
IMPLEMENTATION OF FULFILLMENT OF WORKERS' WAGE RIGHTS WITH A PARTICULAR TIME WORKING AGREEMENT SYSTEM AT PT.X

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ABSTRACT

Legal regulations regarding wages should be the basis for employers/entrepreneurs to implement provisions regarding the fulfillment of wage rights for workers. However, the problems that often occur in the field are fulfillment of wage rights by employers to workers who are not subject to these legal provisions. One of the facts that happened to PT. X has 150 employees under the PKWT system and all of these workers receive wages below the minimum wage stipulated by the government in the current year. This is of course contrary to the provisions of labor law in the field of wages, in particular the provisions of Article 90 paragraph (1) of the Manpower Law. Based on the description of the background, the problems studied in this study are: 1. How is the implementation of the fulfillment of workers' wage rights with a certain time work agreement system at PT. X?. 2. How is the implementation of local labor inspection in fulfilling workers' wage rights with a certain time work agreement system at PT. X?. This study uses a juridical-sociological approach and descriptive research, interview data collection techniques and document studies. Based on the research conducted, the results obtained are: 1. Implementation of the fulfillment of workers' wage rights at PT. X has not been implemented as the legal provisions in the field of employment, there are 4 main legal problems that occur, namely the payment of wages below the minimum wage, payment of wages is often late than the agreed time between workers and PT. X, payment of wages for sick workers and components of wages that are not in accordance with legal provisions. 2. The implementation of labor inspection has not been implemented properly in enforcing labor norms at PT. X especially in terms of fulfilling workers' wage rights.

Keywords: Implementation; Workers' Wage Rights; Specific Time Work Agreement (PKWT).

INTRODUCTION

Everyone needs a job, either independently or working for someone else (in this case the employer/entrepreneur) in order to get a reward in the form of wages to meet the needs of life and carry on his life.¹ In this regard, the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution) has mandated that every citizen has the right to work and a decent living for humanity.² Article 27 paragraph (1) of the 1945 Constitution is a legal umbrella to provide protection for every citizen in obtaining work and decent wages for

¹ Suhartoyo, "Legal Protection Regarding Wages for Workers/Labourers with Work Agreements for a Certain Time", *Administrative Law & Governance Journal*. Volume 3 Issue 3, (September 2020), p.2.

² Indonesia, the 1945 Constitution of the Republic of Indonesia, Article 27 paragraph (2).

the work he does. The protection is intended to ensure equal opportunity to obtain employment without discrimination in order to realize the welfare of workers and their families.³

Manpower is every person who is able to do work to produce goods and/or services both to meet their own needs and for the community.⁴ Meanwhile, the definition of Worker/labor is any person who works by receiving wages/rewards in other forms.⁵ Regarding the difference between labor and workers, Meliana Kiswandari in a book entitled *The Principles of Hunting Law* states the following:

the definition of labor is broader than the definition of worker/labor. The workforce includes everyone who is or will be doing work. Even for those who are doing work, the work can be done inside or outside the employment relationship. On the other hand, the definition of worker/labor is only limited to everyone who is doing work, especially in an employment relationship. Thus, workers/labourers are included in the definition of labor.⁶

Based on the description above, one important point can be drawn, namely that the worker/labourer who performs work for the employer is in an employment relationship. Employment relationship is the relationship between the entrepreneur and the worker/labourer based on a work agreement, which has elements of work, wages, and orders.⁷ In the employment relationship, wages are a goal to be achieved by workers in order to fulfill their daily needs. Wages are a basic right of workers whose protection has been guaranteed by the 1945 Constitution and other legal rules in the field of manpower. Wages are income received by workers which is a reward for the work that has been done.⁸ In Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Act) it is explained that:

Wage is the right of the worker/labourer that is received and expressed in the form of money as a reward from the entrepreneur or employer to the worker/labourer which is determined and paid according to a work agreement, agreement, or statutory regulations, including allowances for the worker/laborer and his/her family for a job. work and/or services that have been or will be performed.⁹

In the world of employment, wages are one of the sensitive issues that are vulnerable to industrial relations disputes.¹⁰ The basic rules regarding wages in the Manpower Law have been stated explicitly in Articles 88 to 98 along with the implementing regulations. The legal rules regarding wages should be the basis for employers/entrepreneurs to implement provisions regarding the fulfillment of wages for workers, whether they are workers or workers with an Indefinite Time Work Agreement (PKWTT) system or workers with a Fixed Time Work Agreement (PKWT) system. . However, the problem that often occurs in the field is the fulfillment of wage rights by employers to workers who are not subject to these legal provisions. This happens because on the one hand wages are rights for workers/laborers in return for services and/or labor provided, on the other hand employers see wages as costs.¹¹

One of the facts that happened to PT. X, which is a company engaged in services or services domiciled in DKI Jakarta Province, has 150 employees under the PKWT system and all of these workers receive wages below the minimum wage stipulated by the government in the current period. This is of course contrary to the provisions of labor law in the field of wages, in particular the provisions of Article 90 paragraph (1) of the Manpower Law. Other problems found were payment of wages that were not on time as agreed between workers and employers,

¹¹ Lidia Afrilia, "Disabled Procedures for Determining the Sectoral Minimum Wage for Regency/City (UMSK) Gresik, East Java 2019", *Media Iuris* Vol. 2 No. 3, (October 2019), p. 353.

payment of wages for sick workers who did not comply with legal provisions, and components of wages that did not comply with legal provisions. Based on this description, the author raised the topic of this paper with the title “Implementation of the Fulfillment of Workers’ Wage Rights with a Certain Time Work Agreement System at PT. X”. From the description of the background above, the author formulates this paper in 3 problem formulations, namely:

1. How implementation of the fulfillment of workers’ wage rights with a certain time work agreement system at PT. X?
2. How is the implementation of local labor inspection in fulfillment of workers’ wage rights with a certain time work agreement system at PT. X?

