

# The Concept of Proper Wages for Workers Based on Social Justice

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## The Concept of Proper Wages for Workers Based on Social Justice

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### Abstract

The phenomenon of worker remuneration systems experiences fluctuating and situational developments. The development of increasingly complicated situations in economic, social, cultural, and political correlation encourages the state (government) to be involved in legal protection of the for workers' welfare including the right of workers to get proper wages. With the involvement of the state in manpower field, as the responsibility of the state, namely determining the interests of the community in order to build prosperity as mandated by the Indonesia Constitution of 1945 in Article 27 (2) and Article 28D (2), which are translated into Law Number 13 of 2003 concerning manpower as applicable rule. This research study is a legal research, which examines laws and regulations in a coherent legal system. The conceptual approach to the regulations (statute approach) is then analyzed using analytical prescriptive. The indicators of worker's welfare in Indonesia, especially wages, with the provisions of the legislation that regulates "minimum wages" as a the basis for providing proper wages for workers must be heeded by employers who employ person or a group of people in business activities. Wages are important for workers laborers fulfilling their daily needs properly and creating a prosperous society in accordance with the constitutional mandate in Indonesia.

**Keywords:** wages, home base workers, social justice

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### A. Introduction

Wages have always been the most important issue for workers so that employers should pay more attention to determine a fair and reasonable wage system. Wages are the rights of workers obtained from work relationships and that right ends as the termination of the relationships (Rizki Saputra, 2007: pp. 94). Thus, wages are irreducible rights for workers be reduced in accordance with according to agreements based on applicable laws and regulations. Furthermore, for employers wages are components calculated as production costs or business capital. If the production cost is high and not compatible with the selling value of the product, it will reduce employer's profit, or even create losses. This happens because the conditions are inversely proportional to the demands of workers, who want higher wages. Employers expect neither small profit nor losses, while workers want higher wages. This conflict of interest between the two has not reached a better settlement point.

Identifying the causes and finding the solution are the duty and responsibility of all stakeholders, especially those related to proper wages for workers based on social justice. Understanding the labor/employment context, the involvement of the state manifests itself with the existence of applicable legislation concerning wage system, work place health and safety, other matter. It is basically the government's duty to carry out state functions in the formulation of the national objectives of the Republic of Indonesia, as the fourth paragraph of the introduction of 1945 Constitution of the Republic of Indonesia, states "realizing justice and advancing public welfare."

The concept of proper wages based on social justice needs to be considered as a reference or guideline to obtain a formula on how proper wages are given for the welfare of workers. Welfare is directly proportional to the fulfillment of elements of social justice. In line with this, social justice can be associated with the expansion of equality meaning, which is then translated into the opportunity of getting jobs as well as receiving a fair and proper treatment and compensation according to the work as stipulated in Article 27 paragraph (2) and Article 28D paragraph (2) of the Indonesia Constitution of 1945 which constitutes the manifestation or implementation of social justice principles.

## B. Method

This research uses the law method (*legal research*) as in (Soerjono Soekanto et al, 2001, p.13-14) that examines legislation in a coherent legal system and legal constitution (conceptual approach). Using analytical prescriptive, this study aims to prescribe what should be the essence of legal research that adheres to the law characteristics.

## C. Analysis and Discussion

### 1. Definition of wages and the supporting theories

In the general provisions of Manpower Act, wages for workers is described as "workers' rights which are provided and expressed in the form of money as the compensation from employers determined and paid based on work agreement, or legislation, including benefits for them and their families for the work and or services they have will carry out" (Republic of Indonesia: 2013, pp. 6). Based on Article 1 of Government Regulations Number 8 of 1981 concerning wage protection, wages are "the acceptance of compensations from employers to workers for a works or services that have been or will be carried out, stated or valued in the form of money determined according an agreement, or legislation, and is paid on the basis of the work agreement between employers and workers, including benefits for both the workers themselves and their families".

In line with this, Article 1 number 30 of the Manpower Act states that wages are workers' rights received and expressed in the form of money from employers to workers who are determined and paid according to a work agreement or legislation, including allowances for them and their families for work and or services they have or will carry out. Wages have become a common feature in various societies where labor relations are determined and controlled by employers and those who employ workers. The first definition can be seen from the limitations given by Imam Soepomo, who stated that wages are payments received by workers as long as they are working or seen working (Republic of Indonesia: 2013, pp. 6). The definition does not seem to show any elements contained in wages, so clarification by seeking a more complete opinion should be made. Furthermore, Edwin B. Flippo said that what is meant by wages is "Prices for services that have been received or given by others for the benefit of a person or legal entity," (Edwin B. Flippo: 1996, pp. 95).

