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Islamic *Fiqh* Principles For Worker Protection: Wage Determination and Payment

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Abstract

This study investigates Islamic jurisprudence principles concerning workers' protection regarding wage determination and payment in Indonesia. Employing a juridical-normative approach, the research analyzes labor regulations, Islamic jurisprudential rules, and the

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concept of labor law. Data were collected through legal document analysis, Islamic literature review, and comparative studies and were analyzed qualitatively using descriptive-analytical methods. The findings indicate that Islamic jurisprudence principles, prioritizing justice, equality, and workers' welfare, have been incorporated into Indonesian labor law through Law Number 13 of 2003 on Manpower and Government Regulation Number 51 of 2023 on Wages. Islam regards workers as equals to employers and prohibits the imposition of excessive workloads, delays in wage payments, and unjust treatment of workers. Similarly, Indonesian legislation prohibits employers from delaying wages and ensures workers receive fair compensation. The study underscores the significance of integrating Islamic principles with positive law to establish a more humane and equitable wage system that safeguards workers' rights and promotes their welfare in Indonesia, particularly within the context of Subang Regency as an industrial area. This research contributes to a comprehensive understanding of legal protection for workers within the wage system by synthesizing the principles of Indonesian positive law and Islamic jurisprudence.

[Penelitian ini mengkaji tentang asas-asas fikih Islam yang berkaitan dengan perlindungan pekerja dalam hal penentuan dan pembayaran upah di Indonesia. Dengan menggunakan pendekatan yuridis-normatif, penelitian ini menganalisis peraturan ketenagakerjaan, kaidah-kaidah fikih Islam, dan konsep hukum ketenagakerjaan. Data dikumpulkan melalui analisis dokumen hukum, telaah pustaka Islam, dan studi banding serta dianalisis secara kualitatif dengan metode deskriptif-analitis. Hasil penelitian menunjukkan bahwa asas-asas fikih Islam yang mengutamakan keadilan, kesetaraan, dan kesejahteraan pekerja telah tertuang dalam hukum ketenagakerjaan Indonesia melalui Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan dan Peraturan Pemerintah Nomor 51 Tahun 2023 tentang Pengupahan. Islam memandang pekerja setara dengan pengusaha dan melarang pemberian beban kerja yang berlebihan, penundaan pembayaran upah, dan perlakuan yang tidak adil terhadap pekerja. Demikian pula, peraturan perundang-undangan Indonesia melarang pengusaha menunda upah dan memastikan pekerja menerima kompensasi yang adil. Penelitian ini menegaskan pentingnya memadukan prinsip-prinsip Islam dengan hukum positif untuk membangun sistem pengupahan yang lebih manusiawi dan adil yang melindungi hak-hak pekerja dan meningkatkan kesejahteraan mereka di Indonesia, khususnya dalam konteks Kabupaten Subang sebagai kawasan industri. Penelitian ini memberikan kontribusi untuk pemahaman yang komprehensif tentang perlindungan hukum bagi pekerja dalam sistem pengupahan dengan mensintesis prinsip-prinsip hukum positif Indonesia dan yurisprudensi Islam.]

Keywords: *fiqh* principles; workers protection; employers; Islamic jurisprudence; wage determination

Introduction

Working for a Muslim is a sincere effort that entails devoting all thoughts, energy, and remembrance to actualizing or manifesting their identity as servants of Allāh who must subdue the world and position themselves as part of the best community (*chair ummah*) or, through work, humanizing humanity.¹ In Islam, working is an obligation for every human being. Although Allāh SWT has guaranteed sustenance for every human, that sustenance will not come to a person without effort from the individual concerned. Therefore, if someone wants to be sufficient and prosperous, they must work as mentioned in one of the verses of Allāh S.W.T in Q.S. At-Taubah verse 105, which means:²

“And say, work, for Allāh and His Messenger and the believers will see your work, and you will be returned to (Allāh) who knows the unseen and the visible, and He will inform you of what you have done.”

In the Islamic view, life is a gift from Allah SWT, so humans are obliged to strive and work in their lives as stated in the Qur'an, Surah An-Nisaa, verse 9:

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَفًا خَافُوا عَلَيْهِمْ
فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا

Meaning: “And let those fear (Allāh) who, if they left behind them weak offspring, would be concerned for their welfare. Therefore, let them be mindful of Allāh, and let them speak with words of truth.” (Surah An-Nisa: Verse 9).

¹ S Ujang Charda, *Perlindungan Hukum Terhadap Tenaga Kerja Anak Dari Bentuk-Bentuk Pekerjaan Terburuk* (Fakultas Hukum Universitas Subang, Subang, 2015), 34.

