

## **LEGAL STUDIES OF LAW NUMBER 13 OF 2003 CONCERNING LABOR IN TERMS OF MINIMUM WAGE**

**Anita**

[anitafh@wiraraja.ac.id](mailto:anitafh@wiraraja.ac.id)

Faculty of Law, Wiraraja University

### **ABSTRACT**

*The employment relationship between an employee and an employer is actually a civil relationship based on an agreement between both parties to obtain their respective rights and carry out their obligations. These rights and obligations are stated in the work agreement which is made in writing or verbally. The work agreement must clearly regulate working hours and hours, amount of wages, date of payment of wages, overtime pay, health protection, and so on. However, legal protection for workers does not seem to be felt yet, while legal sanctions seem less frightening for entrepreneurs.*

*Keywords: Employment Agreements, Legal Protection, Legal Sanctions.*

### **INTRODUCTION**

Employment or labor is part of the production factor. Therefore, labor is the most important factor in the economic activities or economy of a country, without labor it is certain that the economy will be paralyzed. Meanwhile, wages are compensation for workers or achievements that must be paid by the employer for the work that has been done. If the work is required to fulfill the achievement, namely doing work under the government of another person, namely the employer, then the employer as the employer must provide wages and payment of wages must in principle be given in the form of money.<sup>1</sup>

The most common issue that arises in addition to conflicts concerning termination of employment is also the problem of late payroll or late wages

---

<sup>1</sup> Djumadi, "Labor Law of Employment Agreement", Jakarta: PT Raja Grafindo Persada, (2006), pp. 32-33

distributed to employees/laborers. Some of these conflicts are caused by the employer's intentions, but sometimes they are also caused by the ignorance of the parties, both employers and employees/laborers.

In fact, the labor regulations have clearly regulated the rights and obligations of each party. Disputes that arise due to negligence or disobedience or differences in interpretation of one or the parties in implementing normative provisions that have been regulated in laws and regulations, work agreements, new work agreements. The problems of labor are never ending, from the issue of protection wages, welfare, industrial relations disputes, labor guidance and supervision. This is more due to the weakness of the government systematically in implementing the labor law, and there even tends to be irregularities, another problem is that the coordination and performance between government institutions is not optimal and is still very concerning.

The policy of determining minimum wages within the framework of wage protection today still meets many obstacles as a result of the lack of uniformity in wages, both regionally/provincially or regency/city, and sectorally in the province or regency/city, as well as nationally. In determining wage policy, it is necessary to strive systematically, both in terms of macro and micro aspects in line with efforts to develop employment, especially the expansion of employment opportunities, increase in production, and improve the standard of living of workers/laborers in accordance with their minimum living needs.

In determining this minimum wage, there are still differences based on the level of ability, nature, and type of work in each company whose conditions vary, each region / area is not the same. Law Number 13 of 2003 concerning labor has set a minimum wage based on decent living needs by taking into account productivity and economic growth.

The minimum wage is determined by the governor for provincial areas, and by the regent/mayor for regency/city areas, by taking into account recommendations from the Provincial Wage Council or regent/mayor. In this case, employers are prohibited from paying workers/laborers wages lower than the

minimum wage determined for each province and or regency/city. For employers who for some reason are not or have not been able to pay the minimum wage that has been determined can be suspended for a certain period of time. In the event that the minimum wage is determined by agreement between employers and workers/laborers or labor unions, it shall not be lower than the wage provisions stipulated in the prevailing laws and regulations. If the agreement is lower and contradicts the prevailing laws and regulations, the agreement is void or in default and the employer is obliged to pay the wages of workers/laborers according to the prevailing laws and regulations.

The existence of a minimum wage determination system based on provincial or district/city areas and sectors in provincial or district/city areas, means that there is still no uniformity of wages in all companies and regions/regions. This can be understood considering the condition and nature of companies in each sector of the region/region. There are not the same and cannot be equated. Likewise, the minimum living needs of a worker/laborer depend very much on the situation and conditions of the area/region where the company where he/she works is located.

Law No. 13/2003 on Manpower (Article 88) states that every worker/laborer is entitled to an income that meets a decent living for humanity. In the sense that the amount of wages received by workers/laborers from their work is able to meet the needs of workers/laborers and their families reasonably. In this life humans have various needs, to get to meet all these needs humans are required to work. Both self-employed work and work for others. Self-employed work means working on one's own capital and responsibility. While working for someone else means working by being responsible for someone else, who gives orders and sends them, because he must submit and obey the other person who gives the job.