Another opinion that defines wages is the Hoge Raad Jurisprudence in 1953, explaining that wages are: "payment or compensation that must be paid by employer to workers based on work agreements." Another legal experts who provide wages directly referring to what form of wage is given is Van Bakel, who said that: "wages are work products in the form of money or that can be valued by money, which is mainly given by employers to workers, as the opposite value of their work, and which can be collected during or at the end of work relationship", This sense is slightly different since it specifically mentions the word "money" instead of the word reward. The word "money" means that it is not interpreted by other thoughts even though there is a relationship with the results of work.

In Indonesia, the definition of wages has been affirmed in various laws and regulations, one of which is the Manpower Act, which limits wages as "the acceptance of compensations from employers to workers for a job or service that has been or will be carried out, stated or assessed in the form of money based on agreement or statutory regulation and paid on the basis employment agreements between the employer and the laborers including benefits for them and their family ". The same definition of wages can also be seen in Law Number 3 of 1992 concerning Workers' Social Security. The definition is in accordance with the ILO Convention No. 100/1951 concerning remuneration which has been ratified by the Indonesian government through Law No. 80/1957. In the Convention the term of wages refers to ordinary wages or salaries, principal or minimum income that must be paid directly or not, in cash or goods, by employers to workers associated with the job.

In the Indonesian General Dictionary wages are low labor salaries that are paid daily, weekly, or hourly for one work or for certain jobs. Based on the above meanings, the overall understanding clearly contains the same intention, namely that wages are substitutes for services that have been handed over by employers to workers, because the basic purpose of workers doing work is to get enough income to finance their lives and their families, namely a proper life for humanity. As long as a person does a job, he is entitled to a wage or reward that guarantees himself and his family, and the employer must pay his wages. This was revealed by Imam Soepomo, that wages are "payments received by workers as long as they do the work". The emphasis of the notion of wages is "doing work", because sometimes workers cannot work out of their mistakes, but they are still entitled for payments, which are called social security.

The limitation of wages according to the Wage Research Council is the acceptance of rewards from employer to the recipient of job for the service that has been or will be provided, which serves as a guarantee for the continuity of life appropriate with humanity and production, expressed or assessed in the form of money determined according to an agreement the Terms and regulations and paid on the basis of a work agreement between the giver and the recipient of job" (Soerjono Soekanto: 2001, pp. 13-14).

In simple terms, it can be stated that wages can be interpreted as payments or rewards, whose forms can vary given by a person or an agency to other people for their job, work, achievement, or service. In general, wages are income, which are not always in forms of money. The income generated by the workers for their activities as stated

in work agreement plays a very important role in employment relationship, and it also serves as a basis for good labor relationship. Therefore, a worker should get a proper salary, obtaining a sufficient amount of income in order to guarantee the fulfillment of his and his family's needs and satisfaction on the equality of the income with other people who do similar work in the company and other business places in the community.

Similar to the above, the definition of fair wages is the right to get wages according to the law since a person bound himself to work for a company. With the right to a fair wage, it is affirmed that:

- 1) Every worker has the right to get a salary, meaning that every job has the right to be paid as a need that must be fulfilled. The rationale is that everyone has the right to obtain and enjoy the results of his work;
- 2) Everyone is not only entitled to a salary but, also entitled to receive a fair one, where the salary is comparable to the labor he has contributed. The moral basis is the principle of commutative justice, namely equality and balance between what is obtained by the employers from the job and what the worker receives in the form of wages;
- 3) In its principle, there should be no discrimination in the matter of wages to all employees.

Based on its type, wages can be divided into two; the first is, nominal wages, which are a number of wages expressed in the form of money received regularly by workers, and the second is the real wage, namely the ability of the nominal wages received by workers when it is exchanged for goods and services measured by the number of goods and services obtained. In reality, goods and services are necessities for workers. If the amount of goods and services exchanged for a nominal wage is insufficient to meet the living needs of workers and their families, the nominal wage received by workers can be considered as low.