² Ulfa Kurnia and Akbar Bin Asis, “Thabi’ah Wa Ilhah Akhlaqiyyat al-‘Amal Fi Surah al-Taubah al-Ayat 105,” *Al-Irfan : Journal of Arabic Literature and Islamic Studies* 5, no. 2 (2022), <https://doi.org/10.36835/alirfan.v5i2.5764>.

Islam is one of the religions that firmly commands humans to work. Islam encourages humans to be productive and engage in economic activities in all its forms, such as agriculture, livestock farming, industry, trade, and various other business activities according to their expertise.³ Islam equates the right to work and create for both men and women. The work must be balanced with justice because justice is a fundamental principle in Islamic law and an essential value in the Islamic economic system. Justice in Islam does not mean that everyone should receive the same share of income or earnings, but justice means that a person will receive results according to what they have worked for or strived for.

Workers/laborers are the backbones for employers/business owners because, without workers/laborers, the company cannot produce goods/services.⁴ Workers/laborers work by receiving wages or compensation in other forms. The use of the legal terms worker/laborer in Indonesia has varied over different eras. In the Old Order era, the term laborer was used, in the New Order era, the term worker was used, and in the Reformation era, the term Worker/laborer was used.

An employer is an individual, entrepreneur, legal entity, or other organization that employs labor by paying wages or other compensation.⁵ Meanwhile, an Entrepreneur is a person who engages in trade, industry, and similar activities. Based on the provisions of Article 1 number 5, what is meant by an entrepreneur is: i) an individual, partnership, or legal entity that runs a company owned by themselves; ii) an individual, partnership, or legal entity that independently runs their own legal company; iii) an individual, partnership, or legal entity located in Indonesia representing a company as referred to in letters a and b that is based outside the territory of Indonesia.

Workers/laborers and employers or business owners then enter into an Employment Agreement, which contains the terms of

³ Yusuf Qardhawi, "Peran Nilai Dan Moral Dalam Perekonomian Islam," *Hadist Nomor 1314, Bab Al Buyuu'*, 2004.

⁴ Borsak Batara Sihombing and Ana Silviana, "Perlindungan Terhadap Pekerja Yang Mendapatkan Upah Murah Bidang UMKM Toko Bangunan Kota Pontianak," *Notarius* 16, no. 3 (2023), <https://doi.org/10.14710/nts.v16i3.45804>.

⁵ UUD 1945, "Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 Tentang," *Undang-Undang No 13*, 2003.

employment, rights, and obligations of the parties.⁶ The Employment Agreement subsequently gives rise to an employment relationship, which is a relationship between the employer or business owner and the employee/laborer. The employment relationship is between Employers, Workers/Laborers, and the Government. Employers act as the providers of work, workers/laborers act as wage receivers, and the government acts as the rule-maker for these employers and workers.⁷ This shows that the employment relationship between employers and workers is one between superiors and subordinates, where subordinates cannot participate in the creation of regulations. In employment, wages are the most important thing because a person's purpose in doing a job is for the wages. Thus, labor law encompasses all matters related to employment. Everything here means before, during, or after a person is actively working. Based on that understanding, the aspect that is most regulated in labor law is during or when people are actively working.

Wages are among the most essential elements in a working relationship, so the government regulates them. Although mutual consent among the parties involved is necessary for an employment agreement and determines the birth of the working relationship, making the Agreement civil, the issue of wage payment cannot be left entirely to the employer. Herein lies the role of the government in providing protection to workers/laborers who are economically unequal to employers or business owners.

Wages are the compensation given by a company to someone for the work they perform in carrying out a specific job.⁸ The wages the company gives depend on the value of the goods/services the individual concerned produces. The greater the value of the goods or services produced by someone, the greater the wage or reward they receive.⁹

⁶ Iqbal Ghani Morotjono and Arief Cholil, "Legal Review On Agreement Between Labor With Employers Based On Act No. 13 Of 2003 Concerning Employment In Ud. (Business Trade) Endah Pratama Pati Regency," *Jurnal Akta* 6, no. 3 (2019), <https://doi.org/10.30659/akta.v6i3.5114>.

⁷ Rika Jamin Marbun, Abdurrahman Harits Ketaren, and Siti Nurhayati, "Government Authority in Regulating Employment Relations between Employers and Workers/Laborers in Indonesia," *International Journal Of Humanities Education and Social Sciences (IJHESS)* 2, no. 3 (2022), <https://doi.org/10.55227/ijhess.v2i3.307>.

⁸ Jeffrey Moriarty, "What's in a Wage? A New Approach to the Justification of Pay," *Business Ethics Quarterly*, 2020, <https://doi.org/10.1017/beq.2019.42>.

