

THE MEANING OF WAGE JUSTICE DURING THE COVID-19 PANDEMIC

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Abstract

Workers and employers felt the impact of Covid-19 that spread among the labor cluster. One of the problems is wage. The novelty of this research is the discussion of the government's point of view on the differences in interests based on the wages meaning. This paper aims to find out the meaning of wage justice for workers and entrepreneurs during the Covid-19 pandemic through the perspective of Islam. The descriptive qualitative methodology is used to find out the wage justice meaning regarding the reduced wages of the workers that are on the essential category, 51 companies with 3,032 workers at the hotel sector and export-oriented industries such as charcoal briquettes and footwear. The data of companies that do not provide wages and lay off the workers on the critical category show 36 companies with 2,290 workers. Most of them are working on the food industry, beverage industry and the supporting sectors. The duties and roles of the Manpower Office, through labor inspectors, are supervising the implementation of the manpower public policies in the form of laws protecting both workers and employers. The formulation of this new policy aims to minimize the employment problems that may occur during the Covid-19 pandemic.

Dampak penyebaran Covid-19 kluster ketenagakerjaan dirasakan bagi pekerja dan pengusaha. Salah satu permasalahannya yaitu upah. Kebaruan penelitian ini adalah pembahasan sudut pandang pemerintah terhadap perbedaan kepentingan yang didasarkan pemaknaan upah. Tujuan penulisan artikel ini untuk dapat mengetahui makna keadilan upah bagi pekerja dan pengusaha saat pandemi Covid-19. Jenis penelitian yang digunakan adalah kualitatif deskriptif. Hasil penelitian menunjukkan bahwa pemaknaan upah yang berkeadilan saat upah pekerja yang dikurangi pada kategori esensial sejumlah 51 perusahaan dengan pekerja 3.032 orang yaitu sektor

perhotelan dan industri orientasi ekspor seperti arang briket dan alas kaki. Data perusahaan yang tidak memberikan upah sekaligus merumahkan pekerja pada kategori kritikal sejumlah 36 perusahaan dengan pekerja 2.290 orang yang sebagian besar adalah sektor industri makanan dan minuman serta penunjangnya. Tugas dan peran Dinas Tenaga Kerja melalui pegawai pengawas ketenagakerjaan adalah sebagai pembina dalam pelaksanaan kebijakan publik ketenagakerjaan berupa perundangan yang melindungi baik pekerja maupun pengusaha. Perumusan kebijakan baru ini adalah untuk meminimalisasi timbulnya masalah ketenagakerjaan saat pandemi Covid-19.

Keywords: the covid-19 pandemic, meaning of justice, agreement of wages

Introduction

The interpretation of Q.S. Al-Mulk [67]: 15 “It is He who made the earth tame for you - so walk among its slopes and eat of His provision - and to Him is the resurrection”. Employment problems often occur in the company’s organizational system due to the interest differences between workers and employers when interacting with each other in the workplace. The success of an organizational system is the ability to solve problems from various parties in the organization.¹

Workers are the determinants of the success or destruction of the company.² A worker is someone who has thoughts, feelings, and behaviors that are influenced by the work environment. Meanwhile, employers must be able to influence workers to achieve high productivity. Therefore, it is necessary for the employers to have a proper management to regulate the workers in the company.³ Employers provide compensation for the work of the workers in the form of wages that have been agreed upon. One of the rules for providing wages is regulated in Law No. 3 of 2003 concerning Manpower. Article 90 section 1 states that entrepreneurs are prohibited from paying wages lower than the minimum wage as referred to in Article 89.

The third party in industrial relations is the government. The government seeks to develop, protect, secure, and supervise labor regulations before the working hour until the end of their working day. The main purposes of providing protection are to build and maintain the interests of the organization.⁴ The protection carried out

1 Arian Ikhsan and I. B. Teddy Priantara *Akuntansi untuk Manajemen* (Yogyakarta: Graha Ilmu, 2013), 5

2 Arian Ikhsan *Akuntansi Sumberdaya Manusia Suatu Tinjauan Penilaian Modal Manusia*. (Yogyakarta: Graha Ilmu, 2008), 3.

3 Hendrawan Dendy Santoso, “Pelaksanaan Keadilan Upah Bagi Pekerja Malang Wanita,” *Jurnal Akuntansi Aktual*, Vol. 3, No. 4, January, 2016, p. 272–281 <http://journal2.um.ac.id/index.php/jaa/article/viewFile/7158/3574>.

4 Mansour Fakhri *Analisis Gender dan Transformasi Sosial* (Yogyakarta: Pustaka Pelajar., 1996), 53.

by the government includes labor laws drafting. The current labor law that applies is Law No. 13 of 2003 concerning Manpower, which is Article 1 section 15, states that the employment relationship is the relationship between the entrepreneur and the worker/laborer based on a work agreement, which has elements of work, wages, and orders. The implementation of elements of the employment relationship occurs in the workplace. The workplace is a second home for workers because every day, within 7 hours for several years, workers interact with their colleagues in the company. Currently, the problem of the spread of Covid-19 in the workplace is happening. The polemic of the Covid-19 pandemic is a consideration for workers since they either have to work to earn income or do not need to work for fear of being exposed to Covid-19. It is a consideration that workers must reconsider because there have been several news reports stating that company workers have been exposed to this dangerous virus. The research on the protection of the workers' health in terms of organization, environmental factors, and the workers' factors has been carried out to prevent the spread of this virus.⁵

