The Concept of Setting Minimum Wages in Legislation is Viewed from the Principle of Justice

Rachmad Abduh, Ida Hanifah, Surya Perdana
rachmadabduh@umsu.ac.id

Faculty of Law, Universitas Muhamamdiyah Sumatera Utara, Indonesia

Article Info

Received:2022-11-20
Revised:2023-01-20
Accepted:2023-03-10

Keywords:
Concept, Minimum Wage, Principles of Justice

Abstract

Legislation in the field of employment has brought fundamental changes in terms of making the nature of employment law dual, namely private and public. The private nature is attached to the basic principles of an employment relationship which is characterized by the existence of an employment agreement between the employee and the employer, while the nature of public law is seen from the existence of criminal sanctions, administrative sanctions for violators of provisions in the field of employment and government intervention in determining wage standards. The phenomenon experienced by workers is that the wages they receive are not commensurate with the cost of living, the high cost of living makes workers far from prosperous. Work demands are considered not commensurate with the wages received. So it is far from the concept of justice. The method used in this research uses normative research. Normative legal research methods are research that positions law as a building system of norms

I. Introduction

Employment is all matters relating to labor before, during and after the employment period which begins with an employment agreement. Employment agreements are a derivative of agreements in general, where each agreement has special characteristics that differentiate it from other agreements. Article 1601 explains that a work agreement is in which the first party, namely the worker, is bound to be under the leadership of another party, namely the employer, for a certain time by receiving wages as compensation. The work agreement requires the elements of work, orders and wages.[1] In general, deregulation of labor laws undeniably reduces protection for workers in Indonesia. Because, although there are many provisions in the law which state that labor relations must be regulated privately through an agreement between the parties, this forgets the reality of the unequal position between workers and entrepreneurs. In reality, an unequal relationship between workers and employers is likely to result in agreements that are detrimental to workers. Therefore, if workers are not careful, the current state of labor law could lead to the end of the world.[2]

The phenomenon experienced by workers is that the wages they receive are not commensurate with the cost of living, the high cost of living makes workers far from prosperous. Apart from meeting basic needs, such as clothing, food and shelter, workers also have to bear the costs of education for their children and also have to set aside a portion of their wages to be used when the worker is no longer able to work. According to Ida Hanifah, "from the perspective of wages, the difference is between nominal wages, namely money and real wages, namely the number of goods that can be purchased with money.[3] Real wages are the most important for workers, because with the wages received, workers hope to be able to buy goods or meet the needs they need to be able to pay for living expenses with their family. Every year the government reviews the minimum wage as a standard wage, the amount of which differs in each region. But minimum wage increases have little effect on workers. This is because the increase in wages also affects the increase in prices of basic necessities. So that there is no change in the fate of workers to get a prosperous life. Because the main goal of each individual is welfare with different measures according to the views, religion and doctrine of each individual. To fulfill the goals of every worker, the government issues laws and regulations that regulate labor relations with companies that provide work to workers. Employment law is the law that regulates labor, which was originally known as labor law. One of the functions of this regulation is to provide a means of renewal in the context of development which can be interpreted as channeling human activities that lead to development.

The development of labor law in Indonesia cannot be separated from the history of

[1] Hakim. 2003. *Hukum Ketenagakerjaan Indonesia Berdasarkan Undang-undang No 13 Tahun 2003.* Bandung: PT.Citra Aditya Bakti, hlm 54.

[2] Izzati, Nabiyla Risfa. 2022. "Deregulation in Job Creation Law: The Future of Indonesian Labor Law." *Padjadjaran Jurnal Ilmu Hukum* Vol. 9, No. 2, hlm 191–209.

[3] Ida Hanifah, 2020. "Peran Dan Tanggung Jawab Negara Dalam Perlindungan Hukum Tenaga Kerja Indonesia Yang Bermasalah Di Luar Negeri." *DE LEGA LATA* Vol. 5, hlm 10–23.

