

Legal Aspect in Determining Minimum Wages in order to Make a Harmony Industrial Relationship

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ABSTRACT: Wages are the right of every worker and become one of the important points in the field of labor and industrial relations, therefore if it is not appropriate in handling and the process of determining it will lead to industrial relations disputes. So the purpose of this article is to analyze the legal aspects of setting minimum wages in Indonesia. The conclusion of this article is that handling wages must meet the legal aspects that underlie how matters relating to wages are carried out based on the prevailing laws and regulations. The legal aspect of the wage field includes the process and authority for determining wages, implementing wages, calculating and paying wages, postponing wages, imposing fines and wage deductions, administrative sanctions and criminal provisions, as well as monitoring the implementation of wage provisions. By law, all of this must be understood by its basis and philosophy. Therefore, to deal with professional wages requires understanding the legal aspects of wages.

KEYWORDS: *District Minimum Wages, Wage, Regional Wage Council, Law and Industrial relations.*

I. INTRODUCTION

Indonesia as a legal state is listed in Article 1 paragraph (3) of the third amendment to the 1945 Constitution which states that Indonesia adheres to the principle of Pancasila contained in the Preamble to 1945 Constitution [1]. Humans as social beings (*zoon politicon*) have diverse needs, including clothing, shelter, food. For the sake of fulfilling these various needs, human beings are required to work because with that work can be obtained an income. In this case, the right to work has been explicitly regulated in Article 27 of the 1945 Constitution [2].

Based on Article 4 of Law No. 13 of 2003 that labor development is aimed at providing protection to workers in realizing prosperity, and improving the welfare of workers and their families [3]. Abdul Khakim [4], explained that the Manpower Law has elements: a) A series of rules formed written and unwritten; b) Regulates the occurrence of work relations between workers and employers or employers; c) The existence of people working on and under other people, by earning wages as remuneration; d) Regulating the protection of workers or laborers, including problems of illness, menstruation, pregnancy, childbirth, the existence of workers 'or workers' organizations and so on.

Wages are a very basic right for workers or laborers. Therefore, wages must receive adequate protection from the government. The motivation of workers or laborers at work is to achieve increased welfare, which is one of the main pillars of wages in addition to career development. If workers or laborers are the main factor in the production process, it is proper for workers or laborers to obtain adequate rewards through a humanitarian approach. This is certainly very much in line with the objectives of employment development as mandated in Article 4 of Act Number 13 of 2003.

Workers' expectations, wages should be able to meet basic basic needs at a minimum, but the fact has always been achieved inadequately. Minimum basic needs according to Sudjana in Hakim [4] are:

- a. Basic needs for life, including food, clothing, shelter, water, air, fuel, and others;
- b. Needs that support community welfare and increase individual capacity or productivity, including education, health services, means of communication, transportation, social institutions, freedom of opinion, availability of markets, and others;
- c. The need to increase access (opportunities to get something) to the way of production and economic opportunities, including land, water, vegetation, capital (including technology), employment opportunities, and decent income;
- d. The need to live with a sense of security and freedom to make decisions, including respect for human rights, participation in politics, social security, social defense and fair rules for all levels of society.

Article 3 PP No. 78 of 2015 concerning Wages explains that wage policies are directed at achieving income that meets a decent livelihood for Workers / Workers. Wage policies include: a) Minimum wages; b) Wages of overtime work; c) Wages not to work because they are unable to attend; d) Wages do not enter work because of other activities outside of their work; e) Wages for exercising the right to work breaks; f) the form and method of payment of Wages; g) fines and deductions Wages; h) things that can be calculated with Wages; i) proportional wage structure and scale; j) Wages for severance payments; and k) Wages for calculating income tax.

In connection with this wage problem, on November 16 2015 the Merdeka daily on-line reported, Hundreds of workers who are members of the Federation of Labor Struggle Unions (FPPB) Congress of the Indonesian Workers' Union Alliance (KASBI) of Bandung City held a demonstration at Bandung City Hall. The protesting workers or workers demanded the determination of the Bandung City UMK in 2016 of Rp. 3.6 million. Next on October 27 2016, detik.news.com reported that thousands of workers belonging to the West Java Workers Alliance crowded the highway in front of the Gedung Sate, demonstrating that the 2017 district or city minimum wage increase in West Java was 20 percent. Several cases related to the calculation of wages that have accumulated in recent years often stick to the surface and trigger a prolonged conflict.

II. LEGAL ASPECTS OF THE DETERMINATION OF THE DISTRICT MINIMUM WAGE

The Pancasila industrial relations legal system seeks to place workers or workers with employers including the government in a proportional position [5]. The working relationship between workers and employers is not always harmonious, there are only disagreements in dealing with labor law. This shows that in the concept of nation prosperity, not only the government acts as a defender of society, but also responsible for social justice and social prosperity [6]. The working relationship between workers and employers is not always harmonious, there are only disagreements in dealing with labor law. The working relationship is the relationship between workers and employers that occurs after a work agreement [7].