Labor law does not cover State employees although technically State employees can be said to be laborers because they work for another party (the state) by receiving wages (salaries) but politically juridically against them there is no need for labor regulations, but separate regulations are held such as law number 8

of 1974 concerning the principles of employment and other regulations.

In the relationship between laborer and employer, juridically the laborer is free because the principle of our country is that no one should be enslaved, nor enslaved. All forms and types of slavery and servitude are prohibited, but sociologically the laborer is not free as a person who has no other means of livelihood other than his labor and is sometimes forced to accept employment with an employer even though it is burdensome for the laborer himself, especially nowadays with the large number of workers who are not proportional to the available jobs.

As a result, workers are often squeezed by employers with relatively small wages. Therefore, the government issued several laws and regulations to protect the weak (laborers) from the power of employers in order to place them in a proper position in accordance with human dignity. In carrying out national development, the participation of workers is increasing and often with that the protection of workers must be improved both regarding wages, welfare, and dignity as human beings (to make more human). Therefore, the important thing here is how the wages that can be paid to laborers can be improved. The author also provides how the rights and obligations of the company and workers/laborers are in accordance with Law Number 13 of 2003 concerning Manpower. The author also provides ways on how the rights and obligations for companies and workers/laborers are in accordance with the current law.

## **RESEARCH METHODS**

Research methodology is a scientific process or way to obtain data that will be used for research purposes.<sup>2</sup> This research is a normative juridical research type, in which this kind of writing uses library materials such as books, journals, the internet, and Law no.13 of 2003 concerning labor. The approach in this research is a *statutory approach* with a qualitative descriptive analysis, where this kind of

---

<sup>2</sup> Sugiyono. "Understanding Qualitative Research", Bandung: Alfabeta, (2012). p.5

analysis is in the form of words, which are obtained through various kinds of data collection techniques such as document analysis and focused discussions. The problems that will be raised in this research are: how is the legal protection of workers who get wages below the minimum wage and how are the sanctions for companies / employers who pay wages below the minimum wage regulated in Law No. 13 of 2003 concerning labor.

## **RESULTS AND DISCUSSION**

### **1. LEGAL PROTECTION FOR WORKERS WHO ARE PAID RECEIVE WAGES BELOW THE MINIMUM WAGE**

Labor, worker, laborer, workforce or employee is basically a human being who uses his energy and ability to get a return in the form of income in the form of money or other forms to the employer or employer or employer ".<sup>3</sup> So further the government is present to compile instruments to protect and regulate employment in Indonesia so as not to harm various parties, namely the workforce and the company concerned. One of these instruments is embodied in Law Number. 13 Year 2003 on Manpower. As an employer, it is important to understand the provisions of this Law in order to apply them when hiring or managing employees in the company. The law has provided protection for the basic rights of workers. Employers or anyone who violates the basic rights of workers can be imposed with sanctions ranging from light sanctions such as reprimands, warnings, revocation of contracts, and other sanctions business to the level of a violation that can be classified as a crime so that it can be subject to confinement or imprisonment.

In Law No. 13/2003 on Manpower, the rights of Indonesian workers, including women workers, are ensured by the normative/minimal provisions that must be provided by employers to workers/laborers. As for other rights called interests such as allowances, bonuses, and others outside of normative rights, this law mandates employers and workers to negotiate to reach an agreement and this

---

<sup>3</sup> <https://id.wikipedia.org/wiki/Labor>

is requested to be stated in a Collective Labor Agreement (PKB) or Company Regulation (PP). What is contained in the PKB and PP is binding, meaning that either party may not violate or ignore the agreement. Furthermore, it is required that any changes or one of the parties wants changes in the agreement must be pursued through negotiations and in principle the values in the agreement must not contradict or be below the provisions of the Law. If there is something that is better in nature and value than the provisions of the Law, then the agreement should be used.

The basic rights of workers include<sup>4</sup> :

1. Wage protection
2. Working hours
3. Holiday allowance
4. Labor social security (jamsostek)
5. Layoff Compensation
6. Rest/leave entitlement

The articles governing wage policy in the Labor Law are quite numerous, ranging from Articles 88 to 98. The provisions on wages are then regulated in detail in a decree of the Minister of Manpower<sup>5</sup> :

1. The nature of wages

Wages are rewards for labor or performance that must be paid by the employer for work that has been done. If the work is required to fulfill the achievement, namely doing work under the government of others, namely Similarly, the employer as the employer must provide wages and the payment of wages must in principle be given in the form of money."<sup>6</sup> The recipient of wages is the laborer. The legal rules for the payment of wages

---

<sup>4</sup> Law No. 13 of 2003 concerning labor Article 79 paragraph 2 letters b and c.