The industrial, hotel and tourism sectors of another country, Malaysia, are in crisis because information has circulated that the Covid-19 infection attacks travelers from abroad.⁶ Meanwhile, the government of the Republic of Indonesia is trying as early as possible to combat the spread and increase of Covid-19 cases. The data obtained from the World Health Organization (WHO) has recorded 4,494,873 cases from 216 countries infected with Covid-19. Meanwhile, the mortality rate indicates 305,976 of victims.⁷ The data illustrate that Covid-19 has taken many lives and of course also has an impact on all aspects of life. The impact of the Covid-19 pandemic can be felt, especially by the workers. The rate of the spread of the Covid-19 virus is getting higher day by day; currently, there are even new clusters that spread now. Electronic news (<https://mediaindonesia.com/read/detail/329192-awas-lingkungan-kerja-jadi-klaster-penularan-covid-19>, 2020) informs that an area for the spread of Covid-19 has been found in the workplace. The news provides an overview of the very fast spread of this virus, and it seems that there is no place that is completely safe from exposure to this

5 Prima Ardiansah Surya et al., "Literature Review: Occupational Safety and Health Risk Factors of Healthcare Workers during COVID-19 Pandemic," *The Indonesian Journal of Occupational Safety and Health*, Volume 10, Issue 1, April 2021: 144-152.

6 Nur Syahira Shari, Mohd Faizun Mohamad Yazid and Mohd Farid Shamsudin, "The strengthen Strategies During Post Covid 19 After The Virus Crisis Hit Hotel Industry in Malaysia," *Journal of Postgraduate Current Bussines Research ABRN asia Online* ISSN 25048449.

7 A. Sinar Rizky, Anita Trisiana, Farid Ajrur R., Lauriend Algileri M., Iqbal Syaiban, Septiana Nur F., "Menumbuhkan Kesadaran Masyarakat Indonesia Untuk Memutus Rantai Penyebaran Wabah Covid-19," *Jurnal Global Citizen Jurnal Ilmiah Kajian Pendidikan Kewarganegaraan* (2020).

virus. Based on the Mandatory Employment Report data, there are a number of: 7,840 companies in 2018; 7,190 companies in 2019; and 3,928 companies until July 2020. These data indicate the number of potential clusters for the spread of Covid-19. For people involved in business, especially entrepreneurs, the number of company clusters is an initial picture of preparation to change the employment system in the workplace.

The change in the employment system in question is a policy change made by the government as an effort to make the employment conditions safe, comfortable and harmonious during the Covid-19 pandemic. The new policy must maintain the principle of justice for the parties in industrial relations. Injustice can lead to discontent, disputes and even demonstrations. Moreover, until long-term injustice occurs, the economy of a country can be disrupted due to the declining level of the workers' income.⁸

The Covid-19 pandemic affects various business sectors, both large and small ones. The previous research on the impact of employment in the form of Termination of Employment (PHK) and the ineffectiveness of wages for the workers from the Micro, Small and Medium Enterprises (MSME) sector in Mojokerto, East Java Province was also conducted. The amount of production is adjusted to the level of the consumers' demand, which continues to decline during the Covid-19 pandemic.⁹ One of the direct impacts on workers is the change in the amount of wages.

Table 1. The Wage Data For Workers That is Changed Due to The Impact of The Covid-19 Pandemic in East Java Province in 2020-2021

No.	Item	Critical	Essential	Non Essential	Total	Sectors Affected by the Covid-19 Pandemic
1.	Workers	1.556	2.432	3.220	7.208	Tourism, Hospitality, Restaurant, Transportation services

Source of data: The Department of Manpower and Transmigration of East Java Province

East Java Province is the location of the research because there are certain conditions of data on labor during the COVID-19 pandemic. The data reported by the Manpower and Transmigration Service until December 2, 2020 show a total of 41,319 workers who either experience termination of employment or are laid

8 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 (2018)* DOI 10.18860./j.v9i2.5622.

9 Setyani Agung Dwi Astuti, "Dampak Covid-19 Terhadap Ketenagakerjaan dan UMKM di Mojokerto," *Jurnal Inovasi Penelitian* Vol.1 No.9 February, 2021.

off. The number of workers is spread over 932 companies. Employers' decisions to terminate employment and adjust workers' wages are aspects that need and are interesting to be discussed further. The discourse regarding the fairness of workers' wages that occurs in Indonesia is due to the lack of comprehensive justice as expected by the general public.¹⁰ Wage adjustments are made in two ways, namely wage reduction and unpaid wages during the Covid-19 pandemic.

Research Methods

The research method used is descriptive qualitative method, which is based on events in analyzing the problems that exist during the study. The data collection techniques are implemented in the form of literature study, literature review and interview with the informants.¹¹

The previous research on the implementation of the minimum wage in Padang city used an empirical juridical approach for the rule of law from an Islamic, national, and international points of view.¹² Meanwhile, this study discusses the justice of comparative wages in Islamic law and labor law during the Covid-19 pandemic, with the government's point of view as a public policy maker in East Java Province. The primary data sources used come from interviews with several employers and workers in East Java Province during the Year of 2020-2021 and primary data from labor laws, especially wage arrangements that are applied during the Covid-19 pandemic. The secondary data were obtained from literature studies and wage documents with additional reflections on the Islamic religion.