⁹ Muhamad Sadi Is, M H SHI, and S H Sobandi, *Hukum Ketenagakerjaan Di Indonesia* (Prenada Media, 2020), 207.

Article 1 letter (a) of the International Labour Organization (ILO) General Conference, also known as the Indonesian Labor Organization, explains the term Wage includes regular, basic, or minimum wages and any other income that is paid directly or indirectly, in cash or kind, by the employer to the worker in connection with the work performed by the worker.

Imam Soepomo explained that what is meant by wages is the payment received by workers while they are performing work or are considered to be performing work, or a reward for someone's services paid in the form of money. According to Imam Soepomo, wages consist of the following components.¹⁰:

- a. The basic wage is the fundamental wage paid to workers according to the level or type of work, the amount of which is determined based on the Agreement.
- b. A basic allowance is an allowance given along with the monthly wage. This allowance is not affected by the number of attendances;
- c. Non-fixed allowances are allowances given along with the monthly wages. This allowance is only given if the employee shows up for work.

The understanding of wages from the worker's perspective is generally seen as a right based on the amount, while from the employer's perspective, it is usually linked to productivity.¹¹ Therefore, in wage determination, employers or employers should consider two things: the principle of justice and the principle of feasibility. (1) the principle of justice does not mean that every worker/laborer receives the same amount. The wages given are based on considering the contributions and/or sacrifices made by the workers in their jobs. The greater the contribution and/or sacrifice the worker/laborer makes, the greater the wage they should receive. (2) The feasibility of wages in a company is comparing whether the wages are fair. The fairness of a wage can be viewed from two perspectives. The first aspect is the difference in wage levels of workers in one company compared to similar companies. The second aspect is the difference in wage levels of workers in one job compared to other workers in the same company.

¹⁰ Is, SHI, and Sobandi, 2009.

¹¹ Erling Barth, Alex Bryson, and Harald Dale-Olsen, "Union Density Effects on Productivity and Wages," *Economic Journal*, 2021, <https://doi.org/10.1093/EJ/UEAA048>.

In the current employment relationship, there is often a discord between employers, workers, and the government regarding wages. It is related to Law Number 11 of 2020 and the amendments to Law Number 6 of 2023 concerning Job Creation. In Subang Regency, many workers disagree with the new regulations, leading to several demonstrations by workers/laborers. The Director General of the Ministry of Manpower emphasized that Government Regulation Number 36 of 2021 on wages mandates the establishment of the Minimum Wage as a national strategic program to protect workers. The minimum wage varies in each region due to differing living costs. If the wages are insufficient, workers can reject the offer. Lack of productivity can also damage the workers' image.

According to the Director of Labor Relations and Wages at the Ministry of Manpower and Transmigration of the Republic of Indonesia, the spirit of the minimum wage formula in Government Regulation Number 36 of 2021 is to reduce the Minimum Wage gap and achieve justice between regions. Inter-regional justice is achieved through an approach based on the average household consumption in each area. In addition, the determination of the minimum wage is also aimed at achieving the welfare of Workers/Laborers while considering the company's capabilities and national conditions.¹² This is done using economic and employment data sourced from the Central Statistics Agency (BPS).

Based on the background described above, the author is interested in researching Legal Protection for Workers/laborers in Determining Minimum Wages in Subang Regency. This research will explain how the principles of Islamic jurisprudence protect workers/laborers regarding the determination and payment of wages.

Methods

This research is a literature study that examines the principles of Islamic jurisprudential rules in protecting workers related to determining and paying wages. The research approach includes juridical-normative to examine labor regulations, theological to study the principles of Islamic jurisprudential rules, and conceptual conceptual to understand labor law. Data collection techniques were

¹² Asep Suryahadi, "Wage and Employment Effects of Minimum Wage Policy in the Indonesian Urban Labor Market," *SMERU Research Paper* 60, no. October (2001).

carried out by reviewing legal documents, analyzing Islamic literature, and conducting comparative studies. Data is analyzed qualitatively using a descriptive-analytical method through identification, interpretation, criticism, and evaluation, and conclusions and recommendations are formulated for better worker protection.

Results

Principles of the Rule of Law

The formation of the Unitary State of the Republic of Indonesia is aimed at realizing the national goals and ideals based on Pancasila and the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) as formulated in the fourth paragraph of the Preamble of the 1945 Constitution as follows: “Then, in order to form a Government of the State of Indonesia that protects all the Indonesian people and all the bloodshed of Indonesia, and to promote the general welfare, enlighten the life of the nation, and participate in maintaining world order based on independence, eternal peace, and social justice, the Independence of the Indonesian Nation was formulated in a Constitution of the State of Indonesia, which was established in a structure of the State of the Republic of Indonesia based on the sovereignty of the people with the principles of Belief in the One and Only God, Just and Civilized Humanity, the Unity of Indonesia, and the People Guided by the Wisdom of Deliberation/Representation, and to realize Social Justice for all the Indonesian people.”

