

Al Ujroh As an Alternative Solution of a Fair Wage Regulation

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Abstract—Wages are compensation for the work done. The number of wages should not be detrimental to the parties who are bound by work relations. Workers' wages have been regulated by Law No. 13/2003. Determination of minimum wages and wage-scale structures has created employment problems. This study aims to formulate a legal framework for fair wage regulation based on the principle of *ujroh*. This legal research uses a legislative and conceptual approach. The result of the study is that the regulation of minimum wages has not provided a sense of justice for the parties. Wage-scale structure regulations contain vague norms. The principle of *ujroh* must have the element of truth of substance and procedure, the substance of the subject emphasizes character as God's creature, while the substance of an object is the halal work. The procedures must be open and must not contain harmful elements. The conclusion obtained from this study is that the use of the principle of *ujroh* in work relations can be an alternative solution to fair wage regulation.

Keywords—*ujroh, wages, fair, workers, work relations*

I. INTRODUCTION

In general, wages are compensation after work. Not all of jobs are paid. Social work, often does not require payment of wages. The amount of wages should not be detrimental to the parties who are bound by work relations. Determination of minimum wages and wage-scale structures has created employment problems. Wages are often used as objects of labor disputes that can result in strikes, layoffs and death.

In the oil palm plantations of North Sumatera, Central Kalimantan, East Kalimantan and West Sulawesi, workers get a fine if they do not meet the picking target, as a result, the wives should continue the rest of the work[1].

Imposition of penalties on non-fulfillment of the target of the work, reminiscent of Koeli Ordinance (Stbl. 1880 No. 133). The Gouverneur General have make rules about the criminal liability of breach of contract workers work done, which consists of:

1. Violations of the contract in the form of desertion or denial of employment, sentenced to forced labor on state projects without pay a maximum of 3 months (Article 8).
2. Resistance, fraud or threats to the employer / supervisor; security problems (incitement to desertion or refusal of work, fights, drunk or act in violation of the order), be fined a maximum of f 25 or forced labor in state projects without pay a maximum of 12 days (Article 9).

3. Providing shelter for the workers who escaped, was fined a maximum of f 100 or forced labor in state projects without pay a maximum of 3 months (Article 10).
4. Violations of the employment contract will only be prosecuted on complaint employer. If no agreement can escape from prosecution and are willing to be returned to the employer (Article 11).
5. Violations of the second contract of employment, sentenced to forced labor without chained for 3 months - 1 year (Article 12).
6. Another violations unregulated sanctions, conducted by a European/equivalent, be fined a maximum of f 100 (Article 12).
7. Another violations unregulated sanctions, conducted by the pibumi / equivalent, be fined a maximum of f 25 and forced labor in state projects without pay a maximum of 12 days (Article 13).
8. Penalties for employers who do not implement the contents of the contract is a maximum fine of f 100 (Article 8).

In Papua, the Trade Union of PT Free Port has conducted a strike demanding a 400% increase in wages to US \$ 7.5 per day [2]. In East Nusa Tenggara, Adi Melijati Tameno has lost his right to become a teacher when demanding 3 months of unpaid wages [3]. In East Java, Marsinah lost her life because she demanded a wage increase at PT Catur Putra Surya Sidoarjo[4] from Rp. 1,700 per day to Rp. 2,250 per day [5]

Wages are inversely proportional to work. Every person who has accomplished his or her work will get a wage in return or as a compensation. Wages are the rights of workers/laborers who are accepted and declared in the form of money as compensation from employers or employers to workers/laborers who are determined and paid according to a work agreement, agreement, or legislation, including benefits for workers/laborers and their families for a work and / or services that have been or will be carried out [6]. The form of wage protection provided by the State consists of minimum wages; overtime pay; wages paid to workers during their absence due to illness; wages paid to workers during their absence from work due to activities outside their work which they must carry out; wages are paid to workers during his absence from work because he uses his right to take a break; the form and method of payment of wages; fines and deductions from wages; things that can be calculated by wages; proportional wage structure and scale; wages for severance payments; and wages to calculate income tax[6]