Wages Justice during the Covid-19 Pandemic

The theory of justice presented by Rawls¹³ means an agreement for a fair and balanced distribution. The application of justice theory can be applied in an organization.¹⁴ The implementation of justice in the workplace organization from the workers' point of view is in the form of equal treatment between workers or justice from the employers' point of view in the form of paying wages according to their ability. The application of the theory of justice in the workplace must be based on the correct meaning of the comparison of interests

10 Dwisvimiar, "Keadilan Dalam Perspektif Filsafat ilmu Hukum," *Jurnal Dinamika Hukum* Vol. 11 No. 3 September 2011.

11 Ali *Metode Penelitian Hukum* (Sinar Grafika, 2019)

12 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah* Vol. 9 No.2 (2018) DOI 10.18860./j.v9i2.5622.

13 John Rawls *A Theory of Justice*, rev.ed. (1999)

14 Stephen P. Robbins and Timothy A. Judge *Perilaku Organisasi*. Vol. 1, Prentice Hall (Yogyakarta: Salemba Empat, 1998), 159.

between workers and employers because the impact of injustice can cause a negative reaction by one party.¹⁵ This is in accordance with the teachings of Islam, which is based on the word *al-adl* which means impartiality in terms of value and the magnitude of the results of communication to obtain the truth.¹⁶ According to Q.S. An-Nisa [4]: 58, dealing fairly is closely related to fulfilling rights and obligations, namely rights that are owned by a person, including human rights that must be treated fairly.

The principle of justice in drafting rules regarding employment, especially the formulation of wages during the Covid-19 pandemic, is absolutely necessary, at that time, there was a difference of opinion about the meaning of wage justice during the Covid-19 pandemic, but these differences can still unite into agreement if both parties let go of each other's egos. The ego's interests of workers can decrease if the worker opens the idea that he can be terminated because the company is closed due to meeting the minimum wage cost rules. Workers will understand and know for sure the condition of the company. It would be unethical if workers put too much pressure on employers when the company is clearly unable to pay wages according to the provisions of Law no. 13 of 2003 concerning the employment. In regard to this, Q.S. An-Nisa [4]: 107 states "And do not argue on behalf of those who deceive themselves. Indeed, Allah loves not one who is a habitually sinful deceiver." Workers get wages for their performance, which are given at the agreed time so that no one benefits from only one party. The hadith of the prophet Muhammad SAW narrated from Abdurrahman ibn Zaid ibn Aslam from his father from Abdullah ibn Amr said: The Messenger of Allah said: Give the wages before the sweat dries up (HR. Ibn Majjah). So, the provision of wages is set in accordance with the agreement that has been set because it is easier to calculate.¹⁷

The meaning of justice in terms of legal wages departs from the first Pancasila principle that is Belief in the Almighty God, then it is addressed to all Indonesian people, which is reflected in the fifth principle. The relationship between principles in Pancasila is indeed interrelated, and it is a guideline for the implementation and objectives of the law to achieve a just and prosperous

15 Dov Elizur *Evaluasi Pekerjaan* (Gramedia Seri Manajemen No. 103., 1984).

16 Dinda Fitriyaningsih, Neneng Nurhasanah, Ira Siti Rohmah Maulida, "Keadilan Dalam Upah Perspektif Hukum Islam Dihubungkan Dengan Kebijakan Peraturan Pemerintah Nomor 78 Tahun 2015 Tentang Pengupahan", *Prosiding Hukum Ekonomi Syariah* <http://dx.doi.org/10.29313/syariah.v0i0.27993>.

17 Dede Abdurrohman, "Bisnis Jasa Penyalur Tenaga Kerja Perspektif Hukum Ekonomi Syariah," *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 2018* DOI 10.18860./J.v9i2.5552.

society.¹⁸ This difference in the meaning of wage justice for employers and workers during the Covid-19 pandemic is what led to the idea of writing this research. If there is no agreement on the differences in the imposition of wage justice at the bipartite meeting, it is possible that there will be labor problems in all companies. Injustice, in the form of wages provision for two workers doing the same task without an agreement, often occurs. The impact can be seen from the company's business condition, which is not harmonious because of the form of tyranny imposed by the entrepreneur.¹⁹

The government's regulations in protecting the workers during the Covid-19 pandemic are influenced by two factors, labor conditions and changes in regulations such as Law No. 11 of 2020 concerning Job Creation. These two things are considered in determining the wages of workers. When determining the minimum wage, the employer and the worker, who are the members of the Wage Council, are brought together. The Wage Council members coming from the entrepreneur element have an opinion that the minimum wage in 2021 will not increase in order to protect the sustainability of the company's business from the impact of the Covid-19 pandemic. On the other hand, the members of the Wage Council coming from the worker element opine that the minimum wage in 2021 will continue to rise because of the assumption that not all companies are affected by Covid-19, especially with inflation; automatically, the basic needs of workers will also increase. Several problems related to the existence of a new employment policy with the stipulation of Law No. 11 of 2020 concerning Job Creation occur in East Java Province, the location of the research. The members of the Wage Council of the Province of East Java have different interpretations. The members of the Wage Council coming from the entrepreneur element state their opinion that, in setting the minimum wage, one must refer to the 2020 minimum wage that has been previously determined. On the other hand, the Members of the Wage Council coming from the worker element state their opinion that this has not been applied because it is still waiting for a Government Regulation as its implementing rule.²⁰

Table 2. The Data Of Industrial Relations Problems In East Java Province in 2020-2021