slavery carried out by the Dutch East Indies government, known as forced labor or forced labor, which ended in 1819. Since then, the laws specifically regulating employment in Indonesia have continued to change to the present. With the passing of Law Number 13 of 2003 concerning Employment (UUKK), this is because the UUKK replaces 15 employment regulations, this makes the UUKK an umbrella for other regulations. Employment problems seem to never be resolved as long as there are still different desires between workers and employers. Work and Government. Views on legislative regulations that should be able to answer the wishes of the parties are considered not to be in favor of both workers and employers. This happens because of different points of view. Wage provisions must be implemented by employers or companies, regardless of the capabilities and conditions of different companies, starting from micro companies, small companies, medium companies and large companies which ultimately have an impact on carrying out the mandate of the law. The 1945 Constitution of the Republic of Indonesia (UUD1945) Article 28 letter D gives everyone the right to recognition, guarantees and certainty of fair law and equal treatment before the law. And it goes on to explain that everyone has the same right to work and receive fair and decent compensation and treatment in work relationships. Capitalize on the fact that efforts respond to current and past wage levels.[4] Demonstrating feasibility is trivial because total market labor input and total consumption are identical to the corresponding individual equilibrium values.[5] So that income and expenses are not balanced and the nature of workers tends to be consumptive. Government intervention in the field of employment through legislation has brought fundamental changes, namely the nature of employment law to become private and public. The nature of private law is inherent in the basic principle of a marked employment relationship.[6] Legally, workers are free to choose and determine their fate, free to choose and determine the work they like. This is understandable because the principle in our country is "no one should be enslaved, held in bondage or servitude". Slavery and serfdom are acts that violate human rights. However, sociologically/socially, workers/workers are people who are not free because they are forced to work and follow their employer wherever they are. Most of the workforce in Indonesia are workers who do not have life supplies in the form of expertise and skills, other than their energy. It is the employer/entrepreneur who basically determines the terms of work, it could even be said that it is the entrepreneur who determines the life and death of the workforce. In practice, both physically and spiritually, workers are not free.

2. Research Method

This research uses normative research methods. In accordance with the nature and scope of the research, the data sources used in this writing are secondary data relating to the first legal entity in the form of; laws and regulations related to the topic of discussion. Secondary legal sources in this research are books, scientific journals, papers and scientific articles which can provide explanations about legal issues. in seeking a type of justice in labor

[4] Vasilev, Aleksandar. 2020. "Are 'fair' wages quantitatively important for business cycle fluctuations in Bulgaria?" *Review of Economic Perspectives* Vol. 20, No. 1, hlm 91–105.

[5] Vasilev, Aleksandar. 2018. *Theoretical and Practical Research in Economic Fields*. Vol. 9

[6] Lalu Husni. 2008. *Pengantar Hukum Ketengakerjaan Indonesia*. VIII. Jakarat: Grafindo Persada, hlm 76.

law.[7]

[7] Rachmad Abduh. 2023. "Justice In Efforts To Improve Employment Welfare." *DE LEGA LATA: Jurnal Ilmu Hukum* Vol. 8, No. 2, hlm 76.

3. Results and Discussion

Principles for Establishing Employment Laws

The need to balance material needs with spiritual needs in improving life's welfare has impacts and challenges in meeting the life needs faced. With this increase in living needs, the increase in welfare will automatically increase. To fulfill needs in order to improve the welfare of life, humans are required to make efforts. There are two ways to meet life's needs, the first is by making your own efforts in the sense of not working with other people, the second is by working with other people. People who don't work with other people depend on that person's hard work to fulfill their living needs. Meanwhile, people who work with other people will receive compensation or wages from the employer which is called wages. For workers, wages are a source of income in order to fulfill workers' living needs. Before the worker does his job then the worker. The relationship between employee and employer begins with an employment agreement. The contents of the employment agreement include, among other things, regulating rights and obligations. The right to wages is one of the contents of the agreement.[8] This right has been constitutionally regulated and protected in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) which stipulates: "Every citizen has the right to work and a living that is worthy of humanity." This constitutional right is further regulated by statutory regulations. Wage regulation in positive law is regulated in Law Number 13 of 2003 concerning Employment (UUKK), and its implementing regulations change almost every year. The UUKK has been in effect for a long time, but this regulation has not fully created harmonious and conducive Industrial Relations in Indonesia. This is reflected in the existing sociological and juridical aspects. From a sociological aspect, it can be seen that there are demonstrations by trade unions every year to commemorate World Labor Day which falls on May 1 or known as May Day, where workers through trade unions every year always demand decent wages, abolish the politics of low wages, abolish the contract work system, outsourcing work system, investing in remarkable, and there are also demands from Labor Unions to increase the number of components of a decent living (KHL).