The fourth paragraph serves as the direction for Indonesia’s national development in fulfilling independence as the right of all nations. Thus, Indonesian national independence was formulated in the Constitution of the Republic of Indonesia, which was established in a structure of the Republic of Indonesia as a people-sovereign state, an attribute that distinguishes the state from other associations.¹³ Sovereignty is the essence of the state, and the people form the government. The people hold sovereignty by the 1945 Constitution.

If examined and traced from the Preamble and the Body of the 1945 Constitution, Indonesia adheres to a material rule of law or is

¹³ Mukti Fajar, “Tipe Negara Hukum, Cet. 2” (Bayumedia Publishing, Malang, 2005).

referred to as a Welfare State¹⁴ or a welfare state or a rule-of-law state (*verzorgingstaat*)¹⁵ or by borrowing Giddens' term as a social investment state (*social investment state*)¹⁶ which is created by the grace and mercy as well as the will of Allāh the Almighty (*baldatun thayibatun warabun ghaffur*) and driven by the noble desire of the nation for the general good (*volunte generale*) and sovereignty is the highest power exercised by the state on behalf of its holder,¹⁷ namely, the people as formulated in the 1945 Constitution, that sovereignty is in the hands of the people and is exercised according to the Constitution,¹⁸ and the State of Indonesia is a state of law as its framework.

The state has the highest goals which are generally formulated in the Constitution.,¹⁹ namely to guarantee and protect the rights of the people centered on the creation of general welfare for citizens as the highest law (*solus popular suprema lex*).²⁰ The creation of welfare for citizens is mandated to the state as a vessel that carries its passengers (all layers of society) to the harbor of welfare (a safe, just, and prosperous society both spiritually and physically).

The establishment of an Indonesian government with all its attributes that can act as a subject of public law, an actor, the most abash institution, and possessing public legitimacy with its function to organize social welfare that brings happiness to the people in fulfilling, protecting, and respecting the fundamental, economic, and cultural rights of its citizens.²¹

The function of the law is to protect people from dangers and actions that can harm and cause suffering in their lives, whether from others, society, or the authorities. In addition, the law also functions to

¹⁴ Anthon F Susanto, "TEORI HUKUM (MENGINGAT, MENGUMPULKAN DAN MEMBUKA KEMBALI)," 2015.

¹⁵ Maria Farida Indrati Soeprapto and A Hamid S Attamimi, "Ilmu Perundang-Undangan: Dasar-Dasar Dan Pembentukannya," (*No Title*), 1998.

¹⁶ M Dawam Rahardjo, "Evaluasi Dan Dampak Amandemen UUD 1945 Terhadap Perekonomian Di Indonesia," *Unisia*, no. 49 (2003).

¹⁷ Prajudi Atmosudirdjo, "Hukum Administrasi Negara," 2020.

¹⁸ Republik Indonesia, *Undang-Undang Dasar 1945* (Dewan Pimpinan PNI, Department Pen. Prop. Pen. Kader, 1959).

¹⁹ Ahmad Sukardja and Plagam Madinab, "Kajian Perbandingan Tentang Dasar Hidupersama Dalam Masyarakat Yang Majemuk" (Jakarta: UI Press, 1995), v.

²⁰ Fajar, "Tipe Negara Hukum, Cet. 2," 26.

²¹ Edi Suharto, "Membangun Masyarakat Memberdayakan Rakyat," 2009, 157.

provide justice and serve as a means to achieve welfare for all people.²² Protecting the people means the state must provide legal protection. This protection must not be interpreted differently and must not be violated by law enforcement officers. It can also mean the protection provided by the law towards something.²³

Principles of Legal Protection in Employment Law

According to the Indonesian General Dictionary, protection means a way, process, or act of protecting.²⁴ In general, legal protection is the act of protecting or providing assistance in the legal field. With legal protection, there are sanctions for anyone who violates the rules, and workers' fundamental rights must be protected.²⁵

The socially and economically unbalanced position of workers/laborers in relation to employers encourages the government to provide protection to workers/laborers as a form of enhancing their dignity and status through the protection of workers' rights, both those stipulated in employment contracts and those outlined in company regulations and/or collective labor agreements.²⁶

Legal protection for workers and laborers must be provided from the drafting and formation of the law to its implementation.²⁷ On that basis, it demands state intervention to provide legal protection, which means protection using the law or protection granted by the law aimed at safeguarding specific interests by transforming the interests that need protection into a legal right.²⁸ Legal rights in the concept of legal protection for workers are protections using legal means against

²² Philipus M Hadjon, "Perlindungan Hukum Bagi Rakyat Indonesia, Surabaya, Bina Ilmu" (Hlm, 1987), 29.