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- 18 Bahder Johan Nasution, "Kajian Filosofis Tentang Konsep Keadilan Dari Pemikiran Klasik Sampai Pemikiran Moderen," *Yustisia* Vol. 3 No.2 May – August, 2014.
- 19 Armansyah Waliam, "Upah Berkeadilan Ditinjau dari Perspektif Islam", *BISNIS*, Vol. 5, No. 2, December, 2017.
- 20 Himawan Estu Bagijo, "Kewenangan Gubernur Menetapkan Upah Pasca Pemberlakuan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja (Studi Kasus Penetapan UMP dan UMK Tahun 2021 di Jawa Timur)," *SOSIO YUSTISIA: Jurnal Hukum dan Perubahan Sosial* Volume 1, Nomor 1, May; p-ISSN: 2776-4540; e-ISSN:2776-3323

No	Item	Critical	Essential	Non Essential	Total
1.	Number of companies that have terminated their employment	-	2	2	4
2.	Number of workers who have been laid off	-	47	60	107
3	Number of companies laying off workers	29	24	27	80
4.	Number of laid-off workers	1.519	2.485	3.163	7.167
5.	Number of companies closed:				
	- Temporary	9	8	32	49
	- Not operating anymore	-	-	1	1

Source of data: The Department of Manpower and Transmigration of East Java Province

The data above show that the greatest impacts of the Covid-19 pandemic is seen on the items indicating workers who were laid off for an unspecified time limit involving 1,519 people in the critical sector, 2,485 people in the essential sector, 3,163 people in the non-essential sector and the total number is 7,167 people. According to Rawls²¹, the key to justice in organizations is agreement. The implementation of worker-employee agreements that are based on justice to fight the impact of Covid-19, among others, can be indicated by the workers who feel the meaning of fairness if the wages they received remain in accordance with the law, which is the same as the applicable minimum wage even though the work system in the company is adjusted to the conditions during the Covid-19 pandemic. These conditions comprise shorter working hours, the implementation of work from home, as well as daily and group shifts. The workers continue to interpret the work system during Covid-19 as a risk that is fully borne by the employer. The workers feel that they will not be able to properly meet their basic needs if wages are reduced.²² Q.S. Al-Jumu'ah, [62]: 10 says "And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed." The first wage system carried out by the entrepreneurs includes reducing wages due to the Covid-19 pandemic. The employers in East Java Province do not have many alternatives to regulate the wages of their workers due to the impact of the Covid-19 pandemic. Most of the companies that reduce workers' wages during the emergency period of the

21 John Rawls *A Theory of Justice. Teori Keadilan*. (Yogyakarta: Pustaka Pelajar, 2006), 23.

22 Dinda Fitriyaningsih, Neneng Nurhasanah, Ira Siti Rohmah Maulida, "Keadilan dalam Upah Perspektif Hukum Islam Dihubungkan Dengan Kebijakan Peraturan Pemerintah Nomor 78 Tahun 2015 Tentang Pengupahan", *Prosiding Hukum Ekonomi Syariah* <http://dx.doi.org/10.29313/syariah.v0i0.27993>.

implementation of restrictions on community activities are in the essential category, which are 51 companies with 3,032 workers from the hotel sector and export-oriented industries such as charcoal briquettes and footwear. Furthermore, the critical category was affected by 32 companies with 1,599 workers, namely the bus rental from the transportation sector, restaurants, and plantations. Meanwhile, in the non-essential category, there were 19 companies with 2,672 employees, namely beauty clinics and the tourism sector. In addition to basic wages as a component of wages, employers also provide non-permanent benefits such as incentives. The entrepreneurs in the transportation sector provide incentives for their marketing in order to achieve the sales threshold target.²³ The components of wages given by the employers sometimes do not reflect proportionality in the perspective of Islamic law. The concept of *maqasidal-shari'ah* is the main consideration in setting a fair wage standard for workers. It aims to improve the standard of living of workers to be better and more decent. Islam also teaches justice in wages which is reflected in the clarity of the cooperation agreement in the written evidence.²⁴ The wage component has been regulated in Article 93 Section 3 and 4 of Law No. 13 of 2003 concerning Manpower,²⁵ and Article 88 A, Article 90 B and Article 92 A of Law No. 11 of 2020 concerning Job Creation²⁶ as a protection for workers regarding wages. The determination of wages is also based on formulas and statistical data on the regional economy level.

The second wage system carried out by the entrepreneurs in East Java Province is implemented through the deletion of wage payment during the Covid-19 pandemic. The basis for more detailed rules is contained in Article 40 Section 1 of Government Regulation of the Republic of Indonesia No. 36 of 2021 concerning Wages²⁷ stating that wages are not paid if the worker/laborer does not come to work and/or does not do the work. The term is often referred as “no work, no pay.” This is the basis for the rules during the Covid-19 pandemic. Most of the companies that laid off workers during the emergency of the implementation of restrictions on the community activities period were in the critical category

23 Ike Farida, “Recent Development of Legal Framework of Labor Law in Indonesia,” *The 4th JILPT Tokyo Comparative Labor Policy Seminar 2020, (Japan Labor Issues, vol.5, no.32, July 2021)*.

24 Nur Mardhiah, “Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia,” *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 (2018)* DOI 10.18860./j.v9i2.5622.

