

PROMOTING DECENT LIVING FOR DAILY WORKERS IN ACCORDANCE WITH INDONESIAN GOVERNMENT REGULATION NO. 36 OF 2021 ON WAGES

Thamrin S, Surizki Febrianto, Lidia Febrianti, Puti Mayang Seruni

Faculty of Law Universitas Islam Riau
Kaharuddin Nst No. 113 Pekanbaru, Riau 28284
E-mail: febriantilidia@law.uir.ac.id; Phone Number : +62 852-6575-9115

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ABSTRACT

Daily workers often express concerns about whether their wages are sufficient to provide them with a decent standard of living. Government Regulation Number 36 of 2021 regarding Wages states that the calculation of minimum wage is determined based on economic and employment conditions, which differs from the previous regulation that emphasized setting the minimum wage according to a decent living standard. This change has had a significant impact on wage determination. This study aims to examine how the latest wage policy can contribute to ensuring a decent living for daily laborers in Indonesia. The study adopts a normative legal research method and provides analytical descriptive data. It involves analyzing legal materials and comparing them with the main issues at hand. The calculation of wages for daily laborers is based on factors such as working hours, working days, or work results. However, it is important to note that the mandatory wage component for daily workers is solely the minimum wage, excluding allowances and non-wage income components. This confirms that the current wage structure for daily workers falls short of meeting the needs of a decent life for both workers and their families, as it solely relies on working hours. Therefore, it is crucial to prioritize efforts to improve the standard of living for daily workers in Indonesia.

Keywords: Daily workers, Wages, Decent living, Indonesia.

INTRODUCTION

Employees have an important role in a company and economic situation. Without them, it would be impossible for a company to operate and have an impact in economic situation (Asikin, Wahab, Husni, & Asyhadie, 2010). Relating to this,

the most happening discussion in industrial relation is about “decent wage” which play an important role in how someone works for others (Asyhadie, 2007).

Wages and work are reciprocal rights and obligations between employees and companies (Seruni, 2022). Wages are part of economic protection for workers in the form of sufficient income (Zulkarnaen, 2020). Today, the policy of determining minimum wages in the framework of wage protection still undergoes many problems as a result of not realizing a uniformity on the concept of wages. There are still differences, since the parties involved have different perspectives (S, Febrianti, & Parman, 2019). Therefore, the long debate on the amount of wages agreed between employers and employees can never find common ground. This induces a conflict between employers and employees. The latter think that their wages are not enough, hence they are unable to live a decent living. The former see it as part of the cost of production, where the greater the wage; the greater the production expenditure. On the other hand, the Government views wages as a need for workers to meet adequate needs, increase worker productivity, and increase purchasing power (Santoso & Wijayanti, 2020).

Wage is a crucial issue that requires an intermediary. This is because determining wages for workers must reflect justice, feasibility, and policy, where the income received by a worker comes from wages (Safwan & Benazir, 2023). The government is therefore needed to determine the amount of fair wages, where to determine the amount of minimum wage; the government must pay attention to several aspects, such as the technical aspects of wages, economic aspects, and legal aspects that make up the basis for the implementation of fair wages. Based on the Indonesian Law No. 13 of 2003 concerning Manpower in Article 89 paragraph (2) which reads, "The minimum wage as referred to in paragraph (1) is directed to the achieve a decent living"; employees should have a decent living, both for themselves and their families.

The minimum wage in Indonesia, which has increased annually, is considered by the government and employers as proof of their commitment in improving the employees' welfare. However, the debate between employees and employers concerning this particular problem proves that the relativity of increasing the

minimum wage to achieve a decent living is related to employees' (and their families') welfare. The debate has happened more often, especially since the plan is first introduced, and up to the issuance of the Indonesian Law No. 11 of 2021 concerning Job Creation.