METHOD

This research uses a juridical-sociological approach or a socio-legal approach or an empirical approach, namely research conducted by examining how a rule is implemented in the field. The specification of this research is descriptive. It is said to be descriptive because the results of this study are expected to obtain a factual picture or painting about the state of the object under study.¹² Primary research data obtained directly through interviews with parties who are considered directly related to the research problem while secondary data contains primary legal materials, secondary legal materials, and tertiary legal materials. Primary sources of legal material come from the 1945 Act, Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, Government Regulation Number 78 of 2015 concerning Wages, Regulation of the Minister of Manpower Number 33 of 2016 concerning Procedures Method of Labor Supervision, and Regulation of the Governor of DKI Jakarta Province Number 103 of 2020 concerning the Provincial Minimum Wage of 2021.

ANALYSIS AND DISCUSSION

A. Implementation of the Fulfillment of Workers’ Wage Rights with a Certain Time Work Agreement System at PT. X

The legal provisions regarding wages are regulated in Articles 88 to 98 of the Manpower Law. Further legal provisions regarding wages are contained in Government Regulation Number 78 of 2015 concerning Wages (hereinafter referred to as PP Wages) and Ministerial Decrees as other derivative rules. The legal provisions regarding wages in the Manpower Law are as follows:

Article 88

- (1) Every worker/labor has the right to earn an income that fulfills a decent living for humanity.
- (2) In order to realize an income that meets a decent living for humanity as referred to in paragraph (1), the government establishes a wage policy that protects workers/laborers.
- (3) Wage policies that protect workers/laborers as referred to in paragraph (2) include:
 - a. minimum wage;
 - b. overtime pay;
 - c. wages do not come to work due to absence;
 - d. wages are absent from work due to other activities outside of their work;
 - e. wages for exercising their right to rest time;

- f. form and method of payment of wages;
 - g. fines and deductions from wages;
 - h. things that can be calculated with wages;
 - i. proportional remuneration structure and scale;
 - j. wages for severance pay; and
 - k. wages for income tax calculations.
- (4) The government shall determine the minimum wage as referred to in paragraph (3) letter a based on the need for a decent living and taking into account productivity and economic growth.¹³

Article 89

- (1) The minimum wage as referred to in Article 88 paragraph (3) letter a may consist of:
 - a. minimum wage based on province or district/city;
 - b. minimum wage by sector in the province or district/city.
- (2) The minimum wage as referred to in paragraph (1) is directed at achieving the needs of a decent living.
- (3) The minimum wage as referred to in paragraph (1) is determined by the Governor by taking into account the recommendations of the Provincial Wage Council and/or Regent/Mayor.
- (4) The components and implementation of the stages of achieving decent living needs as referred to in paragraph (2) shall be regulated by a Ministerial Decree.¹⁴

Article 90

- (1) Entrepreneurs are prohibited from paying wages lower than the minimum wage as referred to in Article 89.
- (2) For entrepreneurs who are unable to pay the minimum wage as referred to in Article 89, it can be suspended.
- (3) The procedure for the suspension as referred to in paragraph (2) shall be regulated by a Ministerial Decree.¹⁵

Article 91

- (1) Wage arrangements stipulated by agreement between the entrepreneur and the worker/laborer or the trade union/labor union may not be lower than the wage provisions stipulated by the prevailing laws and regulations.
- (2) In the event that the agreement as referred to in paragraph (1) is inferior or contrary to the laws and regulations, the agreement is null and void, and the entrepreneur is obliged to pay the workers/laborers wages according to the prevailing laws and regulations.¹⁶

Article 92

- (1) Employers prepare the structure and scale of wages by taking into account class, position, tenure, education, and competence.

¹³ Indonesia, Manpower Law, Op.Cit., Article 88.

¹⁴ Ibid., Article 89.

¹⁵ Ibid., Article 90.

¹⁶ Ibid., Article 91.

- (2) Employers conduct periodic wage reviews by taking into account the company's capabilities and productivity.
- (3) Provisions regarding the structure and scale of wages as referred to in paragraph (1) shall be regulated by a Ministerial Decree.¹⁷