The existing wage dilemma, both from a sociological and juridical aspect, cannot be allowed to continue, therefore it is necessary to find a solution so that the conflicting interests of workers and employers in the field of wages can be minimized. If this wage dilemma is allowed to continue, it will result in unconducive Industrial Relations in Indonesia, and the goal of employment development and national development goals

[8] Yetniwati. 2019. "Pengaturan Upah Berdasarkan Atas Prinsip Keadilan." *LITIGASI* Vol. 18, No. 2, hlm 340–81.

will not be achieved. The principles in statutory regulations are basically grouped into two parts, namely:

a. Principles in the formation of statutory regulations;

b. Principles in the content of the Legislative Regulations. In forming Legislative Regulations, it must be based on the principles of forming good Legislative Regulations, which include:

1. Clarity of purpose, clarity of purpose means that every creation of Legislative Regulations must have a clear purpose to be achieved.
2. The appropriate institution or formation organ, the principle of the appropriate institution or formation organ is that each type of Legislative Regulation must be made by the institution/official that forms the authorized Legislative Regulation. These regulations can be canceled or null and void if they are made by an unauthorized institution/official.

In this way, all levels of society have the widest possible opportunity to provide input in the process of making laws and regulations. This may not be done by the law makers, as is the case with the Job Creation Law which has received a lot of criticism and rejection, marked by many demonstrations by workers. The Job Creation Law is considered not to be in favor of workers/employees so this can be detrimental to workers. For the reason of inviting investors from abroad, the government promulgated Law Number 6 of 2023 concerning Job Creation. In implementing legal certainty and legal protection, legislators need legal principles as guidelines for making laws, which are adapted to the needs of the industrial relations community, namely workers and employers. Satjipto Raharjo in Endeh Suhartini et al defines legal principles as legal principles, not legal regulations. However, no law can be understood without knowing the legal principles contained in it. Because of legal principles and legal order." ." Furthermore, Satjipto Raharjo in Endeh describes legal principles as the heart of legal regulations on the basis of 2 (two) reasons:

1. Legal principles are the broadest basis for the birth of legal regulations. This means that the application of legal regulations can be returned to legal principles.
2. Legal principles because they contain ethical demands, legal principles are likened to a bridge between legal regulations and the social ideals and ethical views of society.

Theoretical understanding of legal development, according to Lawrence Meir Friedman, an effective law enforcement system consists of 3 (three) components, legal structure, legal substance and legal culture. Structural components are the permanent

form of an institution that works by following its processes and boundaries. Meanwhile, the substance component in question is the actual norms or rules used by the Institution which determine the ways to describe a behavior and determine the possible direction in which action should be taken. Meanwhile, what is meant by legal culture are elements of attitudes and social values that are manifested in the concrete behavior of society.[9]

Determination of a Justice-Based Wage System

Theory is one of the most important concepts in the legal field because it is a fundamental idea that can solve many problems. Furthermore, theory is a guide that provides insight into how to understand a particular problem in each field of legal science. It is important for anyone studying law to understand the theory thoroughly so that there are no obstacles when creating a legal theory. These legal theories are the result of a complex process involving technical and managerial issues. These processes include planning, formulating, organizing, mobilizing, monitoring and evaluating. states that the aim of legal theory is to clarify the meaning of legal doctrine to its most extreme philosophical formulation. Legal theory will answer questions such as: Why does the law exist, and what is the basis for its validity? What is the purpose of the law? How should one understand the law? What does this have to do with the general public? What laws need to be implemented? What is the essence of this sound law? Legal theory cannot be separated from its environment; that's what we see. If you look at the current state of law enforcement in Indonesia, it could be said to be a mess. The weak application of Indonesian law stems from several cases that have not been resolved and have not fully revealed the intentions of the parties involved. Public participation in drafting laws is one of the requirements in the process of formulating opinions regarding the amended substance. The second point, as stated by Maria SW Sumardjon, project completion depends on the project. To implement sound policies effectively, policies must be developed with genuine understanding. In order for order in society to be maintained, legal rules must be obeyed..[10]

The constitution upholds strategic policies in a country. As a tool for regulating working conditions to achieve social justice, which is essential for universal peace. The right to unionize with workers. Workers to form labor unions as a basis for carrying out collective bargaining as a means for workers and employers to improve working conditions. According to its philosophy, the International Labor Organization (ILO) convention on fair labor practices is based on social justice. Law Number 13 of 2003 concerning Work Safety has determined work packages which are used as a tool to measure employee or worker income, employee or worker work time, and the necessary funds allocated to the following areas:

[9] Zulkarnaen Ibrahim. 2015. *Pengaturan dan Penegakan Hukum Pengupahan dalam Sistem Hukum Ketenagakerjaan*. Vol. 22.