Actually, in the law which applies the Omnibus Law model; the calculation of wages is no longer conducted based on “*Kehidupan Hidup Layak*” or decent living standard (*KHL*). Article 25 of the Government Regulation No. 36 of 2021 concerning Wages stated that minimum wage is currently calculated based on economic and labor conditions; which include the ‘purchasing power’ parity, labor absorption rate and median wages variables - whose data are sourced from the authorized institution in the field of statistics. This new wage pattern is considered by employees as a disadvantage, since with the removal of *KHL*, there is a possibility that their wages will decrease due to the fact that the calculation is no longer seen from the perspective of laborers' needs (CNN Indonesia, 2021). Furthermore, the median wage (which is the range of upper and lower limits) in the Government Regulation increased the minimum wage in 2022, where the result is below inflation or economic growth (Idris, 2021).

Changes in the basis of this calculation would lead to obscure calculation pattern which adversely fulfill the needs of a decent living for the employees and their families, since the real purpose of employees in doing their work is to have a decent living (where their income is able to fulfill their needs, such as food and drink, clothing, housing, education, health, recreation, and old-age insurance) (Khakim, 2003). In the theory of labor law, the government intervenes in the regulation of wages so that employees can use it to have a decent living, but without making it a burden to the employers. As stated in the letter “d” of the Indonesian Law no. 13 of 2003 concerning Manpower:

“Protection of employees is intended to ensure their basic rights and guarantee equal opportunity and treatment without discrimination on any basis to realize their welfare by paying attention to the development of the business world”.

It can be said that if this new wage calculation pattern cannot give a proper life to employees, there is no point in making a series of rules concerning wages.

This is because the purpose of setting wages fails to be achieved. As stated in Art 27 paragraph 2 of the constitution of the republic of indonesia of 1945: “Each citizen shall be entitled to an occupation and an existence proper for a human being.”

This problem is also faced by employees who are classified as ‘daily workers’. Unstable and uncertain works (unlike 'ordinary employees') also invoke the aforementioned problem. The main question is whether or not the wages they receive are comparable to their work hour. Especially, with the new wage scheme after the creation of Law No. 11 of 2021 concerning Job Creation, which gives major changes in the wage system, as further regulated in Government Regulation No. 36 of 2021 concerning Wages.

This is important since they are the backbone of the nation's economy who also contributes to the country's economic development. Moreover, they are also Indonesians who have the right to have a decent living, as stated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

RESEARCH METHOD

This article type used normative legal research, which is legal research performed by examining library materials or secondary data (Soekanto & Mamudji, 2010). Therefore, this research examines secondary data obtained that are related to the concerning problem.

The data source used in normative research is secondary data, which can be grouped into three legal materials, which are primary, secondary and tertiary legal materials. Primary materials came from several legal material, especially Law No. 11 of 2021 concerning Job Creation and Government Regulation No. 36 of 2021 concerning Wages. Secondary material came from several research result and books as cited in this article. By using these legal materials (and, if necessary, by using non-legal materials as supports); the researchers are able to draw conclusions which answer the problem in question (Marzuki, 2010).

The data from library research are analyzed qualitatively. A qualitative analysis is a research method done by collecting, analyzing, and linking information

obtained from the results of document studies with related problems. It produces descriptive data analysis. The results of the research are then presented descriptively, and afterwards, the material collected is poured in the form of a logical and systematic description and will then be linked to the results of the literature study. Finally, it is analyzed so as to answer the formulation of the problem. The conclusions in the research to be conducted are drawn together based on deductive logic. Drawing conclusions deductively means to draw the conclusions from general to specific things.

RESEARCH OUTCOME AND DISCUSSION

1) Wage Policy Based on the Government Regulation No. 36 of 2021 concerning Wages

Employees are one of the important components of every business, since they role are crucial in a company. A balanced relationship between them and their employers is important so as to create harmonious industrial relation. The pattern of industrial relations used in Indonesia is often referred to as “*Hubungan Industrial Pancasila*” or “*Pancasila Industrial Relations*”, where it recognizes and believes that employees are not just factors of production, but individuals who have their own dignity (Rumimpunu, 2014). Pancasila Industrial Relations is a relationship system formed between actors in the process of producing goods and/or services that consists of elements of entrepreneurs, employees and the government based on the values of *Pancasila* and the 1945 Constitution of the Republic of Indonesia (Taryono, Purnomosidi, & Riyanti, 2019).