25 Law No. 13 of 2003 Concerning Employment

26 Law No. 11 of 2020 Concerning Job Creation

27 The Regulation of the Government of the Republic of Indonesia No. 36 of 2021 Concerning Wage Payment.

that include 36 companies with 2,290 workers that mostly involve the food and beverage industry and its supporting sectors. Furthermore, the essential category was affected by 25 companies with 2,176 workers from the hotel sector and export orientation such as the footwear industry, whereas in the non-essential category, there were 20 companies with 2,751 workers from the tourism sector and the entertainment industry. Changes and regulations on the wage system applied by the employers can create new employment problems. As happened at the Manpower and Transmigration Office of East Java Province, a complaint letter has been submitted because of the unfairness of giving the workers the wages during the Covid-19 pandemic. The Department of Manpower and Transmigration of East Java Province seeks to provide guidance to the parties in dispute regarding industrial relations. The implementation of this employment development is a form of preventive, judicial, and legal protection. The problem is the constraint in the provision of wages for workers due to the company's inability to pay the wages imposed by the government so that social justice and the welfare of workers have not been realized.²⁸

Employers interpret fair as the obligation to pay wages adjusted to the company's financial level. It is undeniable that the company's finances during the Covid-19 pandemic are being tested because entrepreneurs must have the thoughts on how to pay wages when the company's income is minimal. Even when the author handled the case of wage complaints during the pandemic, the entrepreneur of PT. X had stated that even though he was imprisoned or at gunpoint, he was still unable to provide a payment according to the Malang City's minimum wage. On the other hand, the workers at a glance see it as a violation of the law because of the differences between the application of the wage rules in Law No. 13 of 2003 concerning Manpower and Law No. 11 of 2020 and Islamic law that teaches justice.²⁹

Actually there is a wage deferral rule for entrepreneurs who are unable to pay wages according to the provisions. Article 3 Section 1 of the Decree of the Minister of Manpower of the Republic of Indonesia No. KEP.231/MEN/2003 concerning the Procedures for Postponing the Implementation of the Minimum Wage states that the application for the postponement of the minimum wage implementation is submitted by the entrepreneur. It is submitted to the Governor

28 Endeh Suhartini, Hartiwiningsih, I Gusti Ayu Kutut Rachmi Handayani, Martin Roestamy, "Legal Politics and Policy Setting of Wage Systems For Creating Social Justice of Workers," *Journal of Legal, Ethical and Regulatory Issues* Volume 22, Issue 6, 2019.

29 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah* Vol. 9 No.2 (2018) DOI 10.18860./J.v9i2.5622.

through the agency responsible for the provincial manpower sector no later than 10 (ten) days prior to the effective date of the minimum wage. Wage relief is legalized by the order in three ways, namely: paying the minimum wage in accordance with the old minimum wage, paying the minimum wage higher than the old minimum wage but lower than the new minimum wage, or increasing the minimum wage gradually. In 2021, 107 companies requested the postponement of the 2021 minimum wage to the Governor of East Java (5.3% lower compared to the number of requests for suspension in the previous year). After a study, research and verification carried out by the Wage Council of East Java Province, through the Decree of the Governor of East Java No. 135 of 2021 dated January 27, 2021 concerning the Approval and Rejection of the Suspension of the District Minimum Wage Implementation in East Java in 2021, there were 105 companies that were approved for the suspension. Meanwhile, 2 companies' suspension requests were rejected. The Government Regulation No. 78 of 2015 states that the minimum wage is set by the Governor as the head of the region by taking into account the recommendations from the provincial wage council, the amount of which is based on $(\text{Inflation} + \text{Growth}) \times \text{current year's wages}$. The minimum wage in East Java Province in 2021 is not in accordance with the Circular Letter of the Minister of Manpower of the Republic of Indonesia No. M/11/HK.04/X/2020 dated October 27, 2020, with an increase of Rp.100,000. After the enactment of Law No. 11 of 2020 concerning Job Creation, the determination of the minimum wage in East Java, which is still based on the Government Regulation No. 78 of 2015 concerning wages based on the inflation and YoY growth rates as well as the economic growth conditions of each region, is an appropriate form of discretion made by the Governor of East Java.³⁰ During the Covid-19 pandemic, there was a significant difference in the nominal level of wages in each region. This happens because the economic condition and inflation in each region are different, so the coercion to harmonize them with national economic conditions and inflation causes the determination of minimum wages in the regions to be not optimal and uniform.³¹ The workers' perceptions about the fairness of wages in the company are the balance between the input levels of education, length of work and job

30 Himawan Estu Bagijo, "Kewenangan Gubernur Menetapkan Upah Pasca Pemberlakuan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja (Studi Kasus Penetapan UMP dan UMK Tahun 2021 di Jawa Timur)," *SOSIO YUSTISIA: Jurnal Hukum dan Perubahan Sosial* Volume 1, Number 1, May; p-ISSN: 2776-4540; e-ISSN:2776-3323.