Wages are workers, rights, and as rights, they can be obtained and may occur when there is a work relationship, and the rights will end if the relationship ends (Rizki Saputra, 2007, pp. 94). Thus, wages are irreducible rights of workers based on agreements or applicable legislation. There are provisions of legislation that regulate "minimum wages" for workers in Indonesia. They serve as the basis for providing wages for workers that must be heeded by employers who employ someone or a group of people in a business activity. For workers, wages are a source of income needed to fulfill their daily needs properly. Therefore, wages have always been the most important issue for workers so that employers should pay more attention to determine the proper and humane wage system. Furthermore, wages for employers are components calculated as production costs or business capital. If the cost of production is high and incompatible with the selling value of the product, it will reduce profit or even create losses for employers. This happens because the conditions are inversely proportional to the demands of workers, who expect higher wages. Employers expect neither low profit nor losses, while workers expect to receive high wages. This conflict of interest between the two has not reached a better meeting point. It is the duty and responsibility of the stakeholders to analyze the cause and to formulate the solution to overcome these problems.

There are a number of theories that can be adopted to formulate a better wage system for workers. According to the theory proposed by David Ricardo and Adam Smith, which is known as the natural wage theory, "...the level of wages for workers will be determined by two factors, namely: (www.matristal.com, 2019).

1. The minimum living costs of workers and their families, referred to as natural wages (known as wage theory). Furthermore, the level of cost of living is determined by place, time and customs;
2. Job demand and supply, which is called as market wages. The level of market wages fluctuates around natural wages.

The natural wage theory is based on human nature, where wages are sufficient for the maintenance of the lives of workers, especially homeworkers and their families. In Indonesia wages are determined based on the state's nature according to Pancasila which stated that workers are living things, individuals, social creatures, and God's creatures; all of which have needs that must be met. Actually, the application of this theory is assumed as a form of acknowledgment and respect for human rights because wages according to this theory must be based on human nature itself, so the fulfillment of daily needs is reasonable. It seems that the wage policy particularly in Indonesia regarding minimum wages does not apply this theory. The minimum wages can be seen from the indicators of decent living needs (hereinafter referred to as KHL), which are used as the basis for calculating the minimum wage. Natural wage theory is not developed based on Pancasila philosophy, but it is carried out as it is to the extent of the maintenance of the lives of workers and their families without interpreting more broadly about the development of human welfare.

According to market wage theory, wages are determined by work demand and supply. According to this theory, the wages of labor are largely determined by the conditions of labor supply and demand; the more labor supply, the lower the wage becomes. This market wage theory seems to be more profitable for entrepreneurs in Indonesia; because the number of job seekers and unemployed people continues to increase every year, which means that the supply of labor is increasing every year, and lower the wages. This is often used by employers to reduce wages. If a person refuses to receive the low wage, other people are ready to replace him. Labor practices in Indonesia take advantage of this labor market situation, causing the minimum wage always low.

David Ricardo and Adam Smith's theory seems to be widely adopted and used as a reference in determining wages for workers in Indonesia, known as Provincial Minimum Wages (UMP). The minimum wages are directed



to meeting the minimum living costs: various remuneration policies in Indonesia are known as the Minimum Physical Requirement (KFM), changed into Minimum Life Requirement (KHM) and finally changed into Proper Living Needs (KHL), all of which basically means wages as the basis for meeting the minimum living costs.

The wage system developed by David Ricardo and Adam Smith, which is widely adopted as the basis for determining wages, was actually disliked by Ferdinand Lesalle, referring to it as the Iron Wage theory. According to Ferdinand Lesalle, ... "the wages of workers do not rise above the minimum cost of living because the wages of workers are limited to the minimum cost of living". The workers' wage policy is further referred to as a policy stipulated by producers who are considered as in a stronger position so it is referred to as iron wages. In order to negotiate for better and proper wages policies, workers should gather in unions

In relation to measuring living costs used as the basis for determining wages, the reference is the comparison between the consumer price index and the real wage index. Based on this approach, the minimum wage given in one region will differ to others based on the economic development level, which can be measured from the consumer price index in each place.

The theory of wages conceptualized in the term of "minimum wage" properly given to workers is used as a formula to measure the index of income that they should receive. According to the utopian view, known as ethical theory, it is considered as unethical for employers to give minimum wages. The homeworkers should get a proper wage to meet the living needs of workers and their families, and the wages should be beneficial for their families. The theory of wage system is in line with (profit sharing system), which confirms that this wage system can be excluded by giving bonus if the company gets more profits at the end of each year.

The policy of giving wages to workers experiences quite high dynamics, including the dynamics of change and the factors that affect the wage system. Maulana Ihsan said that there are at least six factors that affect workers' wages, namely:

1. Supply and demand for labor
2. Worker union
3. Company's ability to pay wages
4. Work or company productivity
5. Cost of living or consumer price index
6. The government, in this case laws and regulations issued related to wage systems.