Worker protection is 3 (three) types, namely economic protection, social protection and technical protection. Wages are included in economic protection [8]. Pursuant to Article 1 number 10 of Act Number 13 of 2003 concerning Manpower, the notion of wages is: "The right of the worker or laborer to be received and stated in the form of money as a reward from the employer or employer to the worker or laborer who is determined and paid according to a work agreement, agreement, or legislation, including allowances for workers or laborers and their families for a job or services that have been or will be carried out".

From this understanding, it is legally clear that wages are workers' rights. If it turns out that the worker or laborer does not work according to the agreement, the worker or laborer concerned is not entitled to a salary from the employer. Wages are included as an important aspect in the protection of workers or laborers. This is expressly mandated in Article 88 paragraph (1) of Law No. 13 of 2003, that every worker or worker has the right to obtain income that fulfills a livelihood that is suitable for humanity. The purpose of a decent livelihood, in which the total income of workers or laborers from the results of their work is able to meet the living needs of workers or their workers and their families fairly, which includes food and drink, clothing, housing, education, health, recreation and old age insurance. The main motivation of a worker or laborer to work in a company is to earn a living (wages), and wages are a right for workers or workers who are sensitive, so wages often cause disputes [8].

The principle of wages

In wages there are several principles that must be met, namely:

- a. The right to receive wages arises when there is a work relationship and ends when the employment relationship is broken;
- b. Employers cannot make wage discrimination for male and female workers for the same type of work;
- c. Wages are not paid if the worker or laborer does not do work (no work no pay);
- d. The wage component consists of basic wages and fixed allowances, with a formulation of basic wages of at least 75% (seventy five percent) of the principal amount and fixed allowances;
- e. The demand for payment of wages for workers or laborers and all payments arising from the employment relationship becomes expired after exceeding a period of 2 (two) years from the time the rights arise.

Furthermore, the principles of remuneration regulated in several laws and regulations include:

1. Entrepreneurs are required to pay overtime wages [Article 78 paragraph (2) and Article 85 paragraph (3) of Law Number 13 of 2003 concerning Manpower];
2. Every worker / laborer has the right to obtain income that fulfills a decent living for humanity [Article 88 paragraph (1) of Law Number 13 of 2003 concerning Manpower];
3. The Government sets the minimum wages as referred to in paragraph (3) letter a based on the needs of a