Pancasila industrial relation requires a balance of rights and obligations between employees and employers, which is hard to apply due to the conflicting interests between them. The interest of entrepreneurs is to get big profits with small capital, which in turn causes them to pay a small amount of wage to reduce the production costs. This is not in accordance with the desire of employees who work to get the highest wages to fulfill their daily needs.

Paying wages is an absolute obligation for employers and is a worker's right as stated in article 1602a of the Civil Code (Kahpi, 2018).

The state is obliged to protect and maintain the rights of workers as a form of fulfilling human rights in wage issues (Bawono & Prayitno, 2022). Therefore, the concept of setting a minimum wage is intended as a safety net so that workers' wages do not continue to fall as a result of an imbalance in the labor market (Fitriani, Satria, Astono, Sitorus, & Utomo, 2022). Wage policy is a government tool to improve the employees' welfare, which unfortunately does not always work (considering that the setting for minimum wages in reality is often a problem for companies in terms of absorbing all employees) (Wihastuti & Rahmatullah, 2018). The workforce tends to increase every of, while the available job opportunities have not been able to satisfy the work needs in accordance with the amount of job seekers (Wulandari & Sa'adah, 2019). Therefore, today there are still employees who work but are underpaid. The issue of wages is a dilemma for employees and employers. They need a regulation that can minimize the conflicts between them to prevent disharmony in industrial relations (Sudiarawan & Martana, 2019). This is what makes the government, as the third element of industrial relations, issue the regulations concerning wages; namely to achieve uniformity of wages which are sufficient for employees but without being a burden for the employers.

The latest wage policy currently refers to the Government Regulation No. 36 of 2022 concerning Wages. It contains several substantial changes if compared to the Government Regulation No. 78 of 2015 concerning Wages. Although there are differences, the purpose of the regulation is to achieve income that can provide a decent living. The current wage system development policy refers to the aspect of protecting wages for employees to achieve prosperity, by still paying attention to the power of the companies and the condition of the national economy. From this policy, it is hoped that a fair wage system can soon be realized. Justice in the settlement of wages will be guided by the proper principles of wages (Yetniwati, 2017).

Minimum wage is set to increase wages for employees who are still underpaid and aims to protect them from employers or companies that provide inadequate wages, as well as to increase the 'purchasing power for employees' to improve the economic conditions in a particular area (Sayyidah & Effendi, 2020). Minimum wage is correlated with poverty. Every time the minimum wage increases by one hundred thousand rupiah, the poverty rate will decrease by 0.00008% (Sari, 2021). As a policy, the minimum wage is not only a minimum wage limit in general. However, it also affects income increases and has an important impact on reducing poverty and income inequality (Sungkar, Nazamuddin, & Nasir, 2015). New things set in the Government Regulation No. 36 of 2021 concerning wages, especially on the settlement for minimum wage, are such as:

1. The settlement for minimum wage of a province is based on the economic and labor conditions. Based on Article 25 of the Government Regulation No.36 of 2021 concerning minimum wage; it consists of the provincial minimum wage and the regency/city minimum wage with certain conditions. It is determined based on economic and employment conditions, which include 'purchasing power' parity, labor absorption rates and median wages variables. All of these data will later be issued by the authorized institution in the field of statistics
2. The Settlement for minimum wage for the districts/cities refers to the regional economic growth. The settlement for minimum wage of regencies/cities is determined based on the inflation there. The inflation data will be obtained from the authorized institution in the field of statistics.
3. The Loss of a decent living's components

In Article 43 of the Government Regulation No. 78 of 2015 concerning wages, it is explained that the settlement for minimum wage is done each of, based on the need for a decent living and by also considering the economic growth. The need for a decent living is calculated based on how much an employee needs to live. It will be re-calculated within a

period of five ofs. This review of the types of components and the need for a decent living is conducted by the National Wage Council by using the data and information sourced from the authorized institution in the field of statistics.