Article 93

- (1) Wages are not paid if the worker/labourer does not do the work.
- (2) The provisions as referred to in paragraph (1) do not apply, and the entrepreneur is obliged to pay wages if:
 - a. the worker/labourer is sick and unable to do work;
 - b. female workers/laborers who are sick on the first and second days of their menstrual period so that they are unable to work;
 - c. the worker/ laborer does not come to work because the worker/ laborer marries, marries, circumcises, baptizes his child, wife gives birth or miscarries, husband or wife or child or son-in-law or parent or in-laws or family member in the same house dies;
 - d. the worker/labourer is unable to perform his/her job because he/she is carrying out his/her obligations to the state;
 - e. the worker/labourer is unable to carry out his/her job because he/she is performing the worship ordered by his/her religion;
 - f. the worker/labourer is willing to do the work that has been promised but the entrepreneur does not employ him, either because of his own fault or an obstacle that the entrepreneur should be able to avoid;
 - g. workers/laborers exercise their right to rest;
 - h. workers/laborers carry out the duties of a trade union/labor union with the approval of the entrepreneur; and
 - i. workers/laborers carry out educational duties from the company.
- (3) Wages paid to sick workers/laborers as referred to in paragraph (2) letter a are as follows:
 - a. for the first 4 (four) months, 100% (one hundred percent) of wages are paid;
 - b. for the second 4 (four) months, 75% (seventy five percent) of wages are paid;
 - c. for the third 4 (four) months, 50% (fifty percent) of wages are paid; and
 - d. for the next month to be paid 25% (twenty five percent) of wages before termination of employment is carried out by the entrepreneur.
- (4) Wages paid to workers/laborers who do not come to work as referred to in paragraph (2) letter c are as follows:
 - a. worker/labor is married, paid for 3 (three) days;
 - b. marry off their children, paid for for 2 (two) days;
 - c. circumcising their child, paid for 2 (two) days
 - d. baptizing their child, paid for for 2 (two) days;
 - e. the wife gave birth or miscarried the womb, paid for for 2 (two) days;
 - f. husband/wife, parent/in-law or child or son-in-law dies, paid for 2 (two) days; and
 - g. a family member in one house dies, paid for for 1 (one) day.
- (5) The arrangement for implementing the provisions as referred to in paragraph (2) shall be stipulated in a work agreement, company regulations, or collective work agreement.¹⁸

Article 94

¹⁷ Ibid., Article 92.

¹⁸ Ibid., Article 93.

In the event that the wage component consists of basic wages and fixed allowances, the amount of basic wages is at least 75% (seventy five percent) of the total basic wages and fixed allowances.¹⁹

Article 95

- (1) Violations committed by workers/laborers due to intentional or negligence may be subject to fines.
- (2) Entrepreneurs who intentionally or negligently result in delays in payment of wages, are subject to a fine according to a certain percentage of the worker/laborer's wages.
- (3) The government regulates the imposition of fines on entrepreneurs and/or workers/laborers in the payment of wages.
- (4) In the event that the company is declared bankrupt or liquidated based on the prevailing laws and regulations, then the wages and other rights of the workers/laborers shall be the debts which have priority in payment.²⁰

Article 96

The demand for payment of the worker/laborer's wages and all payments arising from the employment relationship expires after exceeding a period of 2 (two) years since the entitlement arises.²¹

Article 97

Provisions regarding decent income, wage policies, decent living needs, and wage protection as referred to in Article 88, determination of minimum wages as referred to in Article 89, and the imposition of fines as referred to in Article 95 paragraph (1), paragraph (2) and paragraph (3) regulated by Government Regulation.²²

Article 98

- (1) To provide advice, consideration, and formulate a wage policy to be determined by the government, as well as for the development of a national wage system a National, Provincial, and Regency/Municipal Wage Council is formed.
- (2) The membership of the Wage Council as referred to in paragraph (1) consists of elements of the government, employers' organizations, trade unions/labor unions, universities, and experts.
- (3) Membership of the National Wage Council is appointed and dismissed by the President, while the membership of the Provincial, Regency/Municipal Wage Council is appointed and dismissed by the Governor/Regent/Mayor.
- (4) Provisions regarding the procedures for the formation, composition of membership, procedures for the appointment and dismissal of membership, as well as the duties and working procedures of the Wage Council as referred to in paragraphs (1) and (2), shall be regulated by a Presidential Decree.²³

¹⁹ Ibid., Article 94.

²⁰ Ibid., Article 95.

²¹ Ibid., Article 96.

²² Ibid., Article 97.

²³ Ibid., Article 98.

Since the promulgation of Law Number 11 of 2020 concerning Job Creation (hereinafter abbreviated as the Job Creation Law) on November 5, 2020, several provisions in the Manpower Law have been amended and regulated in Chapter IV of the Job Creation Law. Specifically regarding wages, there are several provisions that have been deleted or revised and further regulated in Government Regulation No36 of 2021 concerning Wages. The new provisions regarding wages contained in Chapter IV of the Job Creation Law are as follows:

Article 88

- (1) Every worker/labor 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/laborers 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 pay;
 - 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 a basis for calculating or paying other rights and obligations.
- (4) Further provisions regarding wage policies are regulated in a Government Regulation.²⁴

Article 88A

- (1) The rights of workers/laborers to wages arise when there is an employment relationship between the worker/labourer and the entrepreneur and ends when the employment relationship is terminated.
- (2) Every worker/ laborer has the right to receive the same wages for work of equal value.
- (3) Employers are obliged to pay wages to workers/laborers in accordance with the agreement.
- (4) Wage arrangements determined by agreement between the entrepreneur and workers/labor or trade/labor unions may not be lower than the wage provisions stipulated in the laws and regulations.
- (5) In the event that the agreement as referred to in paragraph (4) is inferior or contrary to the laws and regulations, the agreement is null and void and the wage arrangement is carried out in accordance with the provisions of the legislation.
- (6) Entrepreneurs who intentionally or negligently result in delays in payment of wages, shall be subject to a fine according to a certain percentage of the worker/laborer's wages.
- (7) Workers/laborers who commit violations due to intentional or negligence may be subject to fines.
- (8) The government regulates the imposition of fines for employers and/or workers/ laborers for payment of wages.²⁵

Article 88B

- (1) Wages are set based on:
 - a. unit of time; and/or
 - b. result unit.