[10] Fance M.Wantu. 2015. *pengantar-ilmu-hukum*. 1 ed. Grontalo: UNG Press, hlm 87.

1. Basic wage;

2. All kinds of permanent allowances given to workers and their families, including the price of gifts given to workers free of charge, which if the allowance must be paid by the worker with a subsidy, then as wages is considered the difference between the purchase price and the price paid. must be paid by the worker/laborer.[11]

Regarding wage policies, changes can be made to meet the needs of workers and employers so that the implementation of the Pancasila work relationship runs smoothly and there is balance between the parties. A good salary is a salary that meets life's needs. The workers themselves and their families have a significant impact on the lives of workers and their families to improve their welfare. Therefore, the public understands that the application of the political system in industrial relations, especially those related to the wage payment system, is a political law of the government and employers which aims to guarantee welfare, provide decent wages to workers to achieve social justice and equality, prosperity to achieve state goals. as stated in the preamble to the 1945 Constitution and the fifth principle of Pancasila. The maximum salary paid to employees in a company can be achieved by implementing good policies and legal systems in appropriate human life as stated by Lawrence M. Friedman. In the world of work, salaries are basically always calculated based on the worker's abilities expressed through work productivity. The government intervened because they wanted to be able to align wages so that humanity could live a decent life and achieve productivity, especially by paying attention:

1. Workers' living needs;
2. Social Inequality
3. Work performance;
4. Assessment of humanity and worth diri.

Low wages for workers are felt by workers but are difficult for labor inspection agencies to detect. For formal workers this may be easier to detect, but for informal workers it will be easier if there is no reporting from the community or workers. In addition, the gap between low worker wages and high company wages occurs at regional and national levels, giving rise to social jealousy. A wage system that guarantees social justice for workers and employers is a system for implementing wage system policies in accordance with statutory regulations and can be implemented well because social justice is in line with the objectives of industrial relations and the existence of the government as well as experts and mediators. in dispute. Wage policy is the result of an investigation to meet the needs of workers and their families while still paying attention to the company's interests so that employers are not disadvantaged. If there is no sense of

[11] Hani, dan Nurhidayat. 2019. *Pelaksanaan Hukum Ketenagakerjaan Di Indonesia*. Pamulang, hlm 65.

belonging or shared goals among people in a country, then other people's needs will not be met. Similar goals between the general public in a nation and governments in neighboring countries are necessary. Our country's main goal is to protect all Indonesian citizens and indigenous peoples. This means weakening people's sense of self-esteem and morality towards the homes they live in, both at home and in other countries. According to the General Explanation of the 1945 NRI Constitution, Indonesia is based on the supremacy of law, and its government is based on a constitutional system (basic law). In other words, Indonesia is referred to as a legal jurisdiction. State law refers to a nation that has legal supremacy; Thus, it can be said that a first-class country is a country that has a combination of law and justice.

Fair Wage System for Workers and Entrepreneurs

Regarding wage policies, changes can be made to meet the needs of workers and employers so that the implementation of the Pancasila work relationship runs smoothly and there is balance between the parties. A good salary is a salary that meets life's needs. The workers themselves and their families have a significant impact on the lives of workers and their families to improve their welfare. Therefore, the public understands that the application of the political system in industrial relations, especially those related to the wage payment system, is a political law of the government and employers which aims to guarantee welfare, provide decent wages to workers to achieve justice and social equality. welfare to achieve state goals as stated in the preamble to the 1945 Constitution and the fifth principle of Pancasila. The maximum salary paid to employees in a company can be achieved by implementing good policies and legal systems in human life.