In order to translate wages into an operational system, according to Hendra Poerwanto, there are three systems for paying wages, namely (Hendra Purwanto, www.side.google.com).

1. Time-based wage system; which determines the amount of wages paid to each worker based on his work time. The advantage of this system is that workers do not need to rush carrying out work. Because the small number of units they complete does not affect the amount of the wages they will receive, the quality of the goods produced will be maintained properly. For less skilled workers, this wage system can provide peace of mind at work, because even though they are not able to produce many units, they will still get the wages skilled workers receive. Because their skill is not taken into account in the acquisition of wages compared to other workers who do not have the skills, this system reduces the enthusiasm of carrying out work; there is a tendency for workers to work slowly, because the number of units produced does not affect the wages they receive.
2. Output unit based wage system which determines the amount of wages based on the number of units produced. The more units produced by workers, the more the wages they receive. The advantage of this wage system is that skilled workers will have high morale and will show their skills, because the number of units produced determines the amount of wages they receive. This system can enhance the productivity of the company, because skilled workers will be more eager to receive higher wages. The disadvantage is that workers may work in a hurry to pursue the highest target in producing the units, so the quality of the goods will not be properly maintained.
3. Incentive wage system, which determines the amount of wages based on the length of work; the number of units produced is added as incentives (additional wages), based on the achievements and skills of workers. This system is often referred to as the combination of time and produced units. This system is better than the previous systems, but it requires a complex administrative system, so it requires additional workforce to be able to do this system properly.

In connection with the theory above, the phenomenon of worker remuneration systems that always experiences fluctuating at situational developments exists. In developing and increasingly complicated situations and conditions related to economic, social, cultural, and political relations, the state (government) is encouraged to be involved in carrying out its duties and functions, namely to provide legal protection for workers' welfare. The state's involvement in labor matters is actually related to the state's function. Kuntjoro Purbopranoto said that the government's duty is "... to create, maintain, and improve the atmosphere of social order which ultimately lead to the implementation of public services". (Kuntjoro Purbopranoto: 1981, pp. 24). Thus the state (government) plays the role as public service providers.

According to Pamudji, the task of the government is to carry out policies in order to achieve the objectives of the state and the national goal of the nation. Furthermore, according to Miriam Budiardjo, the national objectives of the Republic of Indonesia are contained in the fourth paragraph of the introduction of 1945 Constitution, namely: "to establish an Indonesian government that protects the entire Indonesian nation and all the people of Indonesia and to promote public welfare, educate the nation, and implement world order based on freedom, eternal peace, and social justice, (Pamudji S: 1982, pp. 27),

Furthermore, Lalu Husni said that the state's involvement in laws concerning labor was intended to "create fair labor relations" (Lalu Husni: 2003, pp 17). Furthermore, it becomes a part of the government's task. If the relationship between workers and employers is socio-economically left to the parties, then the goal of creating social justice in people's lives is difficult to achieve, because stronger parties always tend to control the weaker ones.

Based on the employment context, it can be seen that the government is involved by providing such rules or legislation that must be implemented, both concerning the wage, workplace health and safety, and other systems. It is the government's duty to carry out state functions according to the formulation of national goals of the Republic of Indonesia as contained in the fourth paragraph of the introduction of 1945 Constitution, namely "realizing justice and enhancing public welfare".

In order to provide legal protection to the welfare of workers, state's intervention becomes an eminent necessity. The reformulation of legal provisions concerning the assurance of workers' welfare should be developed. Based on the labor symptoms and phenomena, the legal protection policy formulation that needs to be developed is aimed to improve the quality of legal policy interventions in arranging a more holistic policy. This means that the policy must be carried out by employers and that it is not merely technical policies, because technical issues should be regulated by the employers and union member workers. Every worker has the right to get income that meets the elements of proper life, and the amount of income they receive from their work must be sufficient to meet their living needs and their families in a reasonable manner, including food, clothing, education, health, recreation, and old age insurance.

#### 11 Definition of social justice

In Pancasila the word *fair* is found in the second principle, just and civilized humanity. In addition, it is also contained in the fifth principle, social justice for all people of Indonesia (Agus Santoso: 2014, pp. 92-93), Fair humanitarian values and social justice contain a meaning that the essence of human beings is creatures with culture and air in nature, that is, fair in relation to themselves, fair to other humans, fair to the people of the nation and the state, fair to the environment, and fair to the one God. The consequences of the values of justice must be realized, including:

1. Distributive justice, which is the relationship of justice between the state and its citizens, in the sense that it is the state that must create justice in the form of welfare, assistance, subsidies, and opportunities to live together based on rights and obligations;
2. Legal justice (obedient justice), which is the relationship of justice between citizens and the state. In this issue the party who is obliged to create justice in the form of applicable laws is the state; and
3. Commutative justice, which is the relationship of justice among citizens reciprocally (Kaelan: 2007, pp. 36).

