory compensation provided by companies to workers who perform work outside the normal working hours that have been determined (Anggara et al., 2025; Sari et al., 2024). The provision of overtime wages is a form of worker protection to ensure that every additional working hour performed by workers receives proper and fair compensation (Firensya & Kartika, 2024; Anggara et al., 2025; Wibowo, 2024).

However, the phenomenon occurring in labor practices shows that statutory provisions in the field of employment have not been fully implemented. Current labor issues continue to grow increasingly complex, thereby requiring more serious handling by labor supervisors. One problem that still frequently occurs is the existence of workers who work overtime but do not receive overtime wages in accordance with applicable regulations.

In practice, companies often cite various reasons for not paying overtime wages, such as operational needs, the fulfillment of production targets, or unstable financial conditions. However, these reasons cannot justify disregarding workers' legally guaranteed rights. Law Number 6 of 2023 concerning Job Creation explicitly regulates workers' rights regarding the payment of overtime wages. Therefore, the non-fulfillment of the obligation to pay overtime wages constitutes a violation of statutory provisions.

This phenomenon shows the continuing challenges faced in labor law enforcement in Indonesia. These challenges include not only weak supervision but also suboptimal policy implementation at the company level and low legal awareness among the parties involved.

The fact that there are still workers who do not receive overtime wage payments shows that the implementation of the Job Creation Law continues to face challenges in ensuring effective legal protection for workers, particularly regarding the payment of overtime wages that companies still fail to comply with. This phenomenon needs to be examined because there is a gap concerning the effectiveness of legal protection for workers who work overtime without receiving wage payments, as well as the need to strengthen the review and supervision conducted by the Manpower Office and the Manpower Supervision Unit of Region III Cirebon in ensuring the fulfillment of workers' rights.

Problem Formulation: What are the aspects of legal protection for workers in overtime work practices carried out by companies that disregard wage payments based on Law Number 6 of 2023 concerning Job Creation. This research aims to identify and analyze the

legal protection of workers in cases of overtime work without wage payment based on Law Number 6 of 2023 concerning Job Creation.

METHOD

This research uses normative juridical research methods. According to Amiruddin and Zainal Asikin, normative legal research is research conducted through literature studies with primary legal materials, secondary legal materials, and tertiary legal materials as a basis for examining applicable legal norms. This research views law as a system of norms that is analyzed based on laws and regulations, legal concepts, and doctrines related to research problems.

The approaches used include the statute approach and the conceptual approach. The legislative approach is carried out by reviewing Law Number 6 of 2023 concerning Job Creation, especially provisions regarding working hours and the obligation to pay overtime wages, as well as Government Regulation Number 35 of 2021 concerning Fixed-Time Work Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment. A conceptual approach is used to analyze the concept of legal protection and normative rights of workers based on the doctrines of experts.

The legal materials used consist of primary legal materials in the form of laws and regulations and secondary legal materials in the form of books, scientific journals, and the results of previous research that are relevant to the legal protection of workers against the practice of overtime work without payment of wages. To strengthen the normative analysis, this study is also supported by data from interviews with the Manpower Office, the Cirebon Region III Manpower Supervision UPTD, and workers. All legal materials are analyzed in a qualitative descriptive manner by relating the applicable legal provisions with the facts obtained so as to produce conclusions regarding the legal protection of workers against the practice of overtime work without payment of wages.

RESULTS AND DISCUSSION

Legal Protection of Workers in Overtime Work Practices in Companies

Problems in the labor sector are still being found, ranging from the issue of worker protection, wages, worker welfare, industrial relations disputes, to labor supervision. This situation shows that the implementation of supervision and the application of labor law provisions in labor relations practices are still not running optimally. This condition shows that legal protection for workers is still an important thing in labor law to ensure fair and balanced basic rights of workers.

Legal protection of workers is an important part of labor law in guaranteeing the basic rights of workers to realize the welfare of workers and their families. This legal protection is closely related to the function of law as a means to protect the interests of its citizens, especially in the field of employment.

According to Abdul Khakim, the legal protection of workers includes three aspects, namely: Economic protection (guarantee of the fulfillment of decent income for workers in return for work that has been done, including the right to overtime wages for workers who work beyond the normal working time limit), social protection, (health insurance and protection of freedom of association and fulfillment of workers' rights to form or join an

organization), as well as technical protection, worker protection related to aspects of occupational safety and safety in carrying out work.

These protection efforts can be realized through the recognition of workers' human rights, the provision of physical and economic protection, and the implementation of provisions in accordance with labor standards based on laws and regulations. One form of economic protection for workers is the fulfillment of the right to overtime wages for workers who carry out work beyond normal working hours.