<sup>5</sup> Ministerial Decree No.49/Men/IV/2004

<sup>6</sup> Djumadi, "Labor Law of Employment Agreement", Jakarta: PT Raja Grafindo Persada, (2006), pp. 32-33

are labor agreements or agreements or laws and regulations. Wages can be based on the employment agreement, as long as the wage provisions in the employment agreement do not conflict with the laws and regulations."<sup>7</sup>

Article 88 of the Manpower Law states that the government should realize an income that meets a decent livelihood for humanity by establishing a wagepolicy that protects workers/laborers.

Wage policy includes :

- a. Minimum wage
- b. Overtime work wages
- c. Wages for absence from work due to activities other than work
- d. Wages for exercising the right to rest from work
- e. Forms and methods of wage payment
- f. Fines and wage deductions
- g. Things that can be calculated with wages
- h. Proportionate wage structure and scale
- i. Wages to pay individuals
- j. Wages for the calculation of income tax (Pph)

Related to the Juridical Review of Law - Law Number. 13 Year 2003 Tentang ketenagakerjaan (Minimum Wage Sumenep District) the author only focuses on wages that are below the minimum wage. In order to provide wage protection, the government sets drinking wages in each province / district / city that changes every year. The value of the minimum wage adjustment depends on the situation and conditions of the national economy. This also applies differently in each region, so the determination of the minimum wage is also adjusted to the economic situation in each region / province / regency / city.

According to Abdul Hakim (2006: 1-2), the aspects that become

---

<sup>7</sup> Abdul R Budiono, Labor Law, Jakarta: PT Indeks, (2009) h. 29

references in determining the minimum wage include<sup>8</sup>: Minimum living needs (KHM), Consumer price index (CPI), Ability of development and sustainability company, Wages in general prevailing in a particular region and between regions, Labormarket conditions and the level of economic development and per capita income.

## 2. Wage policy

The purpose of determining the minimum wage policy as stipulated in the Labor Law is none other than to serve as a safety net so that workers' wages do not fall to very low levels due to labor market imbalances.

There are 3 points of view regarding the policy of applying wages in the company, namely:

### a. The worker's point of view.

From the workers' point of view, wages are to fulfill their needs.

### i. Entrepreneur's point of view.

From the employer's perspective, wages are part of the cost of production, which will affect the selling price of the goods produced.

### ii. Government point of view.

The government considers wages to be part of equitable development.

Article 92 of the Labor Law mandates employers to develop wage structures and scales by taking into account class, length of service, education and competence. Employers also periodically review wages by taking into account the company's ability and productivity. More detailed provisions on wage structures and scales are elaborated through Minister of Manpower and Transmigration Decree No. KEP.49/MEN/IV/2004. Employers' policies to develop wage structures and scales are expected by workers to be more objective and proportional in order to avoid gaps between workers at each level and at the

---

<sup>8</sup> Abdul Hakim in Arrista Trimaya, "[Enforcement of minimum wage in the wage system, Journal of DPR RI, https://jurnal.dpr.go.id, \(2006\) p.](https://jurnal.dpr.go.id)



same time prevent jealousy among fellow workers.

Article 94 of the Labor Law also gives employers the opportunity to create a wage component consisting of basic wages and fixed allowances. The basic wage is at least 75% of the total basic wage plus fixed allowances. The wage component should be prepared clearly and in detail to avoid disputes in the event of a case and will become a dispute in the future because the wage component will be used as the basis for calculating overtime pay, THR, Jamsostek, Severance Pay. Between fixed and non-fixed allowances must be separated. Non-permanent allowances are not included in the wage component.

## **2. SANCTIONS FOR COMPANIES/EMPLOYERS THAT PAY WORKERS BELOW THE MINIMUM WAGE**

Just like other legal violations, violations of labor law cannot be separated from the threat of sanctions or penalties. In Labor Law, there are many articles that include sanctions / penalties that can be imposed on anyone who commits a violation. And it depends on the types of violations of Labor Law.

There are three types of sanctions that can be imposed if there is a violation of rights in industrial relations, namely:<sup>9</sup>

- Administrative Sanctions,
- Civil Sanctions and
- Criminal Sanctions.

