

LEGAL POLITICS AND POLICY SETTING OF WAGE SYSTEMS FOR CREATING SOCIAL JUSTICE OF WORKERS

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ABSTRACT

Working is an activity that must be carried out by mankind to fulfill their daily needs for themselves and their families. Work is done to get a wage or income to meet decent needs as expected. The aim of the research is to study, analyze and evaluate the legal politics of the system of payment of workers' wages in accordance with the applicable legal provisions in the community, and analyze and assess the obstacles in implementing the wage payment system to create social justice especially for company workers. Hence, the politics of law of the wage system is crucial to creating social justice for the benefit of both employers and workers. The implementation of the worker wage system, especially for company workers, has not been maximally implemented. There are obstacles in the implementation of the payment system for workers' wages because there are companies that hold wages deferred because the company has not been able to pay wages set by the government so that social justice and worker welfare the company has not materialized as expected. The research method used is a normative juridical research method using primary and secondary legal materials and empirical data as an interpreter to facilitate the analysis of research problems, especially those related to the system of payment of wages.

Keywords: Politics of Law, Wages, Social Justice.

INTRODUCTION

The development of technology and information as one of the influences of globalization today in the lives of people nationally and internationally is very influential in the continuous interaction of human life and has an impact in all fields of activities in the fields of religion, economy, politics, law, social culture, and activities others nationally and internationally. Economic development cannot be separated from relations between people in the world that experience acceleration and change (Supanto, 2015). Policies in the economic field can be realized and implemented by economic actors and the government as economic activities that are subject to the norms of economic life that are both national and international. In order to maintain and create behavior and conditions that are in accordance with these norms, legal means can be used, whose function is to regulate and influence economic life in a society.

In terms of politics of law, economic field, and creating social justice can be assessed in the labor law which did not adequately regulate recruitment process and working condition (McCann, 1994; Botero et al., 2004). In Indonesia, the employee recruitment process and

working conditions are not regulated in full in the current labor regulations. The Manpower Act in Indonesia is currently unable to fulfill what is the maximum need in the field of employment, both in the field of employment relations, for example, wages, sending migrant workers abroad, appointment of workers, termination of employment, supervision, and matters others in the field of labor are currently not in line with expectations and the conditions of employment in some companies are still not in accordance with labor regulations. In this regard, the payment of wages and policies is very different for each country, this can be assessed as a comparison of wages in ASEAN countries as shown in Table 1.

Table 1 COMPARISON OF MONTHLY EMPLOYEE WAGES IN ASEAN COUNTRIES (in USD)	
Country	Wage
Singapore	\$2.951
Brunei	\$1.339
Malaysia	\$979,2
Thailand	\$520,2
Myanmar	\$367,6
The Philippines	\$351,88
Vietnamese	\$305.16
Indonesia	\$305
Cambodia	\$207,47
Laos	\$175

Table 1 shows that worker wage in Indonesia is relatively low. The relative low wages of Indonesia compared with other ASEAN countries are things that must be considered for all elements of the government, entrepreneurs and workers, to make the increase in wages as a common concern. Related to the policy of paying wages for workers in its implementation, especially in Indonesia, there are still many obstacles because the wage payment system applied in each city, regency and the provinces in Indonesia are different. The difference in determining minimum wages received by these workers causes continuous turmoil and adverse impacts on all aspects of worker and company activities. These differences can cause problems in the implementation of employment relations, and the workers' dissatisfaction in the different wage setting policies causes a continuous demonstration of workers/laborers every year, which constantly demands different wage adjustments for each region, because the determination of wages is carried out in accordance with the agreement between employers and government workers. Hence, this paper aims to assess the determination of the legal politics of the determination and implementation of wage payment systems. Moreover, this paper aims to examine the politics of the law of wage systems in creating social justice.

RESEARCH METHODS

Research is a basic tool in the development of science and technology. This is caused, because research aims to reveal the truth systematically, methodologically and consistently. Through this research process analysis and construction of data that has been collected and processed is conducted (Soekanto & Mamudji, 2015; Soekanto, 2006). The research method used in this study is a normative legal research method that is a study that seeks to examine the application of positive law in the community and is protected by law. Thus, it can be said that normative legal research methods are used to find out various statutory provisions governing the payment of workers' wages for companies. The secondary data will provide an explanation of primary legal material (Soerjono, 1986). Legal materials collected in this study are legal materials as secondary data collection is carried out by literature study which includes legislation, jurisprudence and legal literature books or other written legal materials and empirical data as a supplement to determine the extent to which wage regulations can held. Politics of Law and Social Justice in Wage Systems.