Regulations regarding working time and overtime wages have been regulated in Law No. 6 of 2023 concerning Job Creation and its implementation rules. Article 77 establishes normal working hours, i.e. 7 hours per day for 6 working days or 8 hours per day for 5 working days, for a total of 40 hours per week. Article 78 paragraph (2) requires companies that employ workers in excess of working hours to pay overtime wages. These terms are imperative or mandatory and cannot be waived by the company for any reason.

In article 28 of Government Regulation No. 35 of 2021 concerning Fixed-Time Work Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment requires that "to carry out overtime work time, there must be an order from the employer and the consent of the worker/laborer concerned in writing and/or through digital media", and the company is obliged to determine the duration of its overtime, namely overtime work time can only be done for a maximum of 4 hours in 1 day and 18 hours per Sunday.

In addition, the calculation of the amount of overtime wages, in accordance with the conditions of overtime on ordinary working days, official holidays, or on weekly work breaks, is explained in Articles 31 and 32 of Government Regulation Number 35 of 2021 with a calculation of 1.5 times the hourly wage for the first overtime hour and 2 times the hourly wage for each subsequent hour. If overtime work is carried out on weekly rest days or official government holidays, overtime wages are paid 2 times the hourly wage for the first 7 hours and increase according to the applicable time system.

The basis for calculating overtime is: $\text{Hourly wage} = 1/173 \times \text{month's wage}$, which is obtained from the calculation of 40 hours per week $\times$ 52 weeks per year $\div$ 12 months, which is the average working hours per month. This formula is the basis for companies to calculate overtime wage obligations for workers.

According to the results of the research at the Manpower Office and the Cirebon Region III Manpower Supervision UPTD, it is known that the Manpower Supervision UPTD is tasked with monitoring and ensuring that the fulfillment of workers' overtime wage rights is carried out in accordance with the law through routine monitoring activities carried out once a year and socialization of the company's rights and obligations. However, in its implementation, it was found that violations of overtime wage payments still often occur in Region III Cirebon. Of the total 23,895 companies recorded, there are still reports of violations regarding overtime wage payment violations every year. This shows that the supervision carried out is not optimal due to several factors, such as the limitation of the number of supervisors that are not proportional to the number of companies that must be supervised, supervision is more reactive, namely waiting for reports, including still less effective delivery of information related to the obligation to pay overtime wages.

In addition to preventive or preventive protection, based on the results of interviews, the Manpower Office provides repressive measures that are realized through real actions or

law enforcement. However, the effectiveness of this protection depends heavily on worker reports. Unfortunately, there are still many workers who are reluctant to report because they are afraid of termination of employment, as well as intimidation that occurs in the work environment.

One of the clear examples of violations of the normative right to overtime wages occurred in Company X. Referring to the results of interviews with workers at the company, it is known that the company still gives overtime orders by meeting the administrative requirements, however, it has not paid its overtime wages in recent months. Workers admitted that they did not report because they were worried about losing their jobs or receiving unpleasant actions from the company.

The results of the study show that in cases of violation of the right to overtime wages is not paid, the reason from the company is often stated is the company's unstable financial condition, so that the company claims to be unable to pay overtime wages. The company also considers overtime as an urgent need to meet job targets, thus requiring overtime workers without preparing a compensation budget. There are even companies that think that completing overtime work is the responsibility of the worker, so there is no need for additional compensation.

These reasons cannot be justified because the nature of the laws and regulations is absolute and does not provide exceptions for companies that experience financial difficulties. In this provision, it has been expressly stated that every employer worker who hires workers beyond working hours is obliged to pay overtime wages, without exception. Neglect of the obligation to pay overtime wages is not only contrary to laws and regulations, but also clearly detrimental to workers economically. Workers lose the right to the compensation they should have received for the additional time and effort expended. This condition shows that legal protection for workers is not optimal, especially in the fulfillment of normative wage rights.

Efforts and Implementation of Sanctions Against Companies That Violate the Normative Rights of Overtime Wages

In the phenomenon of workers who are not paid overtime wages by the company, it has clearly violated the normative rights of workers. Normative rights consist of economic rights (minimum wage, overtime wage, THR, and severance pay) and non-economic rights (the right to unionize, adequate rest time, occupational health and safety).

For these violations, settlement can be made through a complaint to the Manpower Supervisor. The research results show , the flow of handling violations is as follows:

1. Coaching, after receiving reports from workers, the labor supervisor will first provide guidance to the company in the form of counseling, socialization, and assistance so that the company understands the applicable labor norms.
2. Field inspections The labor supervisor will conduct inspections to ensure that there is a violation of the provisions for overtime wage payments carried out by the company, inspections carried out by examining overtime orders, workers' salary slips, and attendance lists to ensure the length of workers' working hours. The labor supervisor also conducts field inspections to check the condition of the field.
3. Issuance of Examination Memorandum, if the results of the examination prove that there is a violation, the labor supervisor will provide an Examination Memorandum. An Audit

Memorandum is a warning or written order given by the labor supervisor to the company to correct non-compliance with the Labor Norms based on the results of the examination.