Every workers/labores has the right to earn income that fulfills a living that is appropriate for humanity [6] Decent income is income that allows workers to fulfill their livelihood needs appropriately referring to the amount of income or income that workers/labores receive from their work so that they can properly fulfill what they and their families need to live, including the ability to meet the need for food and beverages, clothing, housing, education, health care, recreation and old-age benefits.[6]

Employers are prohibited from paying wages lower than the minimum wage [6] If not, they can submit a suspension to the Governor on condition that the original text is a written agreement between the employer and the trade / labor union or the company's workers/labores; company financial statements consisting of a balance sheet, calculation of losses / profits together with an explanation for 2 (two) years, audited by a public accountant; copy of certificate of establishment; wage data by office workers/labores; the total number of workers/labores and the number of workers/laborers who proposed the petition for suspension of the minimum wage; production and marketing development for 2 (two) years, as well as production and marketing plans for the next two (2) years[7]

Determination of minimum wages must be done every year based on the need for a decent standard of living by taking into account productivity and economic growth. A decent standard of living is the standard of living of a worker/laborer based on physiological needs for 1 (one) month; consists of several components, including several types of life needs, must be reviewed in every 5 (five) years period. The review of components and types of life needs must be carried out by the Minister by considering the results of the study by the National Wage Council, must use data and information from the official statistics sources. Determination of minimum wages must be calculated using the minimum wage calculation formula, as follows:

$$UM_n = UM_t + \{UM_t \times (\text{Inflation} + \% \Delta GDP_t)\}$$

Violation of wage payments below the minimum wage is a crime with a criminal sanction in jail for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of at least Rp. 100,000,000 (one hundred million rupiah) and a maximum of Rp.400,000,000 (four hundred million rupiah).[6]

In addition to regulating minimum wages, Law 13/2003 also regulates the structure and scale of wages. Employers must formulate the structure and scale of the wage by taking into account functional and structural positions and ranks, length of work, education and competence of workers / laborers. Employers must periodically review the wages of their workers by considering their financial capabilities and productivity.[6] Determination of the structure and scale of the wage must be proportional [8]

As a follow up arrangement in the structure and wage scale is Government Regulation No. 78/2015 concerning Labor Wages. The structure and wage scale must be prepared by the

employer by considering the category, position, length of work, education, and competence. The wage structure and scale must be announced to all Workers/laborers. Administrative sanctions will be imposed on employers in the form of: written warnings; limitation of business activities; temporary suspension of some or all production facilities; and /or termination of business activities.

Wages in Arabic are called al-ujrah which means rewards given as a reward or an act [9]. Al-ujrah is the payment (wage) received by a worker while he is doing work. Islam provides guidance that the delivery of wages is carried out at the completion of a job. Workers are encouraged to speed up service to employers while employers themselves are advised to speed up payment of workers' wages. Wages should be proportional to the activities that have been issued, it should also be useful for meeting the needs of a reasonable life. Still pay attention to differences in the level of one's needs and abilities or because of environmental factors and so on.

The legal basis for the obligation to provide wages to workers after the completion of the work can be seen in QS AthTholaaq verse 6. Allah Ta'ala says about a child who is infiltrated by a divorced wife,

فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ

Which means then if they suck your (children) for you then give them their wages [10] "In this verse it is said that the reward is immediately after the completion of the work. The next legal basis is the hadith of the Prophet Muhammad *sallallaahuaihalaihiwasallam* also ordered to give wages before the sweat of the dry worker. From 'Abdullah bin' Umar, the Prophet *sallallaahu 'alaihiwasallam* says,

أَعْطُوا الْأَجِيرَ أَجْرَهُ قَبْلَ أَنْ يَجِفَّ عَرَقُهُ

Which means "Give to a worker a wage before his sweat dries." (HR. Ibn Majah, saheeh) [11] The purpose of this hadith is to immediately fulfill the right of the worker after the completion of the work, so it can also be meant if there has been an agreement to provide salary every month[12]