²⁴ Indonesia, the Law on Job Creation, Law no. 11 of 2020, LN No. 245 of 2020, TLN No. 6573, Art. 88.

²⁵ Ibid., Article 88A.

- (2) Further provisions regarding wages based on units of time and/or units of results as referred to in paragraph (1) shall be regulated in a Government Regulation.²⁶

Article 88C

- (1) The governor is obliged to set the provincial minimum wage.
- (2) The governor can determine the district/city minimum wage with certain conditions.
- (3) The minimum wage as referred to in paragraphs (1) and (2) is determined based on economic and manpower conditions.
- (4) Certain conditions as referred to in paragraph (2) include regional economic growth or inflation in the regencies/municipalities concerned.
- (5) The regency/municipal minimum wage as referred to in paragraph (2) must be higher than the provincial minimum wage.
- (6) The economic and manpower conditions as referred to in paragraph (3) use data sourced from the authorized institution in the field of statistics.
- (7) Further provisions regarding the procedure for determining the minimum wage as referred to in paragraph (3) and certain conditions as referred to in paragraph (4) shall be regulated in a Government Regulation.²⁷

Article 88D

- (1) The minimum wage as referred to in Article 88C paragraph (1) and paragraph (2) is calculated using the minimum wage calculation formula.
- (2) The minimum wage calculation formula as referred to in paragraph (1) contains the variable of economic growth or inflation.
- (3) Further provisions regarding the minimum wage calculation formula are regulated in a Government Regulation.²⁸

Article 88E

- (1) The minimum wage as referred to in Article 88C paragraph (1) and paragraph (2) applies to workers/laborers with a working period of less than 1 (one) year at the company concerned.
- (2) Employers are prohibited from paying wages lower than the minimum wage.²⁹

Article 89 removed

Article 90 deleted

Article 90A

Wages above the minimum wage are based on an agreement between the company's employers.³⁰

Article 90B

²⁶ Ibid., Article 88B.

²⁷ Ibid., Article 88C.

²⁸ Ibid., Article 88D.

²⁹ Ibid., Article 88E.

³⁰ Ibid., Article 90A.

- (1) The provisions of the minimum wage as referred to in Article 88C paragraph (1) and paragraph (2) are excluded for Micro and Small Enterprises.
- (2) Wages for Micro and Small Enterprises are determined based on an agreement between the entrepreneur and the workers/ laborers in the company.
- (3) The wage agreement as referred to in paragraph (2) is at least a certain percentage of the average public consumption based on data sourced from the authorized institution in the field of statistics.
- (4) Further provisions regarding wages for Micro and Small Enterprises shall be regulated in a Government Regulation.³¹

Article 91 removed

Article 92

- (1) Employers are required to develop a structure and scale of wages in the company by taking into account the company's capabilities and productivity.
- (2) The structure and scale of wages are used as guidelines for employers in setting wages.
- (3) Further provisions regarding the structure and scale of wages are regulated in a Government Regulation.³²

Article 92A

Employers conduct periodic wage reviews by taking into account the company's capabilities and productivity.³³

Article 94

In the event that the wage component consists of basic wages and fixed allowances, the amount of basic wages is at least 75% (seventy five percent) of the total basic wages and fixed allowances.³⁴

Article 95

- (1) In the event that the company is declared bankrupt or liquidated based on the provisions of laws and regulations, wages and other rights that have not been received by the worker/ laborer are debts whose payment takes precedence.
- (2) The wages of workers/laborers as referred to in paragraph (1) are paid prior to payment to all creditors.
- (3) Other rights of workers/laborers as referred to in paragraph (1) shall be paid first for all creditors except creditors holding material security rights.³⁵

Article 96 removed

Article 97 deleted

³¹ Ibid., Article 90B.

³² Ibid., Article 92.

³³ Ibid., Article 92A.

³⁴ Ibid., Article 94.

³⁵ Ibid., Article 95.

Article 98

- (1) To provide suggestions and considerations to the Central Government or Regional Governments in the formulation of wage policies and the development of the wage system, a wage council is formed.
- (2) The wage council consists of elements of the Government, employers' organizations, trade unions/labor unions, experts, and academics.
- (3) Further provisions regarding the procedure for the formation, composition of membership, procedures for the appointment and termination of membership, as well as the duties and working procedures of the wage council are regulated in a Government Regulation.³⁶

Because PKWT between workers and PT. X was made and agreed before the Job Creation Act and its derivative regulations were enacted, so to analyze the problems in fulfilling workers' wage rights that occurred at PT. X, the author limits the legal rules that are used as an analytical knife, namely the Manpower Act and the PP Wages. The problems in fulfilling workers' wage rights that occurred at PT. X include the following:

1. *Workers' Wages under Current Year Minimum Wage Provisions*

Wages are one of the normative rights of workers. This right is constitutionally regulated and protected in Article 27 paragraph (2) of the 1945 Constitution which states that "Every citizen has the right to work and a decent living for humans". Everyone has the right to get a job and a wage for that work. Wages are used to meet the needs of clothing, housing and food for workers and their families, therefore the wages given by workers must be appropriate according to the wage standards set by the government.