In the Government Regulation No. 78 of 2015 concerning wages, it is apparent that the calculation of minimum wage is still started with the needs of employees. However, the regulation is still unsatisfactory because the starting point is only on the needs of a single employee, whereas in reality; the purpose of one's work is not only to meet his/her needs, but also his/her family.

The Government Regulation No. 36 of 2021 surprisingly removes this component, where it is replaced with other components such as economic conditions and employment. This is uncertain because the economic condition is contingent, contrary to the nature of the proper living standards that have to be certain as the fundamental rights in industrial relations (Hidayah, R. Cloet, & Pradhan, 2021). It appears that there has been a paradigm shift regarding the setting of wage, where it is no longer based on the needs of employees. This new wage pattern has the potential to cause disadvantage to employees, since the results may be lower than the settlement made based on their needs. Furthermore, the median wage (which is the range of upper and lower limits) in the Government Regulation has caused an increase in the minimum wage in 2022, where the results are below the inflation or economic growth (Idris, 2021).

4. The Loss of sectoral minimum wages

The sectoral minimum wage based on article 49 of the Government Regulation No. 78 of 2015 is the minimum wage which is set based on an agreement between the governor and the employers' association and labor union in the concerning sector. The provincial sectoral minimum wage is set to be higher than the provincial minimum wage. Similarly, sectoral

minimum wages for districts/cities must also be higher than the concerning district/city minimum wages.

The removal of sectoral minimum wage can also create new problems in the field, since employees see it as an "unfair low-wage regime". For instance, employees in the automotive sector will be paid the same amount as those in the garment sector, which actually has a higher job risk (Abas, 2022).

2) Government Regulation Number 36 of 2021 Concerning Wages in Providing Promoting a Decent Living for Daily Workers

Daily workers are employees who are hired for certain jobs which vary in terms of time and volume of work, where their wages are paid based on attendance. This is regulated in Article 10 of the Government Regulation No. 35 of 2021 concerning Work Agreements for a Particular Period of Time, Outsourcing, Working Time, Rest Time, and Termination of Employment. Because the job given is calculated based on attendance or what is done on one day; the calculation of wages is different from 'ordinary employees' who receive monthly wage. In Article 14 of the Government Regulation No. 36 of 2021 concerning Wages; wages are determined based on units of time and results. In the former, it can be calculated based on hours, days or months. This provision is regulated in such a way so as to accommodate various types of workers, both full-time and part-time. For daily workers, the calculation of wages can be done based on the working hours, working days and work results which have been agreed.

Article 16 paragraph (4) of the Government Regulation No. 36 of 2021 concerning Wages has determined the calculation formula for calculating hourly wages, which is:

Hourly wages = $\frac{\text{Monthly Wages}}{\text{...}}$

As for the formula for calculating wages paid based on working days, it is regulated in Article 17 of the Government Regulation No. 36 of 2021 concerning Wages, which is:

1. Companies with a working time system of 6 (six) days a week:

$$\text{Daily Wage} = \frac{\text{Monthly Wage}}{25}$$

2. Companies with a working time system of 5 (five) days a week:

$$\text{Daily Wage} = \frac{\text{Monthly Wage}}{21}$$

Daily workers are legally only able to work on the basis of a daily work agreement, where they work less than 21 days in a month. If they work for more than 21 days per month for 3 consecutive months, the daily work agreement will be invalid. The consequence for the entrepreneur is that the day laborer will be a permanent worker (by law) on the basis of an Indefinite Work Agreement (*PKWTT*). This is a dilemma for daily workers themselves. On the one hand, it protects them from uncertainty, since by doing a certain job every day on a regular basis; the essence of them as 'daily workers' will vanish and they will be permanent workers. However, on the other hand, this can also put them at a disadvantage, since employers tend to give work breaks every 21 days or every less than three months to avoid changing their status. As a result, this will affect the uncertainty of wages that they receive. Considering that if on one day they do not work; they will not be paid.