- decent life and by considering the productivity and economic growth [Article 88 paragraph (4) of Law Number 13 of 2003 concerning Manpower];
4. Entrepreneurs are prohibited from paying wages lower than the provisions of the minimum wage [Article 90 paragraph (1) of Law Number 13 of 2003 concerning Manpower];
 5. For entrepreneurs who are unable to pay the minimum wage as referred to in Article 89, it can be suspended [Article 90 paragraph (2) of Law Number 13 of 2003 concerning Manpower];
 6. The wage arrangement stipulated in the agreement between the employer and the worker / laborer or the trade / labor union must not be lower than the wage stipulation stipulated in the prevailing laws and regulations [Article 91 paragraph (1) of Act Number 13 of 2003 about Employment];
 7. In the event that the agreement referred to in paragraph (1) is lower or contrary to the laws and regulations, the agreement is null and void and the employer is obliged to pay the wages of workers / laborers according to the prevailing laws and regulations [Article 91 paragraph (2) Invite Law Number 13 Year 2003 concerning Manpower];
 8. Wages are not paid if the worker / laborer does not do work [Article 93 paragraph (1) of Law Number 13 of 2003 concerning Manpower];
 9. The wage component consists of basic wages and fixed allowances, with a formulation of basic wages of at least 75% of the total basic salary and permanent allowance [Article 94 paragraph (1) of Law Number 13 of 2003 concerning Manpower];
 10. The right to receive wages arises when there is a work relationship and ends when the employment relationship is terminated [Article 2 of Government Regulation Number 78 of 2015 concerning Wages];
 11. The wage policy is directed to the achievement of income that fulfills a decent livelihood for workers or laborers [Article 3 paragraph (1) Government Regulation Number 78 of 2015 concerning Wages];
 12. Proper income is the amount of income or income of workers or laborers from the results of their work so as to be able to meet the living needs of workers or laborers and their families fairly [Article 4 paragraph (1) Government Regulation Number 78 of 2015 concerning Wages];
 13. Proper income as referred to in paragraph (1) is given in the form of wages and non-wage income [Article 4 paragraph (2) Government Regulation Number 78 of 2015 concerning Wages];
 14. Every worker or laborer has the right to receive the same wages for work of equal value [Article 11 of Government Regulation Number 78 of 2015 concerning Wages];
 15. Wages must be paid to the workers / laborers concerned [Article 17 paragraph (1) Government Regulation Number 78 of 2015 concerning Wages];
 16. Entrepreneurs must provide proof of payment of wages that contains a wage amount received by the worker / laborer when the wages are paid [Article 17 paragraph (2) Government Regulation Number 78 of 2015 concerning Wages];
 17. Wages can be paid to a third party with a power of attorney from the worker / laborer concerned [Article 17 paragraph (3) Government Regulation Number 78 of 2015 concerning Wages];
 18. The power of attorney is only valid for 1 (one) time payment of wages [Article 17 paragraph (4) Government Regulation Number 78 of 2015 concerning Wages];
 19. Entrepreneurs must pay wages at the agreed time between the employer and the worker / laborer [Article 18 paragraph (1) Government Regulation Number 78 of 2015 concerning Wages];
 20. Payment of wages must be made in the Indonesian rupiah [Article 21 paragraph (1) of Government Regulation Number 78 of 2015 concerning Wages];
 21. Entrepreneurs must pay wages if workers / laborers are willing to do the work that has been promised, but employers do not employ them because of their own mistakes or obstacles that should be avoided by employers [Article 25 Government Regulation Number 78 of 2015 concerning Wages];
 22. Wages are paid to workers or laborers who do not enter work or do not work because of illness: a) For the first 4 months = 100% wages; b) For the second 4 months = 75% of wages; c) For the third 4 months = 50% wages; d) For the following months = 100% of wages before the layoff is carried out by the employer [Article 93 paragraph (3) of Law Number 13 of 2003 concerning Manpower and Article 26 paragraph (1) of Government Regulation Number 78 of 2015 concerning Wages];
 23. Wages are paid to female workers / laborers who do not enter work and / or do not work because of illness on the 1st and 2nd days of menstruation [Article 81 and Article 93 paragraph (2) letter b of Law Number 13 Year 2003 concerning Manpower and Article 26 paragraph (3) Government Regulation Number 78 of 2015 concerning Wages];
 24. Workers or laborers who carry out obligations to the state do not exceed one year and the income provided by the state is less than the amount of wages normally received by workers or laborers, the employer is obliged to pay the shortage [Article 93 paragraph (2) letter d Law Number 13 of 2003 concerning Manpower and Article 27 of Government Regulation Number 78 of 2015 concerning Wages];
 25. Entrepreneurs are obliged to pay wages to workers / laborers who do not enter work or do not do their

- work because they carry out religious duties that are ordered by their religion as much as the wages received by workers / laborers, provided only once during work in the company concerned [Article 80 and Article 93 paragraph (2) letter e of Act Number 13 of 2003 concerning Manpower and Article 28 of Government Regulation Number 78 of 2015 concerning Wages];
27. Employers are obliged to pay wages to workers / laborers who do not enter work or do not do their work because they carry out the tasks of SP / SB [Article 93 paragraph (2) letter h of Law Number 13 of 2003 concerning Manpower and Article 29 of Government Regulation Number 78 of the Year 2015 regarding Wages];
 28. Entrepreneurs are obliged to pay wages to workers / laborers who do not enter work or do not do their work because they exercise the right to rest [Article 93 paragraph (2) letter g of Law Number 13 of 2003 concerning Manpower and Article 31 of Government Regulation Number 78 of 2015 concerning Payment].

Wage type

Wage types can be grouped according to:

- a. Component
 - 1) Wages without allowances are a sum of money received by workers / laborers regularly [Explanation of Article 5 paragraph (1) letter a Government Regulation Number 78 of 2015 concerning Wages];
 - 2) Basic Wages and Permanent Allowances;
 - 3) Basic Wages, Fixed Allowances and Non-Permanent Allowances. Basic Wages are basic rewards paid to workers / laborers according to the level or type of work whose amount is determined based on an agreement. Permanent Allowances are payments to workers / laborers that are carried out regularly and are not associated with the presence of workers / laborers or certain work achievements. Non-permanent Allowance is a payment that is directly or indirectly related to the worker / laborer, which is given indefinitely to the worker / laborer and his / her family and is paid according to the time unit which is not the same as the time of payment of basic wages, such as transport allowances and / or benefits meals are based on attendance [3].
- b. Status of employment agreements
 - 1) Fixed Wages
Permanent Wages are wages paid by employers to workers / laborers regularly or commonly called salaries. Still this salary is not influenced by anything, both overtime and other factors.
 - 2) Non-permanent Wages
Non-permanent wages are wages paid by employers to workers / laborers on an irregular basis or can be called "wages" only. Non-permanent wages are influenced by the size of the salary for overtime work or other factors carried out by workers / laborers. The more overtime work or other factors carried out, the greater the wages received by the worker / laborer concerned.
 - 3) Daily Wages
Daily Wage is the salary paid by the employer to the worker / laborer on a daily basis or based on attendance. This wage applies to casual daily workers.
 - 4) Wholesale Wages
Wholesale Wages are wages paid by employers to workers / laborers in bulk or based on the volume of work of the work unit. Usually for types of work that are subject to weather or certain conditions.
- c. Payment method
Juridical payment of wages must be regulated in an agreement (work agreement), company regulations, or collective labor agreement. From these arrangements it is known how the payment of wages is carried out. Based on practices in the field, the method of payment is divided into two types, namely according to the time of payment and place of payment, as stipulated in the work agreement, company regulations, or collective labor agreements.
 - 1) According to payment time, divided:
 - a) Monthly Wages. Monthly wages are wages paid by employers to workers or laborers on a monthly basis. Usually at the end of the month or the beginning of the following month. So wages are paid once a month;
 - b) Weekly Wages. Weekly wages are wages paid by employers to workers on a weekly basis. It can be once a week or once every two weeks, so it returns to the agreement of both parties.
 - 2) According to the place of payment, divided:
 - a) Received directly at the company office, which is generally agreed upon automatically by the parties in a work agreement;
 - b) Received directly at the work site or other places agreed upon, based on practical considerations or convenience due to scattered workplaces;