Employers are prohibited from paying wages lower than the minimum wage.³⁷ The minimum wage policy is a government instrument in an effort to improve the welfare of workers which is in line with the main goal of creating national welfare.³⁸ The existence of a minimum wage also aims to provide protection for workers from wages that are too low.³⁹ Nevertheless, the law in the field of manpower, especially the Manpower Law, provides relief for entrepreneurs who are unable to pay the minimum wage, so a postponement can be made.⁴⁰

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 problem stems from the desire to get high wages, while productivity is still low due to inadequate levels of education and skills. When viewed from the interests of each party, this becomes a dilemma for the government as part of the Tripartite party to overcome it.⁴¹

Payment of wages below the minimum wage that has been set by the government certainly violates the rights of workers/ laborers in the form of economic rights in obtaining welfare because it seems that workers/ laborers are unable to refuse the provision of wages and the entrepreneur considers that the wages given have fulfilled their daily lives. workers/labourers such as clothing, food and shelter needs. In fact, with the provisions of the minimum wage that has been determined, it is hoped that it will not only fulfill the economic rights of workers/ laborers, but also their family members.⁴²

⁴² Penny Naluria Utami, "Minimum Wage Determination in Improving Welfare for Workers", Op. Cit., p. 172.

This requires the government to be the main actor in bridging the two existing interests so that disintegration does not occur. The active role of the government as the main actor is for example by determining the minimum wage limit so that employers in paying workers' wages continue to protect the dignity and welfare of their workers. Despite the government's efforts to make regulations that set the minimum wage payment limit and carry out supervision, until now problems after problems in the field of wages are still often found.

The concept of payment of wages applied by PT. X to workers is wages paid to workers determined in monthly time units with a working time system of 6 (six) days a week and a month's wages divided by 25 (twenty five) days. The concept applied by PT. X in paying the wages of his workers is in accordance with the provisions of Article 12 and Article 13 of the Wage Government Regulation which reads:

Article 12

Wages are set based on:

- a. unit of time; and/or
- b. result unit.⁴³

Article 13

- (1) Wages based on time units as referred to in Article 12 letter a are determined on a daily, weekly or monthly basis.
- (2) In the event that Wage is determined on a daily basis as referred to in paragraph (1), the calculation of the daily Wage is as follows:
 - a. for companies with a working time system of 6 (six) days a week, the monthly Wage is divided by 25 (twenty five); or
 - b. for companies with a working time system of 5 (five) days a week, the monthly Wage is divided by 21 (twenty one).⁴⁴

At PT. X, the first problem in fulfilling workers' wage rights is that out of 150 workers only 14 workers who receive wages have met the minimum wage for the current year. The other 136 workers have served more than 1 year but are paid below the minimum wage for the current year. In fact, the minimum wage applies to workers with a service period of less than 1 (one) year at the company concerned.⁴⁵

Based on the Regulation of the Governor of DKI Jakarta Province Number 103 of 2020 concerning the 2021 Provincial Minimum Wage, the 2021 Provincial Minimum Wage in the Province of the Special Capital City Region of Jakarta is IDR 4,416,186,548 (four million four hundred sixteen thousand one hundred and eighty six rupiahs five hundred four twenty eight cents) per month.⁴⁶ Supposedly, all workers at PT. X receives a wage with a nominal value above the applicable Provincial Minimum Wage provisions. PT. X is of course contrary to the provisions of Article 90 paragraph (1) of the Manpower Law. When the financial condition of PT. X has not accommodated his obligation to pay wages in accordance with the minimum wage, so based on the provisions of Article 90 paragraph (2) of the Manpower Law, PT. X can suspend. Unfortunately, since its establishment in 2010 until now, PT. X has

⁴³ Indonesia, Government Regulation on Wages, PP No.78 of 2015, LN No. 237 of 2015, TLN No. 5747, Article 12.

⁴⁴ Ibid., Article 13.

⁴⁵ Indonesia, Government Regulation on Wages, Op. Cit., Article 42 paragraph (1).

⁴⁶ Indonesia, DKI Jakarta, Regulation of the Governor of DKI Jakarta Province Number 121 of 2019 concerning the 2020 Provincial Minimum Wage, Article 1 paragraph (1).

never made a suspension as stated in Article 90 paragraph (2) of the Manpower Law because PT. X is not aware of this provision.