There are terms and conditions for the *Ujroh*, namely: *aqid* (the person who carries out *aqad*) between *Mu'jir* (employer / businessman) and *musta'jir*, namely the party who performs the *ijarah* contract/receives wages (workers); *shighat* (statement of agreement); *ujrah* (amount of wages) and benefits. The condition of the trial is to be carried out deliberately and clearly.[19] Wages must be lawful. It is prohibited to provide services doing immoral work. The parameters of the work carried out are allowed by Islam and the *aqad* or transaction goes according to Islamic rules [13]

The word fair has various meanings. Fair means the same, balanced, puts things in appropriate place.[14] In the Al-Qur'an, the command is justly linked to *taqwa* (piety). "Be just; that is nearer to righteousness"(Q.S. al-Maidah: 8). In this

verse the believers are even reminded to remain firm in upholding justice and they are not allowed to cheat even against those they hate. In another verse (Q.S. an-Nisa ': 135 and al-An'am: 152) it is said that justice must be upheld even if it is against yourself or close family. That is, love and hatred must not influence someone to cheat or act unfairly. This shows that justice has its own independence. A justice enforcer must be free from personal or group interests, from hatred and personal sentiment.[15] Another meaning is that it is fair to have a relationship with God (*hablumminallah*) and to be fair in carrying out relationships with fellow creatures of God (*hablumminannas*).

In Islamic teachings, there is still a higher level off all that is *ihsan*. If a person has fulfilled his obligations and who has benefited from the work feels very satisfied, exceeding the expected benefits then can be given additional beyond what has been agreed. So *ihsan* gives more than it should.

Wage regulation is very important. Workers' wages have been regulated by Law No. 13/2003 jo. PP 78/2015. One form of wage protection in Law No. 13 of 2003, is the City/ District minimum wage and the structure and wage scale. Inequity in workers' wages can lead to social conflict. From the above description, comes the problem of whether the principle of *ujroh* can be used as a provision of alternative solutions for fair wage regulation?

II. RESEARCH METHODS

This research is normative legal research using statute and conceptual approach. Normative legal research is a legal research that places law as the norm system. The norm system consists of principles, norms, laws, court judgments, agreements and doctrines or teachings. The method used in legal research conducted by examining the legal materials as existing library. The main legal research material is the rule of law and court judgement. Analysis of legal materials on the issues under the study is using interpretation or legal construction.

III. RESULTS AND DISCUSSION

Wage regulation in Indonesia are deemed not to provide a sense of justice for the community. It still creates problems in the employment sector. Often causes social conflict. Wages are often debated objects. There are differences in perspectives in assessing wages. For employers wages are part of the production costs that must be pressed. Slightly possible increase. Unlike workers, wages are always fought for to increase each year. Not infrequently at the end of the year and at the beginning of the year there were many demonstrations and strikes related to the process of determining the minimum wage.

Wage protection arrangements contain elements of the vague norm. This study analyzes wages based on substance and procedures. Analysis of wage substance is divided into two things, namely the substance of the subject and the

substance of the object. Subject matter related to people. In this case the worker.

How are the criteria for workers who get paid, there are differences in some labor regulations. There is a discrepancy between vertical and horizontal wage regulation. Horizontally, there are differences in the meaning of wages in Article 88 paragraph (1) of Law 13/2003 with their explanation. Vertically there are differences in worker restrictions in the Elucidation of Article 88 paragraph (1) of Law 13/2003 with the Governor's Regulation concerning minimum wages. A decent wage based on the Explanation of Article 88 paragraph (1) of Law 13/2003 covers the families of workers. Unlike the Governor's Regulation, the size of a decent wage is only for workers without families.