²³ Sudikno Mertokusumo, "Penemuan Hukum: Sebuah Pengantar," 2007, 3.

²⁴ Wilfridus Josephus Sabarija Poerwadarminta, "Kamus Umum Bahasa Indonesia," (No Title), 1966, 224.

²⁵ Libertus Jehani and Editus Adisu, *Hak-Hak Pekerja Perempuan* (VisiMedia, 2006), 5.

²⁶ Presiden Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 Tentang Ketenagakerjaan," *Kementrian Sekretariat Negara Republik Indonesia, Jakarta*, 2003, 1–49.

²⁷ Toto Tohir Suriaatmadja, "Aspek Perlindungan Hukum Dalam Hukum Ketenagakerjaan," *Makalah*, 2013, 4.

²⁸ Ujang Charda, *Perlindungan Hukum Terhadap Tenaga Kerja Anak Dari Bentuk-Bentuk Pekerjaan Terburuk*, 25.

the actions of employers during the pre-employment, during-employment, and post-employment periods.

Law Number 13 of 2013 on Manpower, as the constitutional basis in the field of employment, in consideration of letter d, states:²⁹

“that the protection of labor is intended to guarantee the basic rights of workers/laborers and ensure opportunities and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while still considering the development of business progress.”

The Principle of Islamic Jurisprudence in Providing Protection to Workers/Laborers

The Qur'an and Hadith are the primary sources of Islamic jurisprudence. Both are fields from which the *fuqaha* derive *fiqh* rulings. The *fuqaha* use deductive and inductive reasoning to discover the laws contained in the Qur'an and Hadith. The selection and use of this reasoning model vary significantly between schools of thought. Therefore, the differences between schools of thought are essentially based on differences in legal methodology.³⁰

One of the principles of *fiqh* rules is justice. The principle of justice is a primary characteristic of Islamic teachings. Every Muslim will receive their rights and obligations equally.³¹ Based on the nature of humanity, which has the same degree between one believer and another. And what distinguishes them is only the level of piety of each believer. Islam teaches its followers to uphold the principle of justice because the religion of Islam brings mercy to the entire universe.

Islam positions workers as equals to their employers. As quoted from Abu Dzar, the Prophet Muhammad advised that employers/

²⁹ Indonesia, “Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 Tentang Ketenagakerjaan.”

³⁰ Mukhsin Nyak Umar, *Kaidah Fiqhiyyah Dan Pembaharuan Hukum Islam* (Kota Banda Aceh, 2017), v.

³¹ Zahratul Idami, and Azhari Yahya, “Comparison of Rights and Obligations of Believers in Islam and Regulation in Indonesia,” in *Proceedings of the International Conference on Law, Governance and Islamic Society (ICOLGIS 2019)* (International Conference on Law, Governance and Islamic Society (ICOLGIS 2019), Banda Aceh, Indonesia: Atlantis Press, 2020), <https://doi.org/10.2991/assehr.k.200306.215>.

business owners/takers of labor should act justly and consider their workers as brothers:

إِنَّ إِخْوَانَكُمْ خَوَلُكُمْ جَعَلَهُمُ اللَّهُ تَحْتَ أَيْدِيكُمْ

Meaning: “Your brothers are your slaves/workers.” Allāh has made them under your power. (HR. Bukhari).

The safety and security of workers according to Islamic law are evident in several provisions in the Qur’an and hadith. One of them is in Al-Qashash verse 77, which reads: ³²

وَابْتَغِ فِيمَا آتَاكَ اللَّهُ الدَّارَ الْآخِرَةَ وَلَا تَنْسَ نَصِيبَكَ مِنَ الدُّنْيَا وَأَحْسِنْ
كَمَا أَحْسَنَ اللَّهُ إِلَيْكَ وَلَا تَبْغِ الْفُسَادَ فِي الْأَرْضِ إِنَّ اللَّهَ لَا
يُحِبُّ الْمُفْسِدِينَ ۝

Meaning: “And seek the abode of the Hereafter with what Allāh has granted you (happiness), and do not forget your share of (worldly) enjoyment, and do good (to others) as Allāh has done good to you, and do not cause corruption on the earth. Indeed, Allāh does not like those who cause corruption.” (Q.S. Al-Qashash: 77).