Wage arrangements stipulated by agreement between the entrepreneur and the worker/laborer or the trade union/ labor union may not be lower than the wage provisions stipulated by the prevailing laws and regulations.⁴⁷ If the agreement is inferior or contrary to the laws and regulations, the agreement is null and void, and the entrepreneur is obliged to pay the wages of the workers/laborers according to the prevailing laws and regulations.⁴⁸ The sanctions that can be imposed on PT. X is explicitly regulated in the Manpower Law as follows:

Article 185

- (1) Whoever violates the provisions as referred to in Article 42 paragraph (1) and paragraph (2), Article 68, Article 69 paragraph (2), Article 80, Article 82, Article 90 paragraph (1), Article 143, and Article 160 paragraph (4) and paragraph (7), is subject to a minimum imprisonment of 1 (one) year and a maximum of 4 (four) years and/or a minimum fine of Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 400,000.0000.00 (four hundred million rupiah).
- (2) The crime as referred to in paragraph (1) is a criminal offense.⁴⁹

Responding to this problem, based on the provisions of Article 185 paragraph (1) and paragraph (2) of the Manpower Law above, PT. X can be suspected of having committed a criminal offense and may be subject to a minimum imprisonment of 1 (one) year and a maximum of 4 (four) years and/or a minimum fine of Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 400,000.0000.00 (four hundred million rupiah). Unfortunately, until now PT. X has never been investigated by a labor inspector so that the threat of sanctions regulated in Article 185 of the Manpower Law has never been imposed on PT. X.

2. *Frequently Late Payment of Wages*

Second problem, PT. X is often late in making payment of workers' wages from the agreed date, starting from the 25th to the 30th of each month. Entrepreneurs who intentionally or negligently result in delays in payment of wages, are subject to a fine according to a certain percentage of the worker/laborer's wages.⁵⁰ The provisions for the imposition of fines are regulated in the PP Wages, which are as follows:

- (1) Entrepreneurs as referred to in Article 53 who are late in paying and/or not paying Wages as referred to in Article 5 paragraph (4) are subject to a fine, provided that:
 - a. starting from the fourth day to the eighth day from the date the Wage should be paid, a fine of 5% (five percent) is imposed for each day of delay in the Wage that should be paid;
 - b. after the eighth day, if the Wage is still not paid, a late penalty as referred to in letter a is added plus 1% (one percent) for each day of delay provided that 1 (one) month may not exceed 50% (fifty percent) of the Wage that should be paid; and
 - c. after a month, if Wages are still not paid, a late fee as referred to in letter a and letter b is imposed, plus interest equal to the interest rate prevailing at the state bank.

⁴⁷ Indonesia, Manpower Law, Op.Cit., Article 91 paragraph (1).

⁴⁸ Ibid., Article 91 paragraph (2).

⁴⁹ Indonesia, Manpower Law, Op.Cit., Article 185.

⁵⁰ Indonesia, Manpower Law, Op.Cit., Article 95 paragraph (2).

(2) The imposition of fines as referred to in paragraph (1) does not eliminate the obligation of Employers to continue to pay Wages to Workers/Labourers.⁵¹

Then regarding the practice of late payment of wages beyond the time limit, PT. X may be sanctioned by the government in the form of administrative sanctions consisting of: a. written warning; b. limitation of business activities; c. temporary suspension of part or all of the means of production; and D. Suspension of business.⁵² The imposition of administrative sanctions as intended is given based on the results of the examination conducted by the labor inspector from the complaint; and/or follow-up on the results of the labor inspection.⁵³ As far as field data obtained, PT. X has never been sentenced to administrative sanctions and has fulfilled the obligation to pay fines.

The active attitude of workers in terms of demanding their rights to payment of fines to companies and reporting to agencies in the field of manpower is not carried out even though they know that there are legal regulations that regulate it. Workers are worried that making a complaint will threaten their position in the company, such as being subject to layoffs. Supervision from employment agencies can be considered not optimal, because if the supervision has been carried out optimally and legal disobedience is found by PT. X and causes PT. X can be imposed administrative sanctions of course PT. X has been given the administrative sanction.

3. *Payment of Sick Workers Wages Violates Legal Provisions*

Employment law in Indonesia adheres to the principle of No Work No Pay, this is stated in the Manpower Law which explicitly states that wages are not paid if the worker/labourer does not do work.⁵⁴ However, the application of this principle is not absolute. There are exceptions that are expressly regulated in the Manpower Act and its derivative rules regarding the payment of wages to workers even if the worker does not perform the work as instructed by the employer.

The exception to the application of the No Work No Pay principle is contained in Article 93 paragraph (2) of the Manpower Law which reads as follows:

- (2) The provisions as referred to in paragraph (1) do not apply, and the entrepreneur is obliged to pay wages if:
- a. the worker/labourer is sick and unable to do work;
 - b. female workers/laborers who are sick on the first and second days of their menstrual period so that they are unable to work;
 - c. the worker/ laborer does not come to work because the worker/ laborer marries, marries, circumcises, baptizes his child, wife gives birth or miscarries, husband or wife or child or son-in-law or parent or in-laws or family member in the same house dies;
 - d. the worker/labourer is unable to perform his/her job because he/she is carrying out his/her obligations to the state;
 - e. the worker/labourer is unable to carry out his/her job because he/she is performing the worship ordered by his/her religion;

⁵¹ Indonesia, Government Regulation of the Republic of Indonesia Number 78 of 2015 concerning Wages., Op.Cit., Article 55 paragraph (1).

⁵² Ibid., Article 59 paragraph (2).

⁵³ Ibid., Ps. 60 paragraph (2).

⁵⁴ Indonesia, Manpower Law, Op.Cit., Article 93 paragraph (1).