4. Inspection Memorandum I, given as a reminder to companies still focusing on coaching and notifying errors by giving 7-30 days for the company to immediately fulfill its obligation to pay workers' overtime wages in accordance with the provisions of laws and regulations.
5. Memorandum of Examination II, given if the company after coaching still ignores or refuses to carry out the order to provide overtime wages that should be received by workers from the Labor Supervisory, then Memorandum of Examination II will be given. The content affirms the sanctions that the company will receive by being given 14 days by the labor supervisor before the case is delegated to investigation.
6. In the investigation stage, at this stage, the employment supervisory employee transfers the file to PPNS and proceeds to the Investigation of Employment Crimes at the District Court based on Article 187 of Law No. 6 of 2023 concerning Job Creation regulates the sanctions that will be received by the company as follows:
 - a. Whoever violates the provisions as referred to in Article 45 paragraph (1), Article 67 paragraph (1), Article 71 paragraph (2), Article 76, Article 78 paragraph (2), Article 79 paragraph (1), paragraph (2), or paragraph (3), Article 85 paragraph (3), or Article 144 shall be subject to criminal sanctions of imprisonment for a minimum of 1 (one) month and a maximum of 12 (twelve) months and/or a fine of at least Rp10,000,000, 00 (ten million rupiah) and a maximum of Rp100,000,000.00 (one hundred million rupiah).
 - b. Criminal acts as intended in paragraph (1) are criminal offenses.

Violations of companies that do not pay overtime wages are basically resolved through the labor law enforcement mechanism and can continue to the District Court through the employment criminal process. This is because the issue of overtime wages is not a dispute born from the agreement of the parties in the employment contract, but the normative rights of workers that have been expressly regulated in laws and regulations.

CONCLUSION

Legal protection for workers in overtime work practices based on Law Number 6 of 2023 concerning Job Creation has not been implemented optimally. This is shown by the fact that some companies still require workers to perform overtime work without paying overtime wages, thereby violating workers' normative rights as guaranteed under Article 78 paragraph (2) of Law Number 6 of 2023 concerning Job Creation. Although the mechanism for submitting complaints to the Manpower Office or the Regional Technical Implementation Unit (Unit Pelaksana Teknis Daerah/UPTD) for Manpower Supervision, as well as the imposition of criminal sanctions in the form of imprisonment or fines, has been regulated under the law, violations related to the payment of overtime wages are still found in practice. This proves that companies' awareness of and compliance with labor regulations remain low. Therefore, supervision and law enforcement must be strengthened to ensure the fulfillment of workers' normative rights.

Legal protection for workers in overtime work practices without wage payment needs to be implemented more optimally so that provisions concerning workers' normative rights do not merely exist in statutory regulations but are also effectively applied in labor relations. This can be achieved by strengthening supervision, increasing public dissemination and monitoring by labor supervisors, and enforcing firm and consistent sanctions against violating companies in order to improve company compliance and provide legal certainty for workers.

REFERENCES

- Aleshoush, M., & Almakhoumi, O. (2024). The role of the international labor organization in protecting workers' rights. In *Frontiers of human centrality in the artificial intelligence-driven society 5.0* (pp. 805–816). Springer.
- Almakhoumi, O., & Alhuniati, Y. (2024). Peacekeeping in international law and intervention in internal affairs. In *Frontiers of human centrality in the artificial intelligence-driven society 5.0* (pp. 621–634). Springer.
- Anggara, S. R., Situmorang, M., & Limbong, T. (2025). Perlindungan hukum atas waktu kerja dan waktu istirahat bagi pekerja/buruh berdasarkan Undang-Undang Ketenagakerjaan dan Undang-Undang Cipta Kerja. *Jurnal Media Hukum*, 6(1), 1–18. <https://doi.org/10.56943/jmh.v6i1.1880>
- Antai, G. O., Mulegi, T., Barongo, E. K., Ekpenisi, C., Kisubi, E. C., & Okonji, I. C. (2024). Exploring mechanisms for enforcing human rights within the context of international law: Issues and challenges. *NIU Journal of Legal Studies*, 10(1), 59–70.
- Berg, J., Green, F., Nurski, L., & Spencer, D. A. (2023). Risks to job quality from digital technologies: Are industrial relations in Europe ready for the challenge? *European Journal of Industrial Relations*, 29(4), 347–365.
- Ekardt, F., Günther, P., Hagemann, K., Garske, B., Heyl, K., & Weyland, R. (2023). Legally binding and ambitious biodiversity protection under the CBD, the global biodiversity framework, and human rights law. *Environmental Sciences Europe*, 35(1), 80.
- Fausser, B. C. J. M., Adamson, G. D., Boivin, J., Chambers, G. M., de Geyter, C., Dyer, S., Inhorn, M. C., Schmidt, L., Serour, G. I., & Tarlatzis, B. (2024). Declining global fertility rates and the implications for family planning and family building: An IFFS consensus document based on a narrative review of the literature. *Human Reproduction Update*, 30(2), 153–173.
- Firensya, N. M., & Kartika, A. W. (2024). Pemenuhan hak pekerja (upah lembur) berdasarkan perjanjian kerja di CV. X. *Unes Journal of Swara Justisia*, 8(2), 302–316.