- c) Through the bank [Article 22 paragraph (1) of Government Regulation Number 78 of 2015 concerning Wages].
- d. Valid Area Reach
- 1) Provincial Minimum Wages (UMP). UMP is the minimum wage that applies to all districts or cities in a province.
 - 2) District or City Minimum Wages (UMK). UMK is the minimum wage that applies in one district or city.
- e. Business Sector
- 1) Provincial Sectoral Minimum Wages (UMSP). UMSP is a minimum wage that is applied sectorally in all regencies / cities that are in one province;
 - 2) District or City Sectoral Minimum Wages (UMSK). UMSK is a minimum wage that is applied sectorally in one area of all districts or cities.

Example:

Timber and Forestry UMSP, Plantation UMSP, Mining UMSP, and others. Timber Industry UMSK, Forestry UMSK, Plantation UMSK, Oil and Gas UMSP, and others. The amount of UMSP or UMSK is stipulated [Article 1 paragraph (3) Minister of Manpower and Transmigration Regulation Number 7 of 2013 concerning Minimum Wages], as follows:

- 1) UMSP cannot be lower than UMP;
- 2) UMSK cannot be lower than UMK.

Unlike the previous arrangement, it must be set at a minimum of 5% of the UMP or UMK [Article 5 of the Minister of Manpower Regulation Number PER-01/MEN/1999, which has now been revoked by the Minister of Manpower and Transmigration Regulation No. 7 of 2013].

Minimum wage

The amount of wages received by workers, the procedure for payment of wages must be included in the employment agreement. Employment agreements lead to work relationships having elements of work, wages and orders [9]. In the provisions of Article 88 paragraph (1) and (2) of Law Number 13 of 2003 concerning Manpower it is stated that:

- 1) Every worker or laborer has the right to earn income that fulfills a livelihood that is appropriate for humanity;
- 2) To realize income that fulfills a decent livelihood for humanity as referred to in paragraph (1), the government establishes a wage policy that protects workers or laborers.

Furthermore, in the provisions of Article 89 paragraph (2) of Law Number 13 of 2003 concerning Manpower, it is stated that: "The minimum wages as referred to in paragraph (1) are directed towards achieving the needs of a decent life". Provisions in Article 3 paragraph (1) of Government Regulation Number 78 of 2015 concerning Wages state that: "Wage policies are directed towards achieving income that fulfills a decent living for workers / laborers."

Likewise in Article 9 paragraph (2) Regulation of the Minister of Manpower and Transmigration Number 7 of 2013 concerning Minimum Wages, stated that: "Determination of minimum wages as referred to in Article 6 is directed to the achievement of KHL."

For this reason, the Governor has the duty to create a roadmap to achieve KHL [Article 3 paragraph (4) Regulation of the Minister of Manpower and Transmigration Number 7 of 2013 concerning Minimum Wages. This wage policy is pursued by the government in order to provide protection to workers or laborers.

Below the author describes the amount of the Minimum Wage for Districts (UMK) in West Java for the last 2 years:

Table 1
Amount of The Minimum Wage For Districts 2016 and 2017

NO	Area	West Java Governor Decree No. 561/ Dec.1322-Social Assistance/2015 concerning Minimum Wages of Regency or City in West Java Province Year 2016	West Java Governor Decree No. 561/Dec.1191- Social Assistance/2016 concerning Minimum Wages of Regency or City in West Java Province Year 2017
1	Banjar City	Rp. 1.327.965,-	Rp. 1.437.522,11
2	Cianjur District	Rp. 1.837.529,-	Rp. 1. 989.115,00
3	Cirebon District	Rp. 1.592.220,-	Rp. 1.723.578,15
4	Cirebon City	Rp. 1.608.945,-	Rp. 1.741.682,96
5	Sukabumi City	Rp. 1.834.175,-	Rp. 1.985.494,00
6	Tasikmalaya City	Rp. 1.641.280,-	Rp. 1.776.686,00