31 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah* Vol. 9 No.2 (2018) DOI 10.18860./j.v9i2.5622.

duties compared to the output in the form of wages.³²

Fair Wage Agreement during the Covid-19 Pandemic

The majority of the citizens of the Republic of Indonesia is Muslim who teaches about the protection of fair wages to the workers, economic distribution, social security, and government that subsidized health services. The concept of justice in Islam can be realized in the norms governing the relationship between workers and employers so that it can be formulated properly.³³ The aspects of fairness, honesty, and truth about remuneration performed by the company management became serious problems during the Covid-19 pandemic. If the principle of justice is projected into the current practice of wages, then there is a proportional meaning. The wages given must be in accordance with the responsibilities carried out by the workers and the results of the quality of their work including accuracy, clarity, and perfection of work. The words of Allah are stated in the Quran, particularly Q.S. Yasin [36]: 54 which means "So today [i.e., the Day of Judgement] no soul will be wronged at all, and you will not be recompensed except for what you used to do." In addition, it is also in accordance with Q.S. Al-Maidah [5]: 8 which means: "O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is [fully] Aware of what you do."³⁴ The meaning of justice is reflected in the results of the determination of wages in the form of written evidence. It is created in the form of a work agreement that contains the rights and obligations of each party in industrial relations. The content of the employment agreement aims to guarantee and protect wages, including the time of payment. This is reflected Q.S. al-Baqarah [2]: 282 which means: "O you who have believed, when you contract a debt for a specified term, write it down. And let a scribe write [it] between you in justice. Let no scribe..."³⁵ Problems that arise in work relations usually come down to "stomach business" it is about "wages" in this case; issues regarding the rights and obligations of workers and employers. Employers cannot arbitrarily give wages and commit acts

32 Klara Innata Arishanti and Ritandiyono, "Persepsi Karyawan Terhadap Keadilan Dalam Pemberian Upah Dengan Kepuasan Kerja," *Proceeding Seminar Nasional PESAT 2005 Auditorium Universitas Gunadarma, Jakarta*. August 23-24, 2005 ISSN: 18582559.

33 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 (2018)* DOI 10.18860./J.v9i2.5622.

34 Taimiyah, "Majmu' Fatawa Li Shaikh Al-Islam," *Riyad: Matabi' al-Riyad*, Vol. 30, 1963, 92.

35 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 (2018)* DOI 10.18860./J.v9i2.5622.

of slavery in the workplace. Meanwhile, workers must also consistently carry out their obligations after receiving a certain amount of wages.³⁶ It is supported by Q.S. Al-Anfal [8]: 27 says O you who have believed, do not betray Allah and the Messenger or betray your trusts while you know [the consequence].” Currently, there are still many labor problems due to unwritten and unregistered industrial relation or agreement, so there is no clear binding on what was agreed. Article 1 section 16 of Law No. 13 of 2003 states that the relationship called industrial relations is a system of relations formed between actors in the process of producing goods and/services consisting of elements of entrepreneurs, workers/laborers, and the government based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia.

Prior to Covid-19, there were still many violations of wage agreements based on legislation, especially during the Covid-19 pandemic. The public policy on manpower issued by the government is a determining factor in the business world. The word ‘policy’ contains wise meaning. So, the public policy is a written idea from the government to be implemented for the benefit of the community or the public.³⁷ However, the latest policy, through the Omnibus Law process, is still considered a pragmatic and less democratic legal practice. The inability of the legislative mechanism and the relatively fast legislative discussion has an impact on the declining public participation.³⁸

Employment policies in other countries are also still a matter of debate in court. Evidence on wage structures based on job responsibilities is a practice of Australian arbitral tribunals.³⁹ The Republic of Indonesia, as happened in East Java Province, set the minimum wage in 2021 during the Covid-19 pandemic starting from the recommendation of the Regent or Mayor and the recommendation of the East Java’s Provincial Wage Council. Then, on November 21, 2020, based on the Decree No. 188/538/KPTS/013/2020, the Governor of East Java Province set the minimum wage for East Java Province in 2021. The amount of this minimum wage was decided with the consideration of a sense of justice for employers and

36 Hendrawan Dendy Santoso, “Pelaksanaan Keadilan Upah Bagi Pekerja Malang Wanita,” *Jurnal Akuntansi Aktual*, Vol. 3, Nomor 4, January, 2016, p. 272–281 <http://journal2.um.ac.id/index.php/jaa/article/viewFile/7158/3574>.

37 Solly Lubis, *Politik Hukum dan Kebijakan Publik*. (Mandar Manju Publisher. 2002), 2.

38 Priambusi et al., “Optimizing Omnibus Law in Indonesia: A Legal Enquiry on The Use of Artificial Intelligence for Legislative Drafting Indonesian,” *Journal of Law and Society* (2021) 2:1 79-104 ISSN 2722-4074 Published by the University of Jember, Indonesia <https://doi.org/10.19184/jjls.v2i1.21787>

39 Alison Preston, “Australian Wage Determination: The Importance of Comparative Wage Justice,” *Preston*.

workers as well as the developing conditions in East Java Province related to its economic growth potential.⁴⁰ Wages are determined through a deliberation process performed by the Wage Council on a market mechanism and are determined by the government. If the determination of the wages has been agreed, then it must be given according to the agreement that has been made together.⁴¹

The alignment of wage justice between the Islamic teachings and its realization in the form of employment policies can be classified in terms of proportional, transparent, and clear agreements.⁴² The principle of fairness of wages based on the expertise and responsibility of workers in order to achieve the common good is the needed component for a decent living and transparency of work contracts before, during and after work.⁴³ During the current Covid-19 pandemic, an agreement that includes wage justice is very much needed in writing the work agreement. If the period of contract expires, the work agreement can be adjusted to the current conditions by prioritizing the parties to be honest and fair in all matters to avoid harming the interests of both parties.⁴⁴ This is confirmed in the Qur'an: Q.S. Al-Baqarah [2]: 279 that states "... [thus] you do no wrong, nor are you wronged..." So, to avoid the acts of persecution against other parties, then the employment contract agreement regarding wages must be written.