Prophet Muhammad S.A.W directly guaranteed the rights of workers/laborers, as follows:

1. The Prophet once prohibited someone from employing a worker/laborer unless their wages were clearly defined. As conveyed by Ibrahim an-Nakhai:

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَهَى عَنْ اسْتِئْجَارِ الْأَجِيرِ حَتَّى يَنْبَيِّنَ أَجْرَهُ

2. Employers/entrepreneurs/masters in employing workers/laborers must not act arbitrarily and unjustly towards workers/laborers. It

³² Alfin Dwi Novemyanto and Aisiyah Puspita Hani, “Islamic Law as An Umbrella of Human Rights in The Loss of Social Welfare Rights of Pedicab Drivers towards The Existence of Online Transportation,” *Journal International Dakwah and Communication* 3, no. 2 (2023), <https://doi.org/10.55849/jidc.v3i2.409>.

was expressed by the Prophet from Abu Hurairah in a very long hadith when the Prophet delivered a sermon in Medina before his passing. One of the Prophet's messages at that time:

وَمَنْ ظَلَمَ أَجِيرًا أَجْرَهُ حَبِطَ عَمَلُهُ ، وَحُرِّمَ عَلَيْهِ رِيحُ الْجَنَّةِ

Meaning: "Whoever is unjust to the wages of a worker/laborer. Then it is forbidden for him to smell the fragrance of Paradise (forbidden for him is Paradise)."

3. The Prophet commanded that workers' wages be given directly without undue delay. As stated by the Prophet in a hadith narrated by Abu Hurairah.:

أَعْطُوا الْأَجِيرَ أَجْرَهُ قَبْلَ أَنْ يَجِفَّ رَشْحُهُ

Meaning: "Give the worker their wages before their sweat dries."

The dry sweat referred to in the hadith above means not taking too long or delaying. So, the delay in paying wages to workers causes their sweat to dry up. Prophet Muhammad was evident in defending the rights of workers/laborers. Starting from the recruitment process to the wage/salary payment process, it is conveyed that the rights of workers/laborers can be guaranteed. So that Islam continues to contribute to maintaining welfare and stability. Because Islam is not solely about Sharia, more than that, in terms of values (not formally), Islam has a great mission, namely equality and welfare. Hence, Islam *rahmatan lil alamin* is not just a slogan.

The Principle of Legal Protection for Workers in Wage Determination Based on Labor Law

a. Definition of Worker/Laborer

Based on the provisions of Article 1 number 3 of Law Number 13 of 2003 concerning Manpower, what is meant by workers/laborers is every person who works and receives wages or compensation in other forms. i) An entrepreneur is an individual, partnership, or legal entity

that operates their own business; ii) an individual, partnership, or legal entity that independently operates their own legal business; iii) an individual, partnership, or legal entity located in Indonesia representing a company as referred to in points a and b that is based outside the territory of Indonesia.

Meanwhile, the employer is an individual, entrepreneur, legal entity, or other bodies that employ labor by paying wages or compensation in different forms. The existence of a work agreement between workers or laborers and employers gives rise to an employment relationship, which is a relationship between employers and workers/laborers based on the work agreement, containing elements of work, wages, and command.

b. Definition of Wages

Wages are the rights of workers/laborers that are received and expressed in the form of money as compensation from employers or business owners to workers/laborers, determined and paid according to a work agreement, Agreement, or legislation, including allowances for workers/laborers and their families under a work agreement.³³ The wages received by workers arise when there is an employment relationship between the worker and the employer or entrepreneur and end when the employment relationship ends. Wage policies are implemented to achieve an income that ensures a decent living for workers.

Wage policies include: 1) Minimum wage; 2) Overtime pay; 3) Pay for absence due to legitimate reasons; 4) Wages for not working due to engaging in activities outside of their job; 5) Wages for exercising the right to work breaks; 6) The form and timing of wage payment methods; 7) Fines and wage deductions; 8) A proportional wage structure and scale; 9) Wages for severance pay; and 10) Wages for income tax calculation.³⁴ In addition, workers and laborers have the right to receive fair wages. A decent salary is the earnings or income workers receive from their work, enabling them to meet their and their

³³ Fithriatus Shalihah, Siti Alviah, and Imtikhan Anas Shob'ron, "The Wages in Employment Relations in the Tourism Sector in Yogyakarta in Justice Perspective," *Substantive Justice International Journal of Law* 6, no. 2 (2023), <https://doi.org/10.56087/substantivejustice.v6i2.261>.

³⁴ Dalinama Telaumbanua, "Hukum Ketenagakerjaan," 2020., 25.

families' living needs fairly. A decent income is provided in the form of wages and non-wage income.

