

Initiating Fair Wages For Home-Based Workers Regulations In Indonesia

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2 Initiating Fair Wages For Home-Based Workers Regulations In Indonesia

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Abstract

Initiating regulations about fair wages for home-based workers is crucial in the effort of recognizing the legal status of their existence. Uniformity in wage payment system is expected to bring welfare for the workers and to maintain socioeconomic stability for the sustainable development in Indonesia. Fair wage is defined as wage that is justly received by workers as a guideline to be used as a parameter for decent wage for Indonesian home-based workers. The initiation is expected to affect waging policies that favor home-based workers, so the payment they have received can be considered decent. The appealing issues regarding decent wages for humanity are mechanisms and principles used in making decisions about decent wage for home-based workers.

Keywords: wage, fair, home-based worker

1. Introduction

One of the efforts in bringing welfare for home-based workers in Indonesia is by providing decent wages. There are several laws and regulations regarding “minimum wage” (1). Wage is a source of income that is used to fulfill workers’ living needs decently and fairly. In this globalization era (2), creating prosperity must be based on the mandate of Indonesian Constitution and Pancasila, the philosophy and the foundation of Indonesia.

Legal protection is always related to power. There are two types of power that has always been in the spotlight: the citizens (who are governed) and the government (who governs). Legal protection for workers is essential considering that their position is inferior. Employers, on the contrary, are superior. In the

The appealing issues regarding decent wages for humanity are measured not only quantitatively (the amount of wage) but also qualitatively, which is the mechanism (3) (4) (5) and principles used in the decision making of decent wage for home-based workers. The mechanism of determining the amount of wages for home-based workers is human in essence and humane in nature by involving all aspects, Although laws and regulations have clearly mentioned about the arrangement of waging system, the term decent wage for home-based workers is still differently interpreted by employers, government, and workers. This cause variations in opinion, and the variations become problems in the relationship between them.

2. Research Problem

Initiating fair wages for home-based workers according to laws and regulations in Indonesia.

3. Discussion

The principle of social justice is mentioned in the Preamble of Indonesian Constitution, and people's right of entitling occupations is written in the Paragraph 28D subparagraph (2). Social justice, which is a basic right, is materialized in protections for workers including home-based workers. Therefore, the government must perform their duties by supervising employers and penalizing those who refuse or violate regulations stated in Law number 13 of 2013 on labor law. Justice creates balance between the rights and obligations of home-based workers, thus it provides protections for home-based workers through cooperation between workers, employers, and government. Good employment relationship in industrial connections generates a harmonious and peaceful legal association and protects the rights of home-based workers and workers or labors in general according to human's dignity (6).

The appealing issues regarding decent wages for humanity are measured not only quantitatively (the amount of wage) but also qualitatively, which is the mechanism (3) (4) (5) and principles used in the decision making of decent wage for home-based workers. The mechanism of determining the amount of wages for home-based workers is human in essence and humane in nature by involving all aspects (5) (7). It means that the determination is not performed only by one of the parties, but it involves other parties. Therefore, the determination becomes a form of

recognition and appreciation for other parties' existence. The process of determining the amount of wage for home-based workers should accommodate the aspirations of all related parties through agreements by paying attention to the interest of all parties. The materialization of social justice will be perceptible if the process of determining the amount of wage for home-based workers is done using the aforementioned procedure and mechanism. The process should pay attention to the interest of all parties, those who are actively and collectively involved in the mutual decision.

Although laws and regulations have clearly mentioned about the arrangement of waging system, the term decent wage for home-based workers is still differently interpreted by employers, government, and workers. This cause variations in opinion, and the variations become problems in the relationship between them. Furthermore, the problems create inconsistencies with objectives mentioned in Paragraph 27 subparagraph (2) and Paragraph 28D subparagraph (2) of Indonesian Constitution, which regulate the right of each citizen to be fairly and rightfully entitled with an occupation in employment relationships.