- f. the worker/labourer is willing to do the work that has been promised but the entrepreneur does not employ him, either because of his own fault or an obstacle that the entrepreneur should be able to avoid;
- g. workers/laborers exercise their right to rest;
- h. workers/laborers carry out the duties of a trade union/labor union with the approval of the entrepreneur; and
- i. workers/laborers carry out educational duties from the company.⁵⁵

The Covid-19 pandemic that emerged from 2020 to 2021, attacked several workers at PT. X. Overall, workers who suffer from Covid-19 and receive medical treatment are unable to carry out their work within a period of no more than 3 months, receiving partial payment of wages from PT. X. All of these workers only receive wages equal to the basic wages as stated and agreed in the PKWT of the workers concerned. The provisions of article 93 paragraph (2) of the Manpower Law have not been realized by PT. X. Furthermore, the Manpower Law regulates the amount of wage payments for exceptions to the No Work No Pay principle as follows:

- (3) Wages paid to sick workers/laborers as referred to in paragraph (2) letter a are as follows:
 - a. for the first 4 (four) months, 100% (one hundred percent) of wages are paid;
 - b. for the second 4 (four) months, 75% (seventy five percent) of wages are paid;
 - c. for the third 4 (four) months, 50% (fifty percent) of wages are paid; and
 - d. for the next month to be paid 25% (twenty five percent) of wages before termination of employment is carried out by the entrepreneur.⁵⁶

Based on the provisions of Article 93 paragraph (2) and paragraph (3) of the Manpower Law, employees of PT. X, who has Covid-19 so that he cannot fulfill his obligations, receives a 100% wage payment. However, in fact, none of the workers received full wages as agreed in the PKWT of the workers concerned. The Manpower Act categorizes the actions of PT. X is a criminal offense in the field of manpower as regulated in Article 186 of the Manpower Law which reads as follows:

Article 186

- (1) Whoever violates the provisions as referred to in Article 35 paragraph (2) and paragraph (3), Article 93 paragraph (2), Article 137, and Article 138 paragraph (1), shall be subject to a minimum imprisonment of 1 (one) month and a maximum of 1 (one) month imprisonment. 4 (four) years and/or a minimum fine of Rp. 10,000,000.00 (ten million rupiah) and a maximum of 400,000,000.00 (four hundred million rupiah).
- (2) The crime as referred to in paragraph (1) is a criminal offense.⁵⁷

4. *Wage Components Are Not In Accordance With Legal Provisions*

In the event that the wage component consists of basic wages and fixed allowances, the amount of basic wages is at least 75% (seventy five percent) of the total basic wages and fixed allowances.⁵⁸ This provision is further regulated in the PP Wages, as follows:

⁵⁵ Ibid., Article 93 paragraph (2).

⁵⁶ Ibid., Article 93 paragraph (3).

⁵⁷ Ibid., Article 186.

⁵⁸ Ibid., Article 94.

Article 5

- (1) Wages as referred to in Article 4 paragraph (2) letter a consist of the following components:
 - a. Wages without benefits;
 - b. Basic wages and fixed allowances; or
 - c. Basic wages, fixed allowances, and variable allowances.
- (2) In the event that the Wage component consists of basic Wage and fixed allowances as referred to in paragraph (1) letter b, the amount of the basic Wage is at least 75% (seventy five percent) of the total basic Wage and fixed allowances.
- (3) In the event that the Wage component consists of basic Wage, fixed allowances, and non-fixed allowances as referred to in paragraph (1) letter c, the amount of the basic Wage is at least 75% (seventy five percent) of the total basic Wage and fixed allowances.
- (4) The wages as referred to in paragraph (1) are regulated in the Employment Agreement, Company Regulations, or Collective Labor Agreement.⁵⁹

In its implementation, all components of workers' wages at PT. X is not in accordance with the provisions of Article 94 of the Manpower Law in conjunction with Article 5 of the Wage PP. One example, workers at PT. X earns a salary of Rp. 3,835,000 per month. The wage components consist of basic wages, fixed allowances, and non-fixed allowances. If referring to the provisions of the two articles, the basic wage of the worker concerned per month should be Rp. 2,876,000. But PT. X provides basic wages to the workers concerned in the amount of Rp. 1,850,000.

B. The Role of Local Labor Inspection in Fulfilling Workers' Wage Rights with a Certain Time Work Agreement System at PT. X

Labor inspection is the activity of supervising and enforcing the implementation of laws and regulations in the field of manpower.⁶⁰ Labor inspection is carried out by competent and independent labor inspectors to ensure the implementation of labor laws and regulations.⁶¹ The characteristics of labor inspection include:⁶²

1. Labor inspection is an external inspection. External supervision is supervision carried out by people or bodies outside the environment of the organizational unit concerned. The unit referred to in the labor inspection is the labor inspection inspectorate as the subject of supervision and the company as the object being supervised.
2. Labor inspection is a preventive inspection. Preventive supervision is supervision carried out on an activity before the activity is carried out, so as to prevent irregularities. Labor inspection is a preventive inspection so that violations/errors that occur in an employment relationship can be corrected and not repeated.
3. Labor inspection is a repressive inspection. Repressive supervision is supervision carried out on an activity after the activity has been carried out. This definition has two meanings, namely supervision carried out during work in progress, and after the work is completed. The

⁵⁹ Indonesia, Government Regulation on Wages, Op.Cit., Article 5.

⁶⁰ Indonesia, Manpower Law, Op.Cit., Article 1 number 32.

⁶¹ Ibid., Article 176.