Friedmann (1960) stated that the main strengths in the development of modern democratic thought have been influenced by liberal ideas about individual rights to protect individuals, and the right idea of democracy, expressing equal rights and popular sovereignty. A gradual extension of ideas of equality from political to social and the economy by adding to the problems of social security and economic planning. The regulation of the field of economic life is an economic law, because it is possible for behavior that conflicts or violates these regulations, so that law enforcement is needed by using a system of legal sanctions that can be in the form of administrative, civil or criminal sanctions. Here, a public economic policy can be said to be strong if it is supported by the legal basis of establishment, of authority, a hierarchy and a mechanism of work and completeness of supporting rules (Isharyanto, 2016). Nyhart (1964) & Ginting et al. (2018) argue that there are concepts in legal science that have influence on the development of economic life, that are predictability, procedural capabilities, legislation codification, balancing factors, accommodation and clarity. As stated by Bentham (2001) which elaborated a doctrine of morals in legislation. Legal reform is one of the objects of all his work. Education about legislation led him deeper to conduct research in many branches of political and moral science. It is almost impossible to determine the objectives and methods of the law without forming clear and different ideas about the nature of society for politics.

In social reality, the law is not an entirely autonomous institution, but is in a position that is interrelated with other sectors of life in society. One aspect of such a situation is that the law must always make adjustments to the objectives to be achieved by its people. Politics of law is one of the factors that causes such dynamics, because the law is directed at *iure constituendo*, the law that should apply. According to Tanya (2011) politics of law is more than ethic, which requires that a chosen goal must be justified by common sense that can be tested, in a way that is determined to achieve it must be tested with moral criteria. Politics of law is related to the expected law (*ius constituendum*) (Tobing, 2018). Politics of law is a policy that is carried out to realize what is a vision of a desired hope in accordance with the national goals (Ghofur & Asiyah, 2019). Thus, legal politics is a policy that is carried out critically to realize what is a vision of a desired expectation in accordance with the goals of a nation-state, so that certainty and legal protection relating to the goals of the State can be realized according to the constitution (Hartog, 1984).

In terms of wage system, wage policy is taken by the government in order to provide protection to workers or laborers. Nonetheless, the reality is that the wage setting policy always raises problems that have not been as expected by the workers or by the company. It is hoped that to determine the legal political policy the wage system must pay attention to the interests of workers and the company and the government oversees the implementation of the wage payment system policy to create social justice. Wages is defined as payment for labor or services based on work time or production expenses, wages are payments that can be made for a certain time to individuals as personal services, including also in which there are salaries, commissions, payments for holidays, bonuses, lodging and values in accordance with the work of the workers and other bonuses. The worker must also bear taxes from the income or wages he receives. Whereas. the notion of minimum wages is the lowest permissible hourly rate of compensation for labor, as established by the federal statute and required for interstate commerce.

Existing remuneration dilemmas, both from the sociological aspects that exist, and the juridical should not be allowed to continue, therefore a solution is needed so that the interests of workers and employers in the field of conflicting wages can be minimized. If the wage dilemma is allowed to continue it will result in not conducive Industrial relations in Indonesia, and not achieving the objectives of labor development and national development goals (Yetniwati. 2017).

The politics of law in Indonesia which has directed the development of the law on sustainable economic growth seems to be very urgent to be realized with a real program by the President. However, what deserves attention; do not be trapped again with the economic growth figures, without regard to economic equality for the poor, as was done in the New Order era (Sulistiyono & Rustamaji, 2009). The development of the legal politics of the wage system has not yet created social justice and the achievement of state goals as stated in the Preamble of the 1945 Constitution and the fifth principle of Pancasila has not been realized as expected. In reality and current activities, the system of payment of wages and policies of each region in determining wages is not uniform and adjusted to the company's capabilities and government policies will be adjusted while still considering the results of deliberations of workers, employers and the government and the Wage Council. Labor issues, especially those related to wages, are a continuous problem and cause disputes between workers and employers in various countries, especially developing countries, which still cannot bring prosperity to their citizens. In implementing the current employment relationship, the working relationship is not safe because the work relationship is based on a contract of employment with an average of one year with a system of payment of minimum wages and has no benefit for workers because it is not a permanent employees cause problems and misunderstandings for workers and are not a good thing.