7	Bekasi District	Rp. 3.261.375,-	Rp. 3.530.438,44
8	Kuningan District	Rp. 1.364.760,-	Rp. 1.477.352,70
9	Garut District	Rp. 1.421.625,-	Rp. 1.538.909,00
10	Majalengka District	Rp. 1.409.360,-	Rp. 1.525.632,00
11	Bandung City	Rp. 2.626.940,-	Rp. 2.843.662,55
12	Bogor District	Rp. 2.960.325,-	Rp. 3.204.551,00
13	Tasikmalaya District	Rp. 1.632.360,-	Rp. 1.767.029,70
14	Ciamis District	Rp. 1.363.319,-	Rp. 1.475.792,82
15	Pangandaran District	Rp. 1.324.620,-	Rp. 1.433.901,15
16	Indramayu District	Rp. 1.665.810,-	Rp. 1.803.239,33
17	Bandung District	Rp. 2.275.715,-	Rp. 2.463.461,49
18	Bandung Barat District	Rp. 2.280.175,-	Rp. 2.468.289,44
19	Sumedang District	Rp. 2.275.175,-	Rp. 2.463.461,49
20	Cimahi City	Rp. 2.275.175,-	Rp. 2.463.461,00
21	Depok City	Rp. 3.046.180,-	Rp. 3.297.489,00
22	Bogor City	Rp. 3.022.765,-	Rp. 3.272.143,00
23	Sukabumi District	Rp. 2.195.435,-	Rp. 2.376.558,39
24	Bekasi City	Rp. 3.327.160,-	Rp. 3.601.650,00
25	Karawang District	Rp. 3.330.505,-	Rp. 3.605.272,00
26	Purwakarta District	Rp. 2.927.990,-	Rp. 3.169.549,17
27	Subang District	Rp. 2.149.720,-	Rp. 2.327.072,00

The Government made a series of changes in the mechanism for determining minimum wages which was realized through the Minister of Manpower Regulation No. Reg-01/MIN/ 1999 concerning Minimum Wages, which was later amended by the Decree of the Minister of Manpower and Transmigration Number Dec-226/MIN/2000 [9]. The minimum wage policy is still limited to being directed towards achieving the needs of a decent life. As a result, workers or workers in obtaining decent wages are still far from expectations, especially if the governor's commitment in some areas is still low. More specifically, the minimum wage policy is intended as an effort to protect new workers or laborers with low education, no experience, under 1 year of service, and single or not married. The aim is to prevent the arbitrariness of the employer as the wage earner in providing wages to workers who have just arrived to work. However, the issue of minimum wages is still used as the maximum wage for workers or workers who have a work period of more than 1 year, especially for workers or laborers whose contract status is in several labor providers or labor suppliers who are not committed to regulatory compliance. current regulation. Besides that, politically, the most principle in the minimum wage policy is as an effort to realize a decent income for workers or laborers, by considering increasing the welfare of workers or laborers without neglecting the increase in productivity and progress of the company and economic development in general [3].

From the entrepreneur's side, the issue includes employers' objections to the annual increase in minimum wages that are considered a burden, while on the side of workers or laborers, the problems that arise include the disobedience of the employer to the minimum wage increase and the minimum wage that only meets 80% KHL which is used as the basis for setting minimum wages. Another problem is the minimum wage policy which is only intended for single workers with a working period of more than 1 year and a maximum wage because employers generally do not want to pay more than the minimum wage. As a result, the minimum wage that is calculated based on single KHL is not able to meet the living needs of households who are married.

Technically, the legal basis for setting minimum wages is the Minister of Manpower Regulation Number Reg-01/MIN/1999 concerning Minimum Wages, which is enhanced by Decree of the Minister of Manpower and Transmigration Number Dec-226/MIN/2000 and Regulation of the Minister of Manpower and Transmigration Number Reg-17/MIN/VIII/2005. During 2012-2013, the rules were revoked and replaced by the Minister of Manpower and Transmigration Regulation No. 13/2012 concerning Components and Implementation of Stages of Achieving Decent Living Needs and Minister of Manpower and Transmigration Regulation No. 7 of 2013 concerning Minimum Wages. Then in 2015 Government Regulation Number 78 of 2015 concerning Wages was issued, following the Minister of Manpower Regulation No. 21 of 2016 concerning Decent Living Needs, which simultaneously revoked the Ministry of Manpower and Transmigration Regulation Number 13 of 2013 concerning Components and Implementation of Stages in Achieving Decent Living Needs.