The work agreement during the Covid-19 pandemic was made to regulate the relationship between employers and workers in order to maintain a harmonious and safe business climate so that the interests of both parties are met. Article 1 section 14 of Law No. 13 of 2003 states that an employment agreement is an agreement between a worker/laborer and an entrepreneur or employer that contains the working conditions, rights and obligations of the parties. Civil Code article 1601a mentions that an employment agreement is an agreement in which one party, the worker, binds himself to work for the other party, the employer, for a certain period of time by receiving wages.

40 Himawan Estu Bagjjo, "Kewenangan Gubernur Menetapkan Upah Pasca Pemberlakuan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja (Studi Kasus Penetapan UMP dan UMK Tahun 2021 di Jawa Timur)," *SOSIO YUSTISIA: Jurnal Hukum dan Perubahan Sosial* Volume 1, Nomor 1, May; p-ISSN: 2776-4540; e-ISSN:2776-3323

41 Armansyah Waliam, "Upah Berkeadilan Ditinjau dari Perspektif Islam", *BISNIS*, Vol. 5, No. 2, December, 2017.

42 Dinda Fitriyaningsih, Neneng Nurhasanah, Ira Siti Rohmah Maulida, "Keadilan Dalam Upah Perspektif Hukum Islam Dihubungkan Dengan Kebijakan Peraturan Pemerintah Nomor 78 Tahun 2015 Tentang Pengupahan", *Prosiding Hukum Ekonomi Syariah* <http://dx.doi.org/10.29313/syariah.v0i0.27993>.

43 Nur Mardiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 (2018)* DOI 10.18860./J.v9i2.5622.

44 Sri Dewi Yusuf, "Konsep Penentuan Upah Dalam Ekonomi Islam," *Jurnal Al-Ulum* Volume. 10, Number 2, December, 2010, 309-324.

The content of the work agreement when it is related to the meaning of fair wages during the Covid-19 pandemic contains the employer's obligation to pay wages, while the right of the company is to earn profits by producing goods or services. The company's management tries to institutionalize, legalize and legitimize environmental elements in the form of ideas, logics, practices, techniques, and habits from the organization so that they can be applied in the company's organization.⁴⁵ So, the work agreement containing the agreement of both parties, one of which is about the wage agreement, needs to be registered by the government; in this case, it is the East Java Provincial Manpower Office.

The Supervision and Wage Justice Policy During the Covid-19 Pandemic

The meaning of justice means, the first, equal treatment and equal rights with the size of workers as legal subjects and, the second, a measure of justice in terms of the same wages given for the same work.⁴⁶ Wage justice rules are the form of policy in determining wages and protection for workers in the labor realm.⁴⁷ The minimum wage policy set by the government often encounters problems that arise in the future although the workers have worked hard with high creativity and fully contributed to the company but received disproportionate wages.⁴⁸ There is a conflict of interest between workers and employers in determining the minimum wage as a result of the Covid-19 pandemic. For workers, wages are to meet their needs and welfare. Workers demand higher wages. In contrast, employers see wages as a part of the cost of production.⁴⁹

The handling of wage justice disputes is assigned to the labor inspector. The role of labor inspectors is very important in fostering a culture of compliance with labor regulations. The administrative sanctions mentioned in Article 190

45 Ali Djambhuri, "A Case Study Of Governmental Accounting And Budgeting Reform At Local Authority In Indonesia," *An Institutional Perspective. Ph.D. dissertation*. Universiti Sains Malaysia. 2009.

46 Dinda Fitriyaningsih, Neneng Nurhasanah, Ira Siti Rohmah Maulida, "Keadilan Dalam Upah Perspektif Hukum Islam Dihubungkan Dengan Kebijakan Peraturan Pemerintah Nomor 78 Tahun 2015 Tentang Pengupahan", *Prosiding Hukum Ekonomi Syariah* <http://dx.doi.org/10.29313/syariah.v0i0.27993>.

47 Nur Mardhiah, "Islam dan Perburuhan: Pembagian Kerja, Safety Networking dan Masalah Pada Sistem Pengupahan di Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah Vol. 9 No.2 (2018)* DOI 10.18860./j.v9i2.5622.

48 *Ibid*.

49 Asri Wijayanti, "Critical Analysis of the Minimum Wages in Order to Achieve Substantive Justice" *The International Symposium on Pierre Bourdieu's Law & Society Studies*, State University of Semarang, 12-1-2012.

Section 2 of Law No. 13 of 2003 concerning Manpower, supervisory employees do not have the authority to limit, freeze business activities, and revoke permits. The activities carried out by labor inspectors aim to set a guidance for the findings of labor violations. In resolving the cases of labor violations, supervisors often carry out non-judicial efforts in the form of coaching.⁵⁰ Legal assistance given by the government regarding labor affairs is included in accessing wage justice.⁵¹ Currently, the government has also issued a Circular Letter of the Minister of Manpower of the Republic of Indonesia No. M/3/HK.04/III/2020 concerning to the Protection of Workers/Laborers and Business Continuity in the Context of Prevention and Control of Covid-19. It is written as the efforts of the government, especially the ministry of manpower, which deals with cases related to Covid-19. Labor inspectors disseminate appropriate information to related parties, both the employers and workers. The task of the labor inspector is to record and deliver a report to the relevant agencies if they find suspected cases of Covid-19 as an effort to prevent and control the dangers of Covid-19.