Administrative sanctions can be imposed if the employer commits the following violations: Discrimination in employment opportunities for workers, unqualified vocational training, apprenticeship of workers abroad without permission from the Manpower Agency, labor placement companies that charge placement fees to workers, companies that do not establish a bipartite working institution even though they employ more than 50 workers, employers

---

<sup>9</sup> Law No. 13 of 2003 concerning labor articles 183-188

that do not print or reproduce the text of the Collective Labor Agreement (CLA), employers that do not make a wage scale structure and employers that do not provide assistance for a maximum of six months from the first day the worker is detained by the authorities to the family of the worker who is their dependent. The employer's obligation is regulated by the following percentages: 25% of wages for one dependent, 35% of wages for two dependents, 45% of wages for three dependents and 50% of wages for four dependents.

The forms of administrative sanctions can be in the form of: reprimand, written warning, restriction of business activities, business suspension, cancellation of registration, temporary suspension of part or all of the production equipment and revocation of business licenses.

<b>Article</b>	<b>Violation</b>	<b>Criminal Sanctions</b>
<b>Article 183</b>	Article 74 which prohibits the employment and engagement of child laborers for work Worst	<ul style="list-style-type: none"> <li>• Is offense Criminal Offense</li> <li>• Penalty of 2-5 years imprisonment and/or 200% fine million to 500 million rupiah</li> </ul>
<b>Article 184</b>	Article 167 paragraph (5) which regulates the company's obligations to its retired employees if the employee is not included in the pension program	<ul style="list-style-type: none"> <li>• Is a felony criminal offense</li> <li>• Imprisonment of 1-5 years and/or a fine of 100 million to 500 million rupiahs</li> </ul>
	<ul style="list-style-type: none"> <li>• Article 42(1) and (2),</li> <li>• Article 68,</li> </ul>	<ul style="list-style-type: none"> <li>• Is a felony criminal offense</li> </ul>

<p><b>Article185</b></p>	<ul style="list-style-type: none"> <li>• Article 69(2),</li> <li>• Article 80,</li> <li>• Article 82,</li> <li>• Article 90 paragraph (1),</li> <li>• Article 143,</li> <li>• Article 160(4) and (7)</li> </ul>	<ul style="list-style-type: none"> <li>• Penalty is imprisonment of 1-4 years and/or a fine of 100 million to 400 million rupiahs.</li> </ul>
<p><b>Article186</b></p>	<ul style="list-style-type: none"> <li>•</li> <li>• Article 35(2) and (3),</li> <li>• Article 93 paragraph (2),</li> <li>• Article 137,</li> <li>• Article 138 paragraph (1)</li> </ul>	<ul style="list-style-type: none"> <li>• Is a criminal offense</li> <li>• Imprisonment of 1 month-4 years and/or a fine of IDR</li> <li>• 10 million to IDR 400 million</li> </ul>
<p><b>Article187</b></p>	<ul style="list-style-type: none"> <li>• Article 37(2),</li> <li>• Article 44 paragraph (1),</li> <li>• Article 45 paragraph (1),</li> <li>• Article 67 paragraph (1),</li> <li>• Article 71(2),</li> <li>• Article 76,</li> <li>• Article 78(2),</li> <li>• Article 79(1) and (2),</li> <li>• Article 85(3),</li> <li>• Article 144</li> </ul>	<ul style="list-style-type: none"> <li>• Is a criminal offense</li> <li>• Imprisonment of 1-12 months and/or a fine of IDR 10 million to 100 million</li> </ul>

<p><b>Article 188</b></p>	<ul style="list-style-type: none"> <li>• Article 14 paragraph (2),</li> <li>• Article 38(2),</li> <li>• Article 63 paragraph (1),</li> <li>• Article 78 paragraph (1),</li> </ul>	<ul style="list-style-type: none"> <li>• Is offense criminal</li> <li>• offense</li> <li>• Imprisonment of 1 - 12 months and/or a fine of 10% million to 100 million rupiah</li> </ul>
---------------------------	---	--

Civil sanctions in industrial relations disputes can be imposed on employers and employees. The form of sanctions can be in the form of: cancellation of the work agreement if the work agreement is not due to the agreement and skills of both parties, cancellation of the work agreement if the work agreed upon is contrary to legislation, decency, and public order, cancellation of termination of employment if there was no previous stipulation from the Industrial Relations Court for the type of termination of employment that requires a stipulation from the Industrial Law Court, the employment relationship between the worker and the company receiving the piecework turns into an employment relationship between the worker and the employer if the piecework does not meet the requirements (Article 65 Paragraph 8-9 of the Manpower Law).