Legal Basis for Wage Payments

The legal basis for wage payments is regulated according to the legal provisions governing wage payments in Indonesia which are well regulated from the 1945 Constitution to the Governor's Decree in accordance with the conditions of the region in Indonesia. The main reference in determining wages in Indonesia is government regulation No. 78 of 2015. According to this regulation, the governor sets a minimum wage as a safety net. Article 41 paragraph (2) confirms that the minimum wage as intended only applies to workers/laborers with a work period of less than one year for a company, while wages for workers/laborers with a work

period of one year or more are negotiated bipartite between workers/laborers and employers in the company. The governor is obliged to determine the provincial minimum wage, which is calculated based on the minimum wage calculation formula as referred to in the regulation. The minimum wage determination is carried out every year based on the needs of decent living and by paying attention to productivity, inflation and economic growth in the regulation, it is stated that wage policies are directed towards achieving income that meets decent livelihoods for workers/laborers. Decent income as referred to be the amount of income or income of workers/laborers from the results of their work so that they are able to meet the living needs of workers/laborers and their families fairly. Article 4 paragraph (2) of this rule states that proper income as referred to be given in the form of wages and non-wages income. The wage policy includes minimum wages and other wages. This rule also confirms that employers conduct periodic wage reviews to adjust prices for living needs and/or increase work productivity by considering the company's ability. Wage Review as referred to in the Work Agreement, Company Regulation, or Collective Labor Agreement.

However, workers' complaints are on the matter of determining a decent life. Even though it is included in the component of the minimum wage, the component of decent life is set within a period of five years. The determination of this component is also the domain of the Minister of Manpower) by considering the results of studies carried out by the National Wage Council, which uses data and information sourced from authorized institutions in the field of statistics. Article 45 paragraph (4) states that the recommendations of the provincial wage council as referred to are based on the results of a review of decent living needs whose components and types are determined by the Minister and by paying attention to productivity and economic growth. In addition, it is stated that the Governor can determine the district/city minimum wage, whose value must be greater than the provincial minimum wage in the province.

Legal Consequences for Companies

One thing that must be considered in labor law is the implication of payment of wages for workers in the company to create a standard payment of minimum wages for workers to be paid for and paid for by employers to achieve the objectives of the Republic of Indonesia. In the field of employment the standard setting of payment of workers' wages is very important and must be considered in view of the diversity of the Indonesian nation and the different conditions of the territory of Indonesia. The implications of the activities of employment relations between Workers and Employers and Labor Inspection are regulated in labor law.

Payment of wages relates to work relations and applicable legal provisions. Payment of wages is related to the ability of the company, in the implementation there are still many irregularities in payment of wages not in accordance with the applicable legal provisions and agreed work agreements. Wages paid by companies to workers will be better if adjusted by the company's ability to pay proper wages in accordance with Company Regulations and Collective Labor Agreements by continuing to pay more attention to the development of the provisions of statutory regulations.

In accordance with developments in society and economic development that, Article 89 of the Law. Number 13 of 2003 concerning Manpower is basically not in accordance with the conditions and needs in the field so that it is enhanced by several other Regulations governing the Components and Implementation of Stages of Achieving Proper Living Needs, taking into account and paying attention to the advice and input of the Wage, Bipartite and Tripartite

Cooperation Institutions in the Wage Determination Policy. The Government Regulation was issued to implement the provisions of Law Number 13 of 2003 concerning Manpower so that it is carried out in accordance with the provisions of legislation, especially regarding wages, one of which is based on Government Regulation Number 78 of 2015. Article 2 of this regulation stipulates that laborers' rights to wages arise when there is a working relationship between workers and employers and ends when the employment relationship is terminated.

The provisions for the payment of adequate wages from companies in each region are indeed different in Indonesia according to the company's ability as well as the condition of the region with the policy of the Governor with the City and District Minimum Wage Policy and in the Wage Board Supervision for implementation. Violations in Wage Payments made by companies and workers, due to negligence and intentional elements, if not in accordance with the provisions of the applicable regulations will result in legal sanctions for the company and have an impact on the good name of the company. For payments for late payment of wages, fines for late payment and/or not paying wages by employers are regulated in government regulations. For workers who have committed violations due to negligence/intentions are subject to fines.

In the implementation relating to legal politics in the Wage Payment System and Wage Determination, there is a Wage Council nationally, provincially and city/district having the authority to provide advice, considerations, and formulate legal politics stipulating wage policies stipulated by the Government, Membership of Wage Board consists of Element Government, Entrepreneur Organizations, Trade Unions, Experts and Representatives of Higher Education. Arrangements regarding the imposition of fines for late paying and/or not paying wages are based on the provisions of Article 95 paragraph (2) and (3) of Law Number 13 of 2003 concerning Labor and based on Government Regulation No.78 of 2015 concerning Wages.