The scope of social justice as one of the basic principles of the Republic of Indonesia is the authority of all Indonesian people through their representatives who establish and perfect it according to the time. Mohammad Hatta in his description of the principle of social justice for all Indonesians wrote: "Social justice is a decisive step to implement a fair and prosperous Indonesia. (Mohammad Hatta: 1949).

Indonesian founding fathers who arranged the 1945 Constitution have the belief that the ideals of social justice in the economic field can be achieved with equitable prosperity. "Social justice is not only the basis of the state; but also a goal that must be carried out, (Mohammad Hatta: 1977, pp. 34). Based on his description, the notion of social justice is almost equated with the prosperity of people.

The definition of social justice is linked to the understanding on the whole principles of Pancasila, so Notonegoro gave the understanding on the fifth principle: *social justice for all Indonesian people* as the justice to believe to one supreme God, fair and civilized humanity, democracy led by wisdom in deliberation or representation, and social justice for all the people of Indonesia (Notonegoro: 1975, pp. 43-44). Pancasila is the basic law which contains justice, so law and justice have an inseparable relationship. The essential goal of justice is to live together, or in other words social justice embodied in Pancasila is the goal of a shared living institution called the state. Thus, the unity of the precepts of Pancasila as a system of philosophy, i.e the understanding of justice in social perspective, is the characteristics and circumstances of the state that are in accordance with the fair nature.s (Notonegoro, 1975, pp. 99).

Mochtar Kusumaatmaja, in explaining the principles contained in the 1945 Constitution of the Republic of Indonesia and its preamble which should be used as a guide in renewing national law, said that: "The principle of

social justice mandates that all citizens have the same rights and that all people are equal before law" (Mochtar Kusumaatmaja: 2006, pp. 188).

Equality, must be accepted as a proposition regarding justice and as a right. (Friedmann: 1960, pp. 385), with the understanding that the first justice is seen as an impartial attitude that leads to ideas about equality, namely the first equality before law. The second can be traced from the provisions contained in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, that each citizen has the right to work and live properly. Equality is also applied in business and working opportunities. Therefore, social justice associated with workers develops the meaning of equality, so that leads to the meaning of equality in getting jobs for workers and to receive fair and proper treatment and compensation as regulated in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia which constitutes the implementation of social justice principles.

In Indonesian legal system, Pancasila is considered as one of the sources of all legal system, which is also called as the fundamental of the Republic of Indonesia. The legal order in Republic of Indonesia is based on the view of life, consciousness, legal ideals, and moral ideals which encompass the mentality and characteristics of Indonesian people. Pancasila is on the highest structure or hierarchy of Indonesia legislation. Pancasila as the foundation of the state is the main elements of the fundamental state's rule, intended as the basic norm, so that all existing laws and regulations, both written and unwritten, must not conflict with Pancasila which contains the values of the supreme God, the fair and civilized humanity, Indonesian unity, democracy led by the wisdom and deliberation among representatives, and social justice for the entire Indonesian people. The concept of justice for workers is defined as protection, as the understanding of protection according to Poerwodarminto is a place of refuge, (of actions and so on) and protection. (Aloysius Uwiyono: et al, 2014, pp. 70).

#### D. Conclusion

The development of proper wages concept for workers can be seen from a number of theories used in determining wage systems for workers which are adopted to formulate a better remuneration system. Based on the wage theory proposed by David Ricardo and Adam Smith, known as the natural wage theory, it is confirmed that the level of wages for workers will be determined by two factors, namely:

1. The minimum living costs of workers and their families, referred to as natural wages (known as natural wage theory). Furthermore, the level of cost of living is determined by place, time and customs;
2. Job demand and supply, which called as market wages. The level of market wages moves around natural wages.

The wage system developed by David Ricardo and Adam Smith is widely adopted as a basis for wage determination called as the strong policies set by producers (employers), i.e the iron wages. This theory can be used as a benchmark or guideline in determining proper wages based on social justice. Thus, it can be said that social justice can be associated with workers expanding the meaning of equality, that leads to the equality of getting a job as a work and receiving fair and proper treatment and compensation for humanity according to their work as regulated in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia which constitutes the implementation of social justice principles.

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