According to the provisions of Article 1 number 1 of the Regulation of the Minister of Manpower and Transmigration Number 7 of 2013, that: "The minimum wage is the lowest monthly wage which consists of basic wages including fixed allowances set by the governor as a safety net". Thus it is clear that non-permanent benefits should not be included in the minimum wage.

The amount of Regency or City Minimum Wages is determined by the Governor with a legal form in the form of a Governor's Decree. Article 41 Government Regulation NO. 78 of 2015 explains that the minimum wage is the lowest monthly wage consisting of: wages without benefits; or basic wages including fixed allowances. Subsequently Article 42 confirms that the minimum wage as referred to in Article 41 paragraph (1) is only valid for workers or workers with a work period of less than 1 (one) year in the relevant company. Wages for Workers or Workers with a work period of 1 (one) year or more are negotiated bipartite between Workers or Workers with Employers in the Company concerned.

The legal basis for wages includes:

1. Law Number 13 of 2003 concerning Manpower;
2. Government Regulation Number 78 of 2015 concerning Wages;
3. Presidential Decree Number 107 of 2004 concerning the Wage Board;
4. Presidential Instruction Number 9 of 2013 concerning Minimum Wage Determination Policies in the Context of Business Continuity and Improvement of Workers' Welfare;
5. Decree of the Minister of Manpower and Transmigration Number Dec-231/Men/2003 concerning Procedures for Suspending Minimum Wage Implementation;
6. Decree of the Minister of Manpower and Transmigration Number Dec-49/Men/IV/2004 concerning Provisions on Wages Structure and Scale;
7. Decree of the Minister of Manpower and Transmigration Number Dec-102/Men/2004 concerning Overtime and Overtime Work Wages;
8. Regulation of the Minister of Manpower and Transmigration Number Reg-03/Men/I/2005 concerning Procedures for Proposing Membership of the National Wage Board;
9. Regulation of the Minister of Manpower and Transmigration Number 7 of 2013 concerning Minimum Wages;
10. Manpower Minister's Regulation Number 6 of 2016 concerning Religious Holiday Allowances for Workers or Workers in the Company;
11. Manpower Minister's Regulation Number 7 of 2016 concerning Service Money in Hotel and Business Restaurants in Hotels;
12. Regulation of the Minister of Manpower Number 20 of 2016 concerning Procedures for Granting Administrative Sanctions of Government Regulation Number 78 of 2015 concerning Wages;
13. Manpower Minister's Regulation Number 21 of 2016 concerning Decent Living Needs;
14. Minister of Manpower Circular Letter Number SE-07/Men/1990 concerning Grouping of Wage Components and Non-Wage Income;
15. Minister of Manpower Circular Letter Number 1/Men/I/2015 concerning Constitutional Court Decision Number 100/PUU-X/2012 concerning Article 96 of Act Number 13 of 2003 concerning Manpower.

Based on the various laws and regulations mentioned above, judging from the terms of the wage law, there have been a lot of implementation and law enforcement. Henny said that then one as the deciding factor in holding power is the norm or law [10]. The effectiveness of law enforcement depends on three law aspects; those are the structure of law, the substance of the law, and legal culture. Law structure is about the law enforcers, law substance is about the legislative means, and law culture is about a living law adopted by society [11].

III. THE ROLE OF REGIONAL WAGE COUNTRIES IN MINIMUM WAGE DETERMINATION

The views on wages vary between workers and employers. Employers complain that the Minister of Labor's regulations on labor often change, all of which favor the workers. The fact that shows that in the labor market supply labor is abundant while demand is small so that according to the economic law the price of labor will decline. And this opportunity is used by entrepreneurs who then give wages only in accordance with the UMP (Provincial Minimum Wage) which is very minimal, but has fulfilled the provisions of a fair government and is more interested in collecting more value as the capital of state administration [11].

Economic development in developed countries has pushed wages and working environment conditions to a higher level [12]. The desire of the working community, living in accordance with the concept of Pancasila welfare law according to the 1945 Constitution, of course contains the spirit and spirit of Pancasila, which Hadjon calls "the soul and content of the state of Pancasila", namely the state wants harmony between the government and the people based on harmony; there is a proportional functional relationship between state powers; settlement of disputes in consultation, while the judiciary is the last means; emphasizing human rights that are balanced with human obligations [13].

The position of the Wage Council is a tripartite non structural institution whose elements of membership consist of the government, employers' organizations and trade unions. In general, the task of the wage council according

to article 98 of Law Number 13 of 2003 concerning manpower is to provide advice and consideration, formulate wage policies to be determined by the government, and carry out a national wage system.

The duties and functions of the Wage Council, according to Presidential Decree Number 107 of 2004 are:

- a. The task of the National Wage Board is to provide advice and consideration to the government in the framework of formulating wage policies and the development of the national wage system (article 4).
- b. Duties of the Provincial Wage Council (article 21):
 - 1) Provide advice and consideration to the governor in order to:
 - a) Determination of UMP;
 - b) Determination of MSEs and UMS;
 - c) Application of the wage system at the provincial level.
 - 2) Preparing materials for the formulation of the development of the national wage system.