Analysis of objects is related to wages themselves. Wages are inversely proportional to work. Accomplished work, the worker will get compensation for his energy in the form of wages. There are several forms of wage protection. There are minimum wages and structures and wage scale. The purpose of setting minimum wages is to provide social security. The practice is that many employers who have not been able to pay their workers at least equal to the minimum wage. Many also do not propose a delay in paying minimum wages. Lately there have been many employers who immediately close their workplaces and do not pay the wages of workers who strike demanding payment of minimum wages or wage increases. This certainly leads to social conflict.

Wage arrangements have not provided a sense of justice for the parties. Wage arrangements do not only concern to the fulfillment of workers' rights, but also must focus on the production efficiency and prices of products that can compete in the market.[16] This is often not realized by workers. The employers at least must be able to provide cash flow to prepare for the payment of ten or more than the next ten months.

Feasibility analysis of the amount of wage value is very important to do. The application of the basic questions 5W + 1H (What, Who, Why, Where, When and How) is very important to develop a framework to improve overall efficiency and ensure profitable business performance[17]w

On this matter, we need to compare the concept of *Al Ujroh* in Islamic law. The accomplished work is not an element of *ujroh*. In general, we have determined the element of employment relations consists of the existence of workers, jobs, wages and time. In general we have divided the types of work into two, namely jobs that produce goods and jobs that produce services.

The Islamic concept of *Ujroh* is far wider in scope. "Benefits" is the basis for the *ujroh*. Benefits are compared to wages. Benefits have a broader meaning than the scope of work. On the basis of these benefits, it becomes the basis for freedom of contract between workers and their employers. There is an agreement in the form of a "contract" on the stipulation of what benefits are compensated to get a determined wage amount.

Benefits = Wages.

Employers will make a contract with workers in order to provide benefits that employers want. If the benefits have been provided by the worker to the employer, the employer is required to immediately pay their *ujroh*. There should be no pause when the worker asks for results from the benefits they have given.

Further analysis of the procedure includes steps that can be done by employers and workers. The procedure also means phasing. There is an obligation of openness in the process of receiving the *ujroh*. Before the deal of a contract, both parties, both workers and employers, have agreed on what types of benefits will be given later with compensation to get the *ujroh*. At the beginning before the contract occurs a "type" of benefits and "the amount of" *ujroh* " have been agreed. Furthermore, the fulfillment of rights and obligations for what have been agreed are the basis for the existence of the value of justice in determining wages.

Fair in Islamic concepts means equal. This means that they must be given the rights and obligations of each "exactly equals" as they have agreed. If the benefit is to finish the shoe sewing job, then by finishing the sewn shoes according to orders from the employer, the employer is obliged to immediately give his wages.

In the concept of Islam, fair is not the ultimate goal of a legal relationship. Legal fairness is mandatory. If implemented it will get rewards in the form of *pahala*, but if not / has not been implemented it will get sin. The right not to be granted in the amount and time agreed upon resulted in the act of "*Dzolim*". Fair opponent is *dzolim*. Fair can be represented by " $X = Y$ " while *dzolim* can be represented by " $X < Y$ ". *Dzolim* is the same as reducing what it should be.

If the employer feels the benefits that are greater than they should be as agreed (according to the contract) Islam offers a voluntary concept of giving more than it should. "Repay good deeds with a better one"

If the employer has given the same wages as he should and gives an additional benefit because he feels better, then the work *pemebi* is said to have received the reward for his *sodakoh*. This creation is the law of *sunnah*. When it is not done okay, but If done it will get a reward. The degree is higher than fair. This is what is called *ihsan*.

IV. CONCLUSION

The concept of *Ujroh* is far wider in scope. Benefits is the basis for the *ujroh*, have a broader meaning than the scope of work. On the basis of these benefits, it becomes the basis for freedom of contract between workers and their employers. There is an agreement in the form of a contract on the stipulation of what benefits are compensated to get a determined wage amount. There is an obligation of openness

in the process of receiving the *ujroh*. Before the deal of a contract, both parties, both workers and employers, have agreed on what types of benefits will be given later with compensation to get the *ujroh*. The principle of *ujroh* which places the benefits received by employers can be an alternative solution to wage regulation to be fairer.

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