It is necessary to hold an inspection that is synergistic between the Ministry of Health and the Ministry of Manpower on all companies that are still carrying out work activities during the Covid-19 pandemic so that they can suppress the arbitrary actions of the entrepreneurs in hiring their workers, which are feared to cause the spread of the virus. Covid-19 has become out of control and disrupted the principle of protection of workers' wages as regulated in Law No. 11 of 2020 concerning Job Creation.⁵² The meaning of wage justice on the part of workers and employers has been the same and resulted in an agreement. Then, the written agreement form must be sent to the local Manpower Office in the field of Industrial Relations. The recorded agreement is used as a reference for solving a wage dispute occurred during the Covid-19 pandemic. The task of socializing to register the agreement rests with the labor inspectors who frequently visit the company on a daily basis.

50 Rakha Anggara Widya Dhana, Lutfi Effendi and Bahrul Ulum Anafi, "Pelaksanaan Pasal 45 Ayat (2) Peraturan Pemerintah Republik Indonesia Nomor 44 Tahun 2015 Tentang Penyelenggaraan Program Jaminan Kecelakaan Kerja dan Jaminan Kematian (Studi di Dinas Tenaga Kerja dan Transmigrasi Provinsi Jawa Timur Kordinator Wilayah II Malang)", *Jurnal Hukum*, <http://hukum.studetjournal.ub.ac.id>, 2020.

51 Tri Astuti Handayani, "Bantuan Hukum Bagi Masyarakat Tidak Mampu Dalam Perspektif Teori Keadilan Bermartabat," *Refleksi Hukum* Vol. 9, No. 12015.

52 Erni Kartikasari, Made Warka and Evi Kongres, "Penyelesaian Masalah Ketenagakerjaan Bagi Pekerja Yang Mendapat Upah Tidak Layak Di Masa Pandemi COVID-19 Secara Mediasi," Thesis Universitas 17 Agustus 1945 Surabaya, 2020.

In terms of a complaint regarding the given wage as an impact of Covid-19, the recording can be used as an evidence of a dispute in the court. The results of the decisions given by the district courts and the industrial relations courts, which constitute labor violations provisions regarding wages, are a hot issue and cannot be separated from people's lives and the morality of legal officials. The more criminal and civil cases that the court dealt with, the more legal problems associated with the implementation of court decisions occurred.⁵³ Repressive legal protection is the protection of rights between the two parties with or without violating the law.⁵⁴ Indonesia, as a state of law, is obliged to provide a juridical basis for every act of every citizen.⁵⁵ The employment laws are binding and need supervision over the enactment of these laws, especially now that a very serious problem arises that is the spread of Covid-19 virus. The impact of the Covid-19 pandemic can be declared as an unexpected force major.

Conclusion

The conclusion of this paper is reflected on the formulation of public employment policies stated in the labor legislation. These regulations make new policies for the preparation of Regional Regulations (Governor Regulations, Mayor Regulations, or Circulars) in the regions for workers and employers based on the principle of justice during the Covid-19 pandemic. The new policy is created based on the old policy with some adjustments to achieve better conditions. A well-coordinated effort between parties, including workers, employers and the government, is expected to realize a just society for humanity. The impact of the Covid-19 pandemic regarding wage justice in the form of reduced wages is regulated in Article 41 section 1 of the Government Regulation of the Republic of Indonesia No. 36 of 2021. It is written that wages are given to the workers/laborers who do not come to work and/or do not perform work because of illness like Covid-19. The impact of the second wage justice in the form of unpaid wages is regulated in Article 40 Section 1 of the Government Regulation of the Republic of Indonesia No. 36 of 2021 concerning wages. It is mentioned that wages are not

53 Bambang Sugeng Ariadi Subagyo and Ghansham Anand, "The Problematics of Execution Law Against Non-Executable Judgments and Comparisons With Malaysian Law," *Jurisdictie: Jurnal Hukum dan Syariah* Vol. 9 No.2 Tahun 2018.

54 Yuliasih, "Perlindungan Hukum Desain Industri Dalam Pelaksanaan Prinsip Keadilan Menurut Teori Keadilan John Rawls (Studi kasus Putusan Nomor 35 PK/PDT.SUS-HKI/2014)," *NOTARIUS* ■ Edisi 08 Nomor 2 September 2015.

55 Musataklima, "Urgensi Perlindungan Hukum Terhadap Pengguna Jasa Motorcycle Taxi Perspektif Hukum Perlindungan Konsumen dan Teori Mashlahah," *Jurisdictie: Jurnal Hukum dan Syariah* Vol. 10 No.2 Tahun 2019.

given if the worker/laborer does not come to work and/or does not do the work. Point II of section 4 of the Circular Letter of the Minister of Manpower of the Republic of Indonesia No. M/3/HK.04/III/2020 concerning the Protection of Workers/Laborers and Business Continuity in the Context of Prevention and Control of Covid-19 stipulates companies to restrict their business activities due to government policies in their respective regions for the prevention and control of COVID-19. Thus, it causes some or all of the workers/laborers not coming to work. It takes into account the business continuity and changes in the amount and method of wages payment for workers/laborers' that are carried out in accordance with the agreement made between the entrepreneur and the worker/laborer.

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