PP No. 51 of 2023 provides a clearer legal basis for protecting workers' rights related to wages in Indonesia. In general, PP 51/2023 aims to ensure that workers receive fair, just, and appropriate wages in accordance with applicable regulations and to protect workers so that they do not become victims of employer exploitation. PP No. 51 of 2023 provides a more transparent and fairer legal framework regarding worker wage protection in Indonesia. With the enactment of this regulation, it is hoped that workers' rights to receive fair and timely wages can be better guaranteed. On the other hand, employers are also expected to adjust their wage payment policies in accordance with the applicable regulations without burdening their businesses.

Discussion

The primary focus of this research is to analyze how the principles of Islamic jurisprudence protect workers in wage determination and payment. Legal protection for workers is essential to balance power imbalances in employment relationships, prevent exploitation, and ensure welfare and social justice. Without this protection, workers are highly vulnerable to adverse treatment. Therefore, the law's role in providing workers' welfare is a crucial aspect that needs to be examined.

The establishment of the Unitary State of the Republic of Indonesia aims to protect all its people and create social justice, as stated in the fourth paragraph of the Preamble to the 1945 Constitution. As a rule of law state, Indonesia regulates various aspects of life, including employment, so every citizen receives their rights fairly.³⁵ One important aspect of labor protection is the regulation regarding minimum wage, which aims to ensure the welfare of workers and their families.

The concept of the rule of law adopted by Indonesia has a material nature. This means that Indonesia demands that the law not only exists formally but must also truly protect the people's rights, uphold social justice, and run the government based on the values of

³⁵ Anis Widyawati, "THE ROLE OF THE LAW IN DEVELOPMENT ACCELERATION TO GENERATE PEOPLE WELL-BEING," *Jurnal Hukum Progresif* 8, no. 2 (2020), <https://doi.org/10.14710/jhp.8.2.98-109>.

justice and benefit. Therefore, the government is responsible for ensuring that workers receive adequate legal protection within the labor system, especially regarding wages.³⁶

The law has several primary functions in industrial relations, namely protecting workers from exploitation, providing legal certainty for employers and workers, and creating a balance between the rights and obligations of both parties.³⁷ Without clear legal protection, workers can experience various forms of injustice, such as inadequate wage payments or delays in salary disbursement.

In employment, the relationship between workers and employers is often unbalanced. Employers usually have a stronger bargaining position than workers, especially in negotiating wages, working hours, or work agreements. In contrast, workers tend to be forced to accept work conditions due to limited choices or economic pressures. Therefore, the state is present to regulate employment relations to prevent exploitation. Regulations regarding work agreements, company regulations, and collective work agreements are agreements between workers and employers, which contain the rights and obligations of each that function as legal instruments that protect workers.

In Indonesia, protection for workers has been regulated in Law Number 13 of 2003 on Manpower, which emphasizes the fundamental rights of workers, including the right to fair wages.³⁸ In this law, the state ensures that every worker has a fair opportunity for employment without discrimination and receives sufficient income to meet their living needs.

In addition to the positive law that applies in Indonesia, Islam also has fundamental principles that provide protection and guarantee justice for workers. These principles are derived from the Qur'an and Hadith. Islamic law principles emphasize that work must be treated as

³⁶ Ratih Ananda Putri Goestoro, "Access to Judicial Remedies for Palm Oil Workers Under Poor Working Conditions in Indonesia," *Yuridika* 37, no. 1 (2022), <https://doi.org/10.20473/ydk.v37i1.34604>.

³⁷ Adnan Hamid and Adila Meytiara Intan, "Labor Law Does Not Exist in a Vacuum in the Era of Industrial Revolution 4.0," *Beijing Law Review* 14, no. 01 (2023), <https://doi.org/10.4236/blr.2023.141001>.

³⁸ Chairunnisa Ramadhani Putri Nursalim and Leli Joko Suryono, "Perlindungan Hukum Tenaga Kerja Pada Perjanjian Kerja Outsourcing," *Media of Law and Sharia* 2, no. 1 (2021), <https://doi.org/10.18196/mls.v2i1.11478>.

a form of fair cooperation between employers and workers. Islam emphasizes that workers have the same rights as employers in obtaining justice, including wages.³⁹

The Hadith of the Prophet Muhammad (peace be upon him) teaches that workers should be treated as brothers, and employers should not oppress them. In Islam, there are clear rules regarding wage payment, including the prohibition of delaying salary payments and the obligation to provide wages according to the agreed-upon terms. This principle ensures that workers receive their rights without oppression or exploitation.⁴⁰

The Qur'an also emphasizes the importance of balance in work relationships.⁴¹ Workers should not be burdened with tasks beyond their capacity and are entitled to receive adequate wages for a decent living. In Islam, wages must be paid on time, as the hadith states that wages should be given before the worker's sweat dries.

