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Legal Protection For Workers Against The Provision Of Wages Below The Regional Minimum Wage

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Abstract

Wages are workers' rights that are received and expressed in the form of money as a reward from the employer to the employee which is determined and paid according to an employment agreement, agreement, or statutory regulations. As a right for workers, the protection of workers against wages should be a concern. When workers are given wages below the minimum wage, of course it raises several problems. In some regulations it has been regulated that employers must pay wages to their workers with minimum wage provisions. When workers have been employed and given wages below the minimum wage on a continuous basis, it certainly does not reflect the existence of legal protection that accommodates the interests and welfare of these workers. The research method used is normative juridical, which is a process to find a rule of law, legal principles and legal doctrines to answer the legal problems faced. The data analysis used is normative qualitative data analysis. Based on the results of the analysis, information can be obtained that the legal

protection of wages for workers has been regulated in the legislation. However, its implementation is not optimal and there are still some deviations. Therefore, it is necessary to have a supervisory role by the Manpower Office on the implementation of the wage system in work agreements so that the rights of workers can be accommodated to the maximum.

Keywords

Wages, Legal Protection, Supervision, workers

I. Introduction

By law, the protection of labor rights has been guaranteed and regulated in laws and regulations, starting from the level of the constitution, laws, and implementing regulations. The position of workers has a role in increasing productivity and greatly affects the progress of the company. Workers must be nurtured by the company that employs them so that the company is able to compete in the global era. In national development, the workforce has a very important role and position as actors in development goals, especially labor development.

The purpose of this manpower development is regulated in Article 4 of Law Number 13 of 2003 concerning Manpower, hereinafter referred to as Law Number 13 of 2003, among others:

1. Empower and utilize the workforce optimally and humanely;
2. To achieve equal distribution of job opportunities and the provision of manpower in accordance with the needs of national and regional development;
3. Provide protection to workers in realizing welfare;
4. Improving the welfare of workers and their families.

One of the important elements in realizing the goal of manpower development is the wage for workers. According to Article 1 point (3) of Law Number 13 of 2003 concerning Manpower, it is stated that a worker/laborer is any person who works by receiving wages or other forms of remuneration. get paid. Based on Article 1 number 30 of Law Number 13 of 2003, wages are rights that workers receive and are expressed in the form of money as compensation from employers or employers to workers which are determined and paid according to a work agreement, agreement, or legislation. , including allowances for workers and their families for a job and/or service that has been or will be performed. Imam Soepomo said that the relationship between employers and workers in which workers are willing to agree to work for employers so that they get wages, and employers are also willing to undertake to pay workers wages for the work done.⁶ This is called an employment relationship. An employment relationship is a civil relationship based on an agreement between the two parties, namely between the entrepreneur and the worker. Article 1 point (15) of Law Number 13 of 2003 states that the employment relationship is the relationship between the entrepreneur and

the worker/labourer based on a work agreement that has elements workers, wages and orders.

Based on the understanding of the working relationship, it is clearly stated that the employment relationship as a form of legal relationship is born or created after the existence of a work agreement between the worker and the entrepreneur. The employment relationship referred to in the law is a work agreement originating from the law. This means that the provisions of the work agreement are coercive, meaning that the provisions of the employment agreement in the labor law must be adhered to and obeyed. In the provisions of the law, work agreements are divided into 2 (two) types, namely a Specific Time Work Agreement (PKWT) and an Indefinite Work Agreement (PKWTT). Specific Time Work Agreement (PKWT) is an agreement based on a period or completion of a particular job. While the Work Agreement for Unspecified Time (PKWTT) or usually can be called permanent workers, where these permanent workers are made on the basis of work that is carried out continuously or indefinitely.

Furthermore, other arrangements relating to a Specific Time Work Agreement (PKWT) are further regulated in a Ministerial Regulation further, namely the Decree of the Minister of Manpower and Transmigration Number 100 of 2004 concerning Provisions for the Implementation of a Specific Time Work Agreement, in Article 1 paragraph (1) KEP-100/MEN /VI/2004 states that a Specific Time Work Agreement (PKWT) is a work agreement between a worker/labourer and an entrepreneur to establish a working relationship for a certain period of time or for certain jobs that are temporary. This is in line with the provisions stipulated in the Act. Number 11 of 2020 concerning Job Creation and Government Regulation Number 35 of 2021 concerning Work Agreements for Certain Time, Outsourcing, Working Time and Rest Time, and Termination of Employment.