Initially pursuant to Article 96 of Act No. 13 of 2003 concerning Labor states that the demand for payment of workers' wages and all payments arising from work relations become expired after exceeding a period of 2 (two) years from the date of the occurrence of rights. According to this provision, it means that the issue of wage demands including severance pay and the like can only be demanded for payment within two years. The rest of the time period is automatically legally unable to be prosecuted. In its development, the provisions changed after the Decision of the Constitutional Court Number 1000/PUU-X/2012 on Article 96 of Law Number 13 of 2003 concerning Manpower, the Article was declared to have no permanent legal force, the implication being that demands for payment of workers' wages and all payments arising from work relationships have no expiration limits. However, there are restrictions that demand payment of workers' wages and all payments arising from work relations submitted after the Decision of the Constitutional Court, the rights that can be calculated no later than September 19, 2011 (Circular of the Minister of Manpower Number 1/MEN/1/2015) (Yuwono, 2011).

CONCLUSION

The legal politics of the wage system that can reflect a sense of social justice for workers and companies refers to Article 27 paragraph (2) of the 1945 Constitution which states that every citizen has the right to decent work and livelihood for humanity, and regulations concerning pengupahan. Thus, a philosophical value that the government should make wage policies by using the protection and feasibility formula that is in accordance with the needs of company workers in accordance with the values of justice as Pancasila stated social justice for the entire Indonesian people. Workers, entrepreneurs, and the government determine the city and regency

minimum wages every year. However, in practice it cannot be implemented maximally because there is no continuous supervision and guidance. In addition, wages cannot be maximally implemented because the ability of companies is different so that wages are practically only paid according to agreements between workers and employers. Wages policy takes into account Law No. 13 of 2003 and other Regulations related to wages. Legal effects that occur for companies that have not implemented a system of payment of minimum wages for workers can make wage deferral where the procedure is regulated by the Decree of the Minister of Manpower and Transmigration. Suspension of the implementation of minimum wages for companies that are not capable is intended to free the company concerned to implement the minimum wage that applies in a certain period of time. If the suspension expires, the company concerned must carry out the minimum wage in effect at that time, but is not obliged to pay for the fulfillment of the minimum wage provisions in force at the time the suspension is given.

In a regional context, one good example of wage determination in ASEAN countries is Singapore, where the government does not determine minimum wages, but in practice is Government Decision that must be carried out to provide salaries or wages for a particular job. Wages in Singapore are very high according to the high and very high cost of living. In practice wages in Singapore are also adjusted to the abilities and expertise of workers so that the life needs of workers can be fulfilled.

REFERENCE

- Bentham, J. (2001). *A fragment on government*. New Jersey: The Lawbook Exchange.
- Botero, J.C., Djankov, S., Porta, R.L., Lopez-de-Silanes, F., & Shleifer, A. (2004). The regulation of labor. *The Quarterly Journal of Economics*, 119(4), 1339-1382.
- Friedmann, W. (1960). *Legal theory*. London: Stevens & Sons Limited.
- Ghofur, A., & Asiyah, N. (2019). Public hearing and people aspiration in legalizing law: A case study of Indonesian Islamic banking act. *Journal of Legal, Ethical and Regulatory Issues*, 22(1), 1-11.
- Ginting, B., Sembiring, R., Siregar, M., & Abduh, A. (2018). The role of law in economic development: To develop a special economic zone in order to build a national and regional economy. In *Proceedings of MICoMS 2017* (pp. 209-214). Emerald Publishing Limited.
- Hartog, H. (1984). The politics of the politics of law. *American Bar Foundation Research Journal*, 9(4), 851-857.
- Isharyanto. (2016). *Public economic policy law*. Srandakan, Bantul, Yogyakarta: Thafamedia.
- McCann, M.W. (1994). *Rights at work: Pay equity reform and the politics of legal mobilization*. University of Chicago Press.
- Nyhart, J.D. (1964). *The role of law and economic development*. Massachusetts Institute of Technology, Cambridge.
- Soekanto, S. (2006). *Introduction to legal research*. Penerbit Universitas Indonesia (UI-Press).
- Soekanto, S., & Mamudji, S. (2015). *Normative legal research (A short review)*. Rajawali Pers.
- Soerjono, S. (1986). *The position of the village head as a peace judge*. Jakarta: Rajawali.
- Sulistiyono, A., & Rustamaji, M. (2009). *Economic law as commander in chief*. Sidoarjo: Mas Media Buana Pustaka.
- Supanto. (2015). *Policy on the criminal law formulation of economics in the face of the development of economic globalization*. Surakarta: Sebelas Maret University Press.
- Tanya, T. (2011). *The question of access: Disability, space and meaning*.
- Tobing, C.N. (2018). Initiating an industrial relations court in the framework of *ius constituendum* as an effort to realize legal certainty and justice. *Journal of Law and Justice*, 7(2), 297-326.
- Yetniwati. (2017). Wage arrangement based on justice principles. *Law MIMBAR*, 29(1), 82-95.
- Yuwono, I.D. (2011). *Rights and obligations of Indonesian migrant workers (TKI) abroad*. Jakarta: PT. Buku Seru.