In Indonesian labor law, wages are based on a legitimate employment relationship between workers and employers.⁴² Wages are workers' rights given as compensation for the work they have done. Therefore, the wage system in Indonesian labor law is a key pillar of worker protection. The state places wages as a fundamental right that must be fulfilled and a means to create fair and sustainable working relationships.

Wage policies in Indonesia cover various aspects, such as minimum wage, overtime pay, holiday pay, and other allowances. This aims to ensure that workers receive sufficient income to meet their living needs. Setting a minimum wage is a form of state intervention to

³⁹ Kausar Yasmeen, "Justice in the Workplace: Islamic Principles for Wage Determination," *Islamic Economic Studies* 31, no. 1/2 (2023), <https://doi.org/10.1108/ies-03-2023-0011>.

⁴⁰ Mohamad Zaharuddin Zakaria et al., "Guiding Principles for Islamic Labor Code and Business Ethics," *International Journal of Academic Research in Business and Social Sciences* 7, no. 5 (2017), <https://doi.org/10.6007/ijarbss/v7-i5/2972>.

⁴¹ Azzah Kamri and Siti Fairuz Ramlan, "THE APPLICATION OF ḤABL MIN ALLĀH AND ḤABL MIN AL-NĀS ELEMENTS IN ISLAMIC CODE OF ETHICS: AN EXPLORATORY CASE STUDY," *International Journal of Economics, Management and Accounting International Journal of Economics Management and Accounting* 23, no. 1 (2015).

⁴² . Yetniwati, "The Legal Arrangement of Wage Protection Based On The Principle Of Legal Certainty," *Jurnal Dinamika Hukum* 16, no. 2 (2016), <https://doi.org/10.20884/1.jdh.2016.16.2.596>.

guarantee economic protection for workers so they can live a decent life. The government determines the minimum wage annually based on various factors, including economic conditions and the cost of living in a particular area.⁴³

A decent wage for workers includes the basic salary and other allowances provided by the company.⁴⁴ It aims to ensure workers can live prosperously without experiencing excessive economic hardship. Therefore, a decent wage is not just a legal obligation but also an important foundation for worker welfare, company productivity, and socio-economic stability. Providing a decent wage is a long-term investment that benefits all parties. Regulations regarding the wage system are continuously updated to keep up with the needs of society.

This study highlights the importance of implementing minimum wage regulations in Subang Regency as an economic protection mechanism for workers while emphasizing the role of Islamic legal principles as a complement that strengthens justice and ethics in employment relations. As one of the industrial areas, Subang Regency has complex labor dynamics, making regulations regarding minimum wages a critical issue in maintaining workers' welfare.

Government Regulation Number 51 of 2023 on Wages serves as the latest guideline in setting minimum wages for workers. This regulation aims to create a fairer wage system and avoid labor exploitation. Through this regulation, it is hoped that workers in Subang Regency will receive better protection in terms of wages.

This research is expected to provide a more comprehensive picture of legal protection for workers within the wage system by understanding the principles of Indonesian positive law and Islamic jurisprudence. Islamic principles that emphasize justice and the welfare of workers can serve as an ethical foundation for a more humane and just wage system in the Subang Regency.

Conclusion

⁴³ David Neumark and William Wascher, "Minimum Wages and Employment: A Review of Evidence from the New Minimum Wage," *NBER Working Paper Series* 12663 (2006).

⁴⁴ Suhartoyo, "Perlindungan Hukum Mengenai Pengupahan Terhadap Pekerja/Buruh Dengan Perjanjian Kerja Waktu Tertentu," *Administrative Law & Governance Journal* 3, no. 3 (2020).

The principle of Islamic jurisprudence in protecting workers/laborers has been accommodated and even implemented in labor law in Indonesia through legislation, both Law Number 13 of 2003 concerning Manpower and Government Regulation Number 51 of 2023 concerning Wages. Islam has positioned workers/laborers as equal to their employers/business owners/employers. As quoted from Abu Dzar, the Prophet Muhammad advised that employers/business owners/employers should act justly and consider their workers/laborers brothers. Similarly, in legislation, the position of workers/laborers is normatively equal to that of employers/business owners/employers.

The principle of justice is a primary characteristic of Islamic teachings. Every Muslim will receive their rights and obligations equally. Based on the nature of humans whose degrees are equal between one believer and another. And what distinguishes them is only the level of piety of each believer. Islam prohibits imposing tasks or workloads that exceed the capabilities of workers. Islam obliges employers or business owners to pay wages to workers promptly, and it also prohibits being unjust to workers. Similarly, in the legislation, employers are prohibited from delaying wage payments to workers.

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