⁶² Safri Nugraha, State Administrative Law: Revised Edition, (Jakarta: Center For Law and Good Governance Studies (CLGSFHUI), 2007), p. 393.

purpose of holding repressive supervision is to ensure the continuity of work implementation so that the results are in accordance with applicable regulations.

4. Labor inspection is an active inspection. Active supervision is a type of supervision carried out at the place of the activity concerned. This applies to labor inspection because this type of inspection is carried out not at the inspection inspectorate but in companies that go through inspection visits.
5. Labor inspection is a formal inspection. Formal supervision is supervision carried out by authorized agencies/officials. The Directorate General of Manpower Supervision of the Ministry of Manpower and Transmigration is an official who has formal authority to carry out labor inspection in Indonesia.

There are 3 stages of labor inspection implementation, namely the preventive educative stage, the non-judicial repressive stage, and the judicial repressive stage. The educative preventive stage is a coaching activity as a prevention effort through the dissemination of labor norms, technical advice, and assistance. The non-judicial repressive stage is a forced effort outside the court institution to fulfill the provisions of labor laws and regulations, and the judicial repressive stage is a forced effort through a court institution by conducting an investigation process by the labor inspector as the labor PPNS.⁶³ Regarding the implementation of labor inspection, it is carried out through 4 activities, namely coaching, examination, testing, and/or investigation of labor crimes.⁶⁴

The issue of wages has always been a dilemma for workers and employers, if it is not addressed with regulations that can minimize the two always different interests, it will lead to disharmony in industrial relations in Indonesia.⁶⁵ Even though the regulations have been created as perfectly as possible, of course, it will not have a positive impact without the obedient implementation of these regulations. Implementation of the fulfillment of workers' wage rights with the PKWT system at PT. X for example, there are 4 main problems where PT. X did not comply with the provisions of labor law in fulfilling workers' wage rights, namely the payment of workers' wages below the minimum wage for the current year, payment of wages was often late from the time agreed upon by the workers and PT. X, payment of wages for sick workers and components of workers' wages that are not in accordance with legal provisions. Of the 4 attitudes of disobeying the law, based on the provisions of the Manpower Act and the PP on Wages, PT. X may be subject to administrative sanctions and criminal threats because he is suspected of having committed labor crimes in the form of crimes and violations. But in fact, since its inception until now PT. X has never been sentenced to administrative sanctions or sentenced to a criminal offense for his actions.

PT. X stated that labor inspection activities as stipulated in the Regulation of the Minister of Manpower Number 33 of 2016 concerning Procedures for Labor Inspection (hereinafter abbreviated as the Minister of Manpower for Labor Inspection) have never been received from the local government agency in the field of manpower. To ensure compliance with labor norms which of course have a major impact on the fulfillment of workers' rights by employers, labor inspectors should be authorized to carry out development, inspection, testing and or investigation of labor crimes against business activities carried out by PT. X with preventive educative stages, non-judicial repressive stages, and judicial repressive stages.

⁶³ Indonesia, Minister of Manpower Regulation concerning Procedures for Labor Supervision, Ministerial Regulation Number 33 of 2016, State Gazette of 2016 Number 1753, Article 9 paragraph (1).

⁶⁴ *Ibid.*, Article 9 paragraph (2).

⁶⁵ Kadek Agus Sudiarawan and Putu Ade Hariestha Martana, "Legal Implications of Badung Regency Sectoral Minimum Wage Regulation on Business Actors in the Tourism Sector in Bali Province", *Op. Cit.*, p. 34.

In carrying out law enforcement, including in this case law enforcement in the field of employment, Soerjono Soekanto stated that there are 4 factors that influence law enforcement, namely the law itself, law enforcement officers, law enforcement facilities or facilities, and factors of awareness and legal compliance of the community.⁶⁶ In order to achieve legal reality in society, these four factors must work. Laws that accommodate community development without being accompanied by qualified law enforcement officers in carrying out their duties and the lack of public awareness and compliance will certainly not achieve legal reality in the community. Responding to legal problems that exist in PT. X in fulfilling workers' wage rights, so that workers' wage rights are fulfilled according to the provisions of the law in the field of manpower, PT. X together with the government, in this case the local Manpower Office, synergizes to enforce labor norms.

Awareness and compliance with the law by PT. X and routine labor inspections will have a major impact on the fulfillment of workers' wage rights at PT. X. There are sanctions imposed on PT. X in the non-judicial repressive and judicial repressive labor inspection stage is expected to provide a deterrent effect to PT. X so that in the future the non-compliance with labor norms that have been carried out by PT. X is not expected to happen again. If this is done properly, of course the welfare of PT.X's workers will increase with the fulfillment of wage rights that have been guaranteed by the Manpower Law and its implementing rules.

CONCLUSION

Based on the description of the discussion above, it can be concluded that:

1. The implementation of the fulfillment of workers' wage rights with the PKWT system at PT.X has not met the legal provisions in the field of manpower. There are 4 legal problems found, namely:
 - a. Payment of workers' wages below the current year's minimum wage;
 - b. Payment of workers' wages is often late beyond the time limit agreed upon between the workers and PT. X;
 - c. Payment of sick workers wages is not in accordance with legal provisions;
 - d. Components of workers' wages do not comply with legal provisions.
2. The role of local labor inspection has not been carried out routinely so that it affects the enforcement of labor norms at PT. X.

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