When seen from the perspective of the settlement for wages in general, as well as in terms of their status and working relationship with employers; daily laborers are still not in an advantageous position. The principle of 'no work no pay' dominates the employment relationship on the basis of daily work agreements. Permanent workers (on the basis of *PKWTT*) get several exceptions in the application of the aforementioned principle, such as when they sick or certain leave, which has been regulated in laws and regulations - as well as work agreements. Even though permanent employees cannot work (because of those reasons), their wages are still paid properly. This is different

from daily workers who, if on a working day they are absent (due to sickness or other reasons), will not be paid because they do not work.

The wage component which are mandatory for daily workers is just the minimum wage (without allowances). Based on article 24 of the Government Regulation No. 36 of 2021 concerning Wages; it only applies to employees with a working period of less than one of - where the rest must be guided by the structure and scale of wages. This means that daily workers whose working period is not counted will only receive minimum wage. Based on article 23 of the Government Regulation No. 36 of 2021, minimum wage is the lowest monthly wage which may consist of basic wages (without allowances) or basic wages along with fixed allowances. As for other things included in the wage component, such as allowances; and non-wage income components, such as religious holiday allowances, incentives, bonuses, compensation for work facilities and service fees for certain businesses - daily workers may not get it (Febrianti, Hamzah, Zaharnika, & Seruni, 2022). This is because the relationship between them and entrepreneurs is only limited to the working hours and work results in one day. Although the work with the concept of a daily work agreement is done every day, the concept in terms of wages has not changed.

Therefore, it can be said that this series of regulations concerning the status and income of daily workers that are mainly regulated in the Government Regulation No. 36 of 2021 concerning wages is only able to accommodate income in the form of basic wages for daily workers. With a scheme like this, it is therefore safe to say that the wage scheme for daily workers cannot meet the needs of a decent living for them and their families. According to the Indonesian statistics agency, until 2022 there are around 14 million workers who are still paid inadequate wages, giving rise to feelings of dissatisfaction with the work they are doing (Alvian, 2023). Actually, in Government Regulation No. 36 of 2021 concerning Wages, it is emphasized that the wage policy is set as an effort to realize the rights of employees to achieve a decent living. The rights for decent wages is closely related to human rights in the

economic, social and cultural fields (Budijanto, 2017). In Article 6, it is explained that income that can provide a decent living is the income (both wages and non-paid wages), from the results of employees' work, which are able to fulfill their needs.

CONCLUSION

The most recent wage policy is outlined in Government Regulation No. 36 of 2022, which specifically addresses wages. The primary objective of this policy is to ensure that employees can attain a decent standard of living. Notably, this regulation introduces several new provisions. One significant change is the shift in determining the minimum wage, which is no longer solely based on the components of a decent living. Instead, it now takes into account economic and labor conditions. These conditions encompass factors such as purchasing power parity, labor absorption rate, and median wages. This updated approach aims to create a more comprehensive and balanced framework for determining minimum wages.

The calculation of wages for daily workers is typically based on factors such as working hours, working days, and work performance. In the context of daily work agreements, the principle of 'no work, no pay' governs the employment relationship. This means that if a daily worker is absent due to illness or other reasons, they will not receive payment for that period. The mandatory wage component for daily workers is limited to the minimum wage, without any additional allowances. Other components such as allowances and non-wage income, including religious holiday allowances, incentives, bonuses, compensation for work facilities, and service fees in certain industries, are not obligatory for daily workers. This is because the relationship between daily workers and employers is solely focused on the working time and results achieved within a single day. It is important to note that this wage scheme for daily workers may not provide a sufficient income to support a decent standard of living for both the workers and their families. So the Indonesian government should pay serious attention to this matter for better formulation of policy and better life for daily workers.

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