The tasks of the District or City Wage Council (article 38):

- 1) Provide advice and consideration to regents or mayors in order to:
 - a) Proposing MSEs and or UMSK;
 - b) Application of the wage system at the district or city level.
- 2) Preparing materials for the formulation of the development of the national wage system.

In addition to the above, according to Article 3 paragraph (3) of the Minister of Manpower and Transmigration Regulation No. 13 of 2012, the provincial wage council or the district or city wage council has the task of forming a survey team to determine the value of decent living needs (KHL). In the case of the implementation of the task, if deemed necessary, the wage council can cooperate with government agencies, private institutions, and other relevant parties.

In connection with the provisions of Article 44 of Government Regulation Number 78 of 2015 concerning Wages, where the calculation of the minimum wage uses the $UM_n + formula (UM_t \times (inflation + \% \wedge GDP_t))$, whether before the minimum wage is established, a KHL survey must be conducted by the Provincial / District Wage Board or City while the KHL value is not included in the minimum wage calculation formula? By law it is clearly stated that the government sets minimum wages based on the needs of decent living and by paying attention to productivity and economic growth [check the provisions of Article 88 paragraph (4) of Law Number 13 of 2003 concerning Manpower, Article 43 Paragraph (1) of Government Regulation Number 78 in 2015 concerning Wage, Article 3 of the Minister of Manpower and Transmigration Regulation No. 7 of 2013 concerning Minimum Wages, and Article 2 paragraph (1) of the Minister of Manpower Regulation No. 21 of 2016 concerning the need for decent living]. That is, at the level of practice, the interrelationship between KHL values and productivity and economic growth must be in line. It cannot be separated, how companies are able to pay wages according to the needs of a decent life if economic growth is low. This is where the importance of government intervention in setting minimum wages, including in encouraging and maintaining the growth of a good investment climate in a region.

For this reason, neither the provincial wage council nor the district or city wage councils will have to conduct a survey anymore, because the KHL adjustments made annually are directly corrected through multiplication between the current year's minimum wage and the national inflation rate for the current year (Article 3 of the Minister of Manpower Regulation No. 21 of 2016).

The Standard for Decent Living Needs (KHL) is the basis for determining the Minimum Wage. The Decent Living Needs Component (KHL) is a component of fulfilling the daily needs needed by a single worker for one month. Previously establishing the Provincial Minimum Wage, the Wage Board consisting of representatives of trade unions, employers, government, and neutral parties from academics will conduct a survey of Decent Living Needs (KHL). But what is meant by the KHL survey, what components of life needs are surveyed and the mechanism of the KHL standardization to become the Minimum Wage determination.

A decent living need, hereinafter abbreviated as KHL, is a standard requirement for a worker who is a single worker to be able to live physically fit in 1 (one) month. The regulation regarding KHL is regulated in Law No.13 of 2003 concerning Manpower. A deeper discussion regarding the provisions of the KHL, is regulated in the Decree of the Minister of Manpower No. 17 of 2005 concerning Components and Stages of Achieving Decent Living Needs. However, Minister of Manpower Decree No. 17 of 2005 was revised by Decree of the Minister of Manpower No. 13 of 2012 concerning Amendments to KHL Calculations.

The government through the Ministry of Manpower issued the latest regulation concerning the need for decent living by issuing Minister of Manpower Regulation No. 21 of 2016 concerning Decent Living Needs, hereinafter referred to as Minister of Manpower Regulation 21 of 2016. There are differences in setting minimum wages in Article 6 of the Minister of Manpower and Transmigration Regulation No. 13 of 2012 concerning Components and Implementation of Stages of Achieving Decent Living Needs with Article 2 of Minister of Manpower Regulation 21 of 2016. The differences can be seen from the sound of the article below:

- 1) Article 6 Minister of Manpower and Transmigration Regulation No. 13 of 2012 concerning Components and Implementation of Stages in Achieving Decent Living Needs;

- 2) Determination of Minimum Wages by the Governor based on KHL and with due regard to productivity and economic growth;
- 3) In determining the minimum wage as referred to in paragraph (1) the Governor must discuss simultaneously and consider the following factors:
 - a) the KHL value obtained and determined from the survey results;
 - b) Macro productivity is the result of the comparison between the amount of Gross Regional Domestic Product (GRDP) and the number of workers in the same period;
 - c) economic growth is a growth in GRDP value;
 - d) Job market conditions are a comparison of the number of job opportunities with the number of job seekers in a particular area in the same period;
 - e) the most inadequate (marginal) business condition which is indicated by the development of the existence of a number of marginal businesses in a particular area at a certain period.