However, there are a lot of work agreements for a certain period of time that are not carried out according to the rules that have been set, especially regarding the provisions regarding wages in the Work Agreement for a certain period of time. In fact, many of the workers who have worked for many years under a Fixed Term Employment Agreement do not get a living wage, where they are paid wages below the minimum wage. In Article 88 of Law Number 13 of 2003 as amended in Law Number 11 of 2020 concerning Job Creation, it has been explained that the Central Government establishes a wage policy as one of the efforts to realize the rights of workers to a decent living for humanity, where one of the policies the wage in question is regarding the minimum wage.

Method

The research method used is normative juridical, which is a process to find a rule of law, legal principles and legal doctrines to answer the legal problems faced. The nature of the research is prescriptive, where researchers will try to provide solutions to legal issues in research. This results in an argument for the results of the research obtained, in the form of an assessment or what should be according

to law against the facts or legal events of this research. Data collection techniques are applied through the library method by testing using secondary data which is obtained directly from library materials, both legislation, books and scientific journals. The data analysis used is qualitatively normative, namely analyzing with the intention of interpreting and building statements contained in the legislation on labor law relating to employment issues related to wages in certain time work agreements. Thus, conclusions can be drawn regarding the legal protection for workers against the provision of wages below the minimum wage.

Result And Discussion

Legal Protection in the Wage System for Workers with a Certain Time Work Agreement

Legal protection is the protection of the dignity and worth, as well as the recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will be able to protect one thing from another. The purpose of labor protection is to ensure a harmonious working relationship system without being accompanied by pressure from the strong party to the weak party. In essence, workers are obliged to obtain their rights without exception and in accordance with existing laws and the employer is obliged to facilitate the rights of these workers, but in reality in every industrial relationship, there are not always harmonious disputes between the workers and the employers. the rights and obligations of the parties are important factors in an employment relationship, because in essence the rights of workers/labourers are an obligation that must be fulfilled by the entrepreneur, and conversely what is the right of the entrepreneur is an obligation that must be fulfilled by the worker. Wages play an important role in the employment relationship, it can even be said that the main purpose of a worker working for an employer is to earn a wage. Therefore, if there is no element of wages, then such a relationship is not an employment relationship. Wages from the worker's point of view are a right that are generally seen from the amount, while from the entrepreneur's point of view it is generally associated with productivity. This is something that is still a problem and difficult to bridge.

The definition of wages has been regulated in Article 1 number 30 of Law Number 13 of 2003, namely wages are rights that workers receive and are expressed in the form of money as compensation from employers or employers to workers who are determined and paid according to an employment agreement, agreements, or laws and regulations, including allowances for workers and their families for a job and/or service that has been or will be performed. by workers to entrepreneurs. The wage system is a framework for how wages are regulated and determined. "The wage system in Indonesia is generally based on three wage functions, namely being able to guarantee a decent life for workers and their families, having a social function, reflecting the provision of rewards for one's work and providing incentives in order to encourage increased work productivity and

national income" . Wage arrangements are determined by agreement between employers and workers, must not be lower or contrary to the wage provisions stipulated in the applicable laws and regulations. Wage protection has been clearly regulated in Article 88 of Law Number 13 of 2003 as amended with Law Number 11 of 2020 concerning Job Creation, hereinafter referred to as Law Number 11 of 2020, explained as follows:

1. Every worker has the right to a decent living for humanity;
2. The Central Government establishes a wage policy as one of the efforts to realize the rights of workers to a decent living for humanity;
3. The wage policy as referred to in paragraph (2) includes:
 - a) Minimum wage;
 - b) Wage structure and scale;
 - c) Overtime wages;
 - d) Wages do not come to work and/or do not do work for certain reasons;
 - e) Form and method of payment of wages;
 - f) Things that can be calculated with wages; and
 - g) Wages as the basis for calculating or paying other rights and obligations.
- 4) Further provisions regarding the wage policy shall be regulated by a Government Regulation.