According to the welfare legal state theory, the state through its government is responsible for the life sustainability of its citizens through fair and rightful job entitlement in employment relationships between workers and employers. In the concept of welfare legal state, the state takes over the responsibility of providing basic welfare for its citizens. Welfare state is a democratic governance (8), (9) that is

responsible for minimal people's welfare. In this context the government must manage the state's asset distribution so that there are no citizens who are living in hunger and die because they cannot afford the hospital (10). It also applies in the context of workers, particularly home-based workers, where the state is required to give protection for the welfare of each citizen including the right of decent wage for home-based workers. Therefore, welfare state can be considered as socialistic, which prioritizes both political and economic welfare. Welfare state holds the principles of liberty, equality, fraternity, and mutuality. (11) 1) Just because they are humans, all citizens deserve basic welfare and minimum living; 2) community is a union of people who are responsible for the minimum living of its members; and 3) full employment must be supported by government policies as the basis for realizing social justice.

Based on the phrases above, the state must arrange its policies to bring welfare to all Indonesians, especially the life of workers and home-based workers in particular, in fair, decent, and dignified manners based on social justice. In other words, welfare legal state's effort of placing labors by providing protection is the main priority. Sanford Levinson even mentioned that issues regarding the life and the welfare of citizens is the responsibility of the state through its government (12). The state must not ignore people's welfare as it has been mandated in the Preamble of Indonesian Constitution. The state must always strive for people's welfare including the welfare of workers, particularly home-based workers, in fair, decent, and dignified manners. (13), (14).

In regards to the rights for employment, Paragraph 28D subparagraph (2) of Indonesian Constitution mentions that "Every person is entitled to an occupation as well as to get income and a fair and proper treatment in labor relations". This normative provision affirms the constitutionality of the right to work (15) and the right in work (16)s as human rights. The fulfillment of rights for occupations is the amalgamation and implementation of worker's normative rights such as wages, health, safety, etc. They are rights that must be provided for labors, particularly home-based workers. Justice and humanity principles in law cannot be put aside in order to create a country that wants to prosper its citizens. This means that Indonesia believes in welfare state, so law is a crucial instrument to actualize the state's objective of bringing prosperity for its citizens as mentioned in the preamble of Indonesian Constitution.

Protection for home-based workers particularly regarding their wage includes provision that their wage must be paid according to the applicable regulations, that decent wage is regulated by the authorities, and that it complies with Indonesian positive law and regulation. In parallel with the description above, wage in labor system is inseparable from justice (3) (5) (15). Etymologically, justice in Indonesian is "keadilan", derived from the Arabic words of "adl". In English justice has the same meaning as Latin word of "justitia", rooted from the word "jus", which means law or rights. In conjunction with the concept of justice, the word is interpreted as (1) the quality of being righteous, honest; (2) impartial, fair in representing facts, (3) vindictive, rewarding, sound in reasoning, rightful, and valid, and (6) just or lawful

(Munir Fuady, 2003). Roman jurists formulated justice as *justitia est constant et perpetua voluntas jus suum cuique tribuendi*, justice is the constant and perpetual will to render to each man what is his due. This is relevant with the formulation written in Black's Law Dictionary (16), which defines justice as the constant and perpetual disposition to render every man his due. The same definition is also coined by the Institute of Justinian, in which justice is the constant and continual purpose which given to everyone his own (17) (18).

In the context of communal life, the role of the state becomes very significant, which is the highest virtue in realizing justice for the community. The state is an effort that brings people to one goal: justice. The general virtue of justice will arise, or be exist, if each group of people run its own special functions (19). Therefore, if every individual plays their specific role optimally as required by law, the real balance or justice will be achieved (20) (8).

2 Conclusion

Initiating fair wage for home-based workers in Indonesia and its legal implications. In order to initiate a fair wage for home-based workers, interference from the state is required, as mandated by the constitution Paragraph 27 subparagraph (2) and Paragraph 28D subparagraph 2 and reinforced by consideration D of labor law mentioning that "protection for labors is meant to guarantee the basic rights of workers or labors and guarantee equal opportunities and treatments without any discrimination of any basis to bring prosperity for workers or labors and their families without ignoring business development".

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Keadilan distributif adalah identik dengan keadilan atas dasar kesamaan proporsional, yakni memberi setiap orang yang menjadi haknya. Kedudukan keadilan berbasis kesamaan adalah terbagi menjadi kesamaan numerik dan kesamaan proporsional, makna kesamaa.

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