Wages are something that is not important in work. Therefore, the wage mechanism was specifically changed in Law Number 13 of 2003 concerning Employment. According to Article 1 Article 30 of Law Number 13 of 2003 concerning Wages and Salaries, wages are the wages of a worker or laborer which are agreed upon and expressed in money as a contribution from the employer or worker to the worker who is employed. and paid based on work contracts, work policies, or laws that regulate wages and benefits, including the obligations of workers and groups of workers for work and/or services that have been completed or will be completed. In the workplace, performance evaluation is always based on employee work performance as demonstrated by their productivity. The government intervened because it wanted to ensure that people could live healthier and more productive lives, especially by emphasizing:

1. Workers' living needs;
2. Social Inequality
3. Work performance;
4. Assessment of humanity and self-worth.

Low wages for workers are needed by workers, but it is difficult for labor inspection agencies to detect them. For formal jobs, this may be easier to analyze, but informal jobs may be easier if there is no input from the public or coworkers. In addition, tensions between high-performing employees and low-performing companies occur at both regional and national levels, giving rise to public unrest. A wage system that guarantees social justice for workers and employers is a system for implementing wage system policies in accordance with statutory regulations and can be implemented well because social justice is in line with the objectives of industrial relations and the existence of the government as well as experts and mediators. in view. Learning investigations to meet the needs of workers and families, but reveal the company's interests so that the business is not harmed, is the result of remuneration. Wages for service employers for workers after workers who have been agreed to carry out their duties and work relationships that are mandatory. After workers are required to carry out the performance assigned by the employer, it is mandatory for the employer to provide wages for workers in the form of money in accordance with what was agreed. UUKK confirms what is meant by the term wages. Wages are the rights of workers/employees which are received and expressed in the form of money as compensation for employers or employers to workers/employees as determined and paid as stated in the work agreement, or statutory regulations, including allowances for workers and their families for work or services. which has been done. Determination of wages that are protected by the government in order to realize prosperity for the Indonesian people without exception

4. Conclusion

Employment relations are regulated by statutory regulations which aim to balance material and spiritual needs, protect workers' rights, and promote conducive industrial relations. However, existing wages in Indonesia cannot be allowed to continue because of conflicts of interest between workers and employers, which can result in unconducive industrial relations and hamper national development goals. Legal principles such as clarity, fairness and legal certainty must serve as guidelines in making laws and regulations that are adapted to the needs of the industrial relations community. Theoretical understanding of legal development includes structural, substantive and cultural components of law. A justice-based wage system must be determined based on social justice, the right to organize and collective bargaining. Law Number 13 of the Year has established work packages that measure employee income, working time, and required funds allocated to various fields. Wage policies can be changed to meet the needs of workers and employers, and a good salary is one that meets life's needs. The government intervenes in wage policy to align wages, ensure a decent standard of living, and achieve productivity. Factors such as workers' subsistence needs, social inequality, work performance, and assessments of humanity and self-worth must be considered. A wage system that guarantees social justice for workers and employers is very important in implementing wage system policies in accordance with

statutory regulations.

Refrences

Fance M.Wantu. 2015. *pengantar-ilmu-hukum*. 1 ed. Grontalo: UNG Press.

Hakim. 2003. *Hukum Ketenagakerjaan Indonesia Berdasarkan Undang-undang No 13 Tahun 2003*. Bandung: PT.Citra Aditya Bakti.

Hani, dan Nurhidayat. 2019. *Pelaksanaan Hukum Ketenagakerjaan Di Indonesia*. Pamulang.

Ida Hanifah, 2020. "Peran Dan Tanggung Jawab Negara Dalam Perlindungan Hukum Tenaga Kerja Indonesia Yang Bermasalah Di Luar Negeri." *DE LEGA LATA* Vol. 5.

Izzati, Nabiyla Risfa. 2022. "Deregulation in Job Creation Law: The Future of Indonesian Labor Law." *Padjadjaran Jurnal Ilmu Hukum* Vol. 9, No. 2.

Lalu Husni. 2008. *Pengantar Hukum Ketengakerjaan Indonesia*. VIII. Jakarat: Grafindo Persada.

Rachmad Abduh. 2023. "Justice In Efforts To Improve Employment Welfare." *DE LEGA LATA: Jurnal Ilmu Hukum* Vol. 8, No. 2..

Vasilev, Aleksandar. 2020. "Are 'fair' wages quantitatively important for business cycle fluctuations in Bulgaria?" *Review of Economic Perspectives* Vol. 20, No. 1.

Vasilev, Aleksandar. 2018. *Theoretical and Practical Research in Economic Fields*. Vol. 9.

Yetniwati. 2019. "Pengaturan Upah Berdasarkan Atas Prinsip Keadilan." *LITIGASI* Vol. 18, No. 2.

Zulkarnaen Ibrahim. 2015. *Pengaturan dan Penegakan Hukum Pengupahan dalam Sistem Hukum Ketenagakerjaan*. Vol. 22