In this case, the Government Regulation in question is Government Regulation Number 36 of 2021 concerning Wages, hereinafter referred to as Government Regulation Number 36 of 2021. Talking about the minimum wage as stated in Article 88 paragraph (3) letter a of Law Number 11 of 2021 2020, there are provisions as regulated in this Government Regulation as follows

Article 23:27

1. The minimum wage is the lowest monthly wage, namely:
 - a. Wages without benefits; or
 - b. Basic wages and fixed allowances.
2. In the event that the wage component in the company consists of basic wages and non-fixed allowances, the basic wage is at least equal to the minimum wage.
3. Entrepreneurs are prohibited from paying wages lower than the minimum wage.

Article 24 :28

1. The minimum wage as referred to in Article 23 paragraph (1) applies to workers with less than 1 (one) year of service at the company concerned.
2. Wages for workers with a working period of 1 (one) year or more are guided by the structure and scale of wages.

Article 25:29

1. The minimum wage consists of:
 - a. Provincial minimum wage;
 - b. Regency/city minimum wage with certain conditions.
2. The minimum wage as referred to in paragraph (1) is determined based on economic and labor conditions. Certain conditions as referred to in

paragraph (1) letter b include regional economic growth or inflation in the relevant reGENCY/city.

3. The economic and employment conditions as referred to in paragraph (2) include the following variables:
 - a. Purchasing power parity;
 - b. Labor absorption rate; and
 - c. Median Wages.
4. Data on economic growth, inflation, purchasing power parity, labor absorption rate, and median wages are sourced from the authorized institution in the field of statistics.

Prior to the issuance of Government Regulation No. 36 of 2021, this regulation regarding wages had been regulated in Government Regulation No. 78 of 2015 concerning Wages, which stipulates that future wage formulations are only calculated as inflation and economic growth figures issued by government agencies (BPS). Initially the Minimum Wage also came from the Decent Living Needs (KHL), where the basis of the KHL was only reviewed once every five years. Seeing this, it is not surprising that many workers reject the contents of Government Regulation Number 78 of 2015 because they are considered inadequate. protect workers' rights regarding wages.

In addition, if we compare it with Article 21 paragraph (1) of Government Regulation Number 36 of 2021, it is stated that employers are obliged to prepare and implement a structure and scale of wages in companies by taking into account the company's capabilities and productivity. will be misused by the company to pay wages to its workers under the prevailing wage provisions.

Provisions regarding wages should be the basis for employers or employers to implement provisions regarding the provision of wages for workers, including workers with a Specific Time Work Agreement. Fundamentally, the provision of wages has three objectives as follows:

1. Attract workers to enter the company.
2. Retain the best employees so they don't move to other companies.
3. Motivate the employee at work.

To achieve the above objectives, a wage system can be said to be good if it:

1. Able to satisfy the basic needs of workers,
2. Comparable to other companies in the same field,
3. Have a fair nature in the company, and
4. Be aware of the fact that everyone's needs are different.

Based on the wage policy above, workers who are bound by a work agreement for a certain time should be paid in accordance with the minimum wage provisions. However, what needs to be underlined is that the minimum wage provisions apply to workers who work less than 1 (one) year in a company. Thus, when there are workers whose wages are paid below the minimum wage provisions in a work agreement for a certain time continuously, it should be a question and strict sanctions are needed against the company. Supervision of the Manpower

Office on the existence of a wage system that is not in accordance with the provisions of the law - the invitation in a certain time work agreement. In Article 1 number (32) of Law Number 13 of 2003 it is explained that labor inspection is an activity that aims to supervise and enforce the implementation of laws and regulations in the field of manpower. Matters related to this supervision are regulated in Chapter XIV concerning Legislative Oversight . Law Number 13 of 2003, which is in Article 176 which reads "Manpower inspection is carried out by competent and independent labor inspectors to ensure the implementation of labor laws and regulations".

In addition, Article 60 of Government Regulation Number 35 of 2021 also explains "Manpower supervision on the implementation of the provisions in this Government Regulation is carried out by labor inspectors at the ministry that carries out government affairs in the manpower sector and/or the agency that carries out government affairs in the provincial manpower sector. According to Manulang as quoted by Abdul Khakim, it is stated that the functions of labor inspection include:

- a. Supervise the implementation of the Manpower Act.
- b. Provide technical information and advice to employers and workers in order to achieve effective implementation of the Manpower Act.
- c. Reporting to the authorities on fraud and irregularities in the Manpower Act.