- <https://doi.org/10.31933/h7755x45>
- Hidayat, R., Fauzan, A., & Pramono, W. (2024). Perlindungan hukum bagi pekerja di Indonesia: Kajian terhadap upah, jam kerja, dan cuti berdasarkan Undang-Undang Ketenagakerjaan. *Pubmedia Social Sciences and Humanities*, 2(4), 1–14. <https://doi.org/10.56926/pgpsp.v2i4.1126>
- Hossain, M. M., Khan, M. S., & Akter, S. (2024). Labor welfare policy, practices, and deficiencies with the ILO: Evidence from the garment industry of Bangladesh. *Labour*, 38(3), 339–355. <https://doi.org/10.1080/0023656X.2024.2373893>
- Mahardhika, D., Prasetyo, T., & Sulistyowati, L. (2025). Perlindungan hukum dalam sektor ketenagakerjaan: Upah, kesejahteraan, dan pemerataan kesempatan kerja. *Jurnal Helium*, 2(1), 1–15. <https://doi.org/10.56943/helium.v2i1.4722>
- Mahy, P. (2022). Indonesia's omnibus law on job creation: Legal hierarchy and responses to judicial review in the labour cluster of amendments. *Asian Journal of Comparative Law*, 17(1), 51–75.
- Nampewo, Z., Mike, J. H., & Wolff, J. (2022). Respecting, protecting and fulfilling the human right to health. *International Journal for Equity in Health*, 21(1), 36.
- Organization, W. H. (2024). *Extending healthy ageing across the life course: Connecting healthy development and healthy ageing: Report of the third Life Course Network meeting, 28–30 November 2023*. World Health Organization.
- Prasetyo, T., & Nurmaningsih, E. (2023). Perlindungan hukum terhadap pekerja di Indonesia: Tinjauan atas hak atas penghidupan yang layak berdasarkan Undang-Undang Nomor 13 Tahun 2003. *Jurnal Professional*, 10(1), 77–86.
- Pratama, F. A., Mustofa, N. I., Al Fasiri, M. J., Ridwan, M., & Suwarni, T. (2023). The influence of Islamic work ethic on the welfare of temple business employees in Kedawung-Cirebon District. *IJOBBA: International Journal of Bunga Bangsa Cirebon*, 2(2), 106–112.
- Rolf, S., O'Reilly, J., & Meryon, M. (2022). Towards privatized social and employment protections in the platform economy? Evidence from the UK courier sector. *Research Policy*, 51(5), 104492.
- Romich, J., & Hill, H. D. (2018). Coupling a federal minimum wage hike with public investments to make work pay and reduce poverty. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 4(3), 22–43. <https://doi.org/10.7758/rsf.2018.4.3.02>
- Sangadji, R., Zainal, V. R., & Hakim, A. (2023). The relationship between welfare and work motivation with the work productivity of family planning extension workers in the Administrative City of East Jakarta. *International Journal of Social Science and Education Research Studies*, 3(10).
- Sari, W. J., Kurniati, Y., & Kustiara, I. (2024). Upaya pekerja atas upah lembur yang tidak dibayarkan dalam perspektif hukum ketenagakerjaan. *Jurnal Retentum*, 6(2), 146–154. <https://doi.org/10.46930/retentum.v6i2.4900>
- Wibowo, A. (2024). Penegakan hukum ketenagakerjaan terhadap pelanggaran hak pekerja. *Jurnal Hukum Nasional*, 11(2), 140–155.
- Young, J. (2023). Analisis yuridis kewajiban pengusaha terhadap tenaga kerja yang melaksanakan kerja lembur dan saat perpanjangan kontrak kerja. *Jurnal Ilmu Hukum, Humaniora dan Politik*, 3(3), 441–455. <https://doi.org/10.38035/jihhp.v3i3.1546>