In determining the Minimum Wage as referred to in paragraph (1), the Governor shall pay attention to the suggestions and considerations of the Provincial Wage Council and the recommendations of the Regent or Mayor. Furthermore, Amendments to the minimum wage stipulation in Article 2 of the Minister of Manpower Regulation 21 of 2016 are as follows: Article 2: (1) The minimum wage stipulation by the governor is conducted annually based on KHL and with due regard to productivity and economic growth; (2) The Minimum Wage Determination as referred to in paragraph (1) is calculated using the Minimum Wage calculation formula; (3) The formula for calculating the Minimum Wage as referred to in paragraph (2) is the Minimum Wage for the current year plus the multiplication of the Minimum Wage for the current year by adding the current national inflation rate and the current growth rate of gross domestic product; (4) In determining the Minimum Wage as referred to in paragraph (2), KHL is located on the Minimum Wage for the current year.

Rekson Silaban [14], initiated the effort to achieve fair wages with the aim of minimizing wage conflicts. The wage system should be carried out through several steps, namely, first, greater transparency is needed from the tripartite wage council. Especially for the method of determining wages, the mechanism of the survey, the final agreement on the amount of wages. Before being determined it needs to be socialized first to get input, objections and clarification. Especially from trade unions who are not wage tripartite board members. This is to prevent rejection after being announced and at the same time prevent politicized wages. Secondly, wages in a sectoral manner for certain cities with industrial densities (Batam, Banten, Jakarta, Bekasi, Karawang, Pasuruan, Semarang, etc.), should set wages sectorally. This is to avoid 'wage generalization', because each sector has different levels of excellence and business opportunities. For this reason, it is necessary to immediately establish a sectoral tripartite wage council. The sector with the most workers is chosen. The wage council is still required for general wages for workers who are not covered by sectoral wages. Third, the necessity for all companies to have a structure. Fourth revision of laws and regulations concerning KHL.

According to Rekson Silaban [14], for the long term it is recommended the need for a new wage system by establishing two types of wages: wages Existence of Eligible Wage Laws Based on Substantive Justice minimum safety nets; and decent living wages. The minimum wage is intended to protect vulnerable workers who work in micro businesses, informal, casual daily laborers, domestic workers, and so on. While for medium and large companies, they cannot use the minimum wage. They must refer to decent living through a decent living wage whose amount is above the minimum wage. The component of decent living wages can be added according to the definition of decent living. Minimum wages are recommended by the district or city tripartite council, while living wages are worth negotiating bipartitely in each company. Minimum wage coverage will be higher because all vulnerable workers including informal, casual daily workers, domestic workers, farm laborers and fishermen, will be included in this new rule. This decent living wage format will surely be more realistic than the current concept, because the demands of workers will be harmonized with the conditions of the company. The most important thing is that this new format will be difficult to politicize because with the determination of wages at the company level, the area of labor action will shift from the previous one at the district / city level to the company level. Labor will not be easy to politicize because the sense of labor ownership of business continuity will increase, because bipartite wage negotiations require honesty and transparency of the company's finances.

Regarding the enactment of government regulation Number 78 of 2015 concerning wages, it seems that the position, duties and functions of the wage council must also be reviewed, namely by revising the Presidential Decree Number 107 of 2004 concerning the Wage board. Presidential Decree Number 107 of 2004, regulates the composition of the membership of the Wage Council consisting of elements of the government, employers' organizations, trade unions, universities, and experts composition of membership from the elements of government, employers' organizations and trade unions in a ratio of 2: 1: 1. For the number of higher education institutions and experts, the amount is adjusted according to needs. This amount is not limited and must be odd. Criteria for substantive justice for workers in the field of wage law in the form of basic needs, secondary needs, savings and social needs; the workers' demands are always demanded every labor day 1 May every year. When

commemorating the 2013 World Labor Day, simultaneous demands were made by almost all elements of workers in various cities. Demands for decent wages and welfare are still the main themes in commemoration of world labor day for hundreds of thousands of workers who held demonstrations in a number of city centers in Indonesia, including in Surabaya, Jakarta, Bandung and Bekasi [15].

IV. CONCLUSION

Wage is a complex problem that continues to occur repeatedly, therefore the parties must understand the aspects of remuneration comprehensively, one of which must be understood is the normative aspect (law) and reality in the field. In the wage system, it should be carried out through several steps, namely, first, greater transparency is needed from the tripartite wage council. That is the method of determining wages, the mechanism of the survey, the final agreement on the amount of wages. Before being determined it needs to be socialized first. Regulations for district or city minimum wages are stipulated by the Governor's Decree with proposals from the Regent or Mayor, assisting the Governor's task in setting a minimum wage, the provincial wage council and the district or city wage council are formed with the aim of formulating the District or City Minimum Wage concept (UMK) . Determination of Minimum Wages by the Governor based on KHL and with due regard to productivity and economic growth.

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