In this case, the Manpower Office is one of the parties that has an important role in terms of employment. One of the roles of the Manpower Office which is expected to assist in protecting the rights of workers is to supervise the recording of work agreements by the company, which in this study is about the wage system in a certain time work agreement. This is because there are so many wage systems in certain time work agreements that made by the company, but does not meet the standards set out in the legislation.

In the Elucidation of Article 59 paragraph (1) Number 11 of 2020 it has been stated that the work agreement in this paragraph is registered with the agency responsible for manpower. This provision is also regulated in Article 13 of the Decree of the Minister of Manpower and Transmigration Number 100/MEN/VI/2004 which states that PKWT must be registered by the entrepreneur to the agency responsible for manpower affairs at the local regency/city no later than 7 (seven) working days after the signing of the work agreement.

In addition, the latest regulation, namely Article 14 paragraph (2) of Government Regulation Number 35 of 2021 also reaffirms the recording. In view of the need to record a work agreement for a certain period of time as regulated, the work agreement for a certain time is added one more copy, namely for the agency responsible for manpower affairs at the local regency/municipality. From the formulation of the article, it can be seen that the recording of a work agreement for a certain time by the company to the manpower agency is mandatory, in which all matters and/or costs that arise from the making of a PKWT are the responsibility of the entrepreneur. The recording of work agreements for a certain time has a

purpose, namely to provide preventive protection of the rights of workers, which means that before workers sign a work contract, workers should have received legal protection from the Manpower Office, which in this case is the agency responsible for manpower for employment. ensure that the work agreement for a certain time does not violate the applicable provisions. Workers have the right to know this in order to obtain preventive protection from work agreements that do not meet the provisions of the law and arbitrary actions by company.

The supervisory role of the Manpower Office begins with sorting out and analyzing work agreements for a certain time to be registered. They are also authorized to check and examine whether the work agreement is in accordance with the working conditions stipulated in the legislation. If the work agreement for a certain time is judged to be in accordance with the law, it will be legalized and a record number will be given. On the other hand, if the company that made the work agreement for a certain time is judged by the Manpower Office to have not complied with the law, it will be returned and given the opportunity to revise the work agreement. Thus, it is necessary to supervise and provide guidance to employers and workers by the Manpower Office in the implementation of work agreements for a certain time so that they can run in accordance with the laws and regulations, especially regarding wages for their workers. In this case, the function of the Manpower Office as the agency responsible for fostering and supervising work norms, organizing worker welfare facilities and institutions, as well as labor social security norms can function properly so that a harmonious working relationship can be implemented.

Conclusion

Legal protection for workers should be a concern and implemented by employers or employers. No exception protection in terms of wages for workers. Wages are an integral component in an employment agreement. In fact, currently there are still many of the workers who have not received a decent wage and even under the provisions. minimum wage, where in this writing the author focuses on workers who have been employed with a certain time employment agreement continuously. The regulations which regulate wages in turn, starting from Law Number 13 of 2003, Government Regulation Number 78 of 2015, Law Number 11 of 2020, to the most recent Government Regulation Number 36 of 2021. However, the authors argues that these regulations have not been able to accommodate a fair wage system for workers. Supervision in the field of manpower has actually been regulated by manpower regulations. Supervision and guidance of employers and workers by the Department of Manpower in the making and implementation of work agreements for a certain time, especially the regulation of wages, is expected to be carried out in accordance with the laws and regulations, so that the rights of workers can still be accommodated to the maximum and create a balance of position between workers and entrepreneurs. Based on the explanation of the conclusions above, there are several suggestions, namely: There needs to be clear

regulations regarding strict sanctions against companies that still provide wages below the minimum wage continuously for workers to the labor agency. This aims to provide legal certainty to workers in obtaining their rights as mandated by law. The need for supervision and guidance of employers and workers by the Department of Manpower in the implementation of work agreements so that they can run in accordance with the laws and regulations. In addition, increased socialization carried out by relevant agencies is also needed, because there are still many workers who do not know that there is an obligation for companies to pay wages to workers in accordance with applicable regulations. This socialization is important because it aims to protect the rights of these workers.

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