The status of the employment relationship between the worker and the PPJP switches to an employment relationship between the worker and the employer if the PPJP is used by the employer to carry out the main task/production (Article 66 Paragraph 3-4 of the Manpower Law), strikes that are carried out illegally, then workers who go on strike are considered absent and if they have been summoned properly and in writing, the worker does not come. Then it is considered resignation. He/she is not entitled to severance pay and long service pay. A strike in a company that serves the public interest or is

related to the safety of human life resulting in casualties is considered a serious offense. The worker is not entitled to severance pay. Criminal sanctions in industrial relations can be imposed on workers or employers if they commit violations (crimes). Some of the forms of criminal sanctions include: imprisonment for a minimum of one year and a maximum of five years and/or a fine of at least Rp. 100,000,000 and a maximum of Rp. 500,000,000,- for employers who do not include workers who experience layoffs due to retirement age in the pension program and do not provide severance pay equal to twice the provisions, award money, and compensation money in accordance with the provisions (Article 184 of the Manpower Law), a fine of at least Rp. 5,000,000,- and a maximum of Rp. 50,000,000,- if collecting labor placement fees by the company. placement labor placement company labor placement company private (Article 3 Law Employment).

As a crime and punishable by imprisonment for a minimum of one year and a maximum of four years and or a fine of at least Rp. 100,000,000, - and a maximum of Rp. 400,000,000, - for employers who pay wages lower than the minimum wage provisions (Article 90 Paragraph 1 and Article 185 Paragraph 1 of the Labor Law), imprisonment for a minimum of one year and a maximum of four years and or a fine of at least Rp. 100,000,000, - and a maximum of Rp. 400,000,000, - for employers who do not pay to workers who have been laid off who after six months are unable to do their work properly, because they are in the process of a criminal case, one-time award money and compensation money in accordance with the provisions (Article 185 of the Manpower Law).

Criminal sanctions for violations with imprisonment for a minimum of one month and a maximum of four months and or a fine of at least Rp. 100,000,000, - and a maximum of Rp. 400,000,000, - for employers who: a. Do not pay wages in the event that workers are unable to perform work due to illness, b. Do not pay wages to female workers who are sick on the first and second days of menstruation,

c. Do not pay wages to workers who are absent from work because the worker: marries, marries a child, baptizes a child, wife / child / son-in-law / parents / in-laws / family members in the same house die. Does not pay wages to workers who are absent from work because the worker: marries, marries off a child, circumcises/baptizes a child, the wife/child/son-in-law/parents/parents-in-law/family members in the same household die, does not pay wages to workers who are carrying out obligations to the state or religion, does not employ workers for promised work, forces workers to work while workers are exercising their right to rest, forces workers to work while workers are carrying out educational duties from the company (Article 186 of the Manpower Law).

It is clear that these violations have legal sanctions but again whether these sanctions can be implemented, every violation can be prosecuted, every violator can be punished, all are still questions that must be answered and proven by all interested parties in enforcing labor law, both the government, employers and workers / laborers.

Based on the three statements above, which are discussed extensively and at length, researchers can conclude that the legal sanctions that will be enforced based on the rules and sanctions that will be borne by the company or employer who violates have been determined based on the rules that have been enacted or enforced by the government based on the Law on Manpower.

## **CONCLUSIONS**

The number of juridical structures that regulate coastal reclamation all have the intention to protect, take care of, preserve, discipline and manage natural resources in their utilization efforts, it is done so that in the business of utilizing coastal areas and small islands can synergize with the needs and sustainability of civil society life, especially for social economic growth. This is important because consciously that the territory of the Unitary State of the Republic of Indonesia is very rich in agrarism and maritimism, so that control of this wealth is carried out so

as not to cause probaleomatics in people's lives.

The next conclusion about the consideration of coastal reclamation reviews of location permits based on Law Number 1 of 2014 is: in conducting coastal reclamation in essence can be done but there are things that are prioritized, namely reclamation that has educational interests, research and facilities for community life, meaning that social interests are prioritized over the interests of economic growth more for the economic interests of a group of people. So that in conducting coastal reclamation location permits must consider aspects of the natural environment, marine ecosystems and the interests of local communities (Public Access).

## **REFERENCES**

Djumadi, *Labor Law of Employment Agreement*, 2006, Jakarta: PT Raja GrafindoPersada.

Sugiyono. 2012. *Understanding Qualitative Research*. Bandung: Alfabeta.

Abdul R Budiono, *Labor Law*, 2009, Jakarta: PT Indeks. 1945 Constitution of the Republic of Indonesia

Law No. 13 Year 2003 on Labor Kepmen No.49/Men/IV/2004Civil Code

enactment wage minimum wage in system wage system,

[Journal DPR RI, https://jurnal.dpr.go.id](https://jurnal.dpr.go.id)<https://id.wikipedia.org/wiki/buruh>