

## Evaluation of The Minimum Wage Determination System Indonesian Workers Based on Comparison Policy

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### Abstract

*This study was motivated by an increase in the average provincial minimum wage in 2022 across Indonesia by 1.09%. The percentage increase is considered not proportional to the increase in the price of goods to meet the needs of workers and their families. When compared to the average increase in the minimum wage in previous years, the provision of UMP increases in 2022 is relatively low. This research uses normative legal research methods with secondary data collection techniques. This research aims to educate a wide audience on the system of determining the minimum wage of Indonesian workers based on a comparison of wage policies. In addition, this study will provide an overview of the comparison of the wage system through the method of Government Regulation 78 of 2015 with Government Regulation 36 of 2021. The results of this study showed that the minimum wage determination system with the PP 78 method in 2015 prioritizes workers and their welfare. In addition, the government regulation uses democratic principles and considers the standard of living needs (KHL) in determining its minimum wage. Meanwhile, the minimum wage determination system using the PP 36 of 2021 method uses an established formula. The formula uses the upper median and lower median references in measuring the rate of salary increases of workers in Indonesia.*

**Keywords :** *Indonesian Workers; Minimum Wage; Policy*

### Introduction

Wage is the right of the worker/laborer to be received and expressed in the form of money as a reward from the entrepreneur or employer to the worker/laborer which is determined and paid according to a work agreement, agreement, or statutory regulations, including allowances for workers/laborers and their families for a job and/or service that has been or will be performed<sup>1</sup>. Workers in receiving their wages are entitled to proper financing for their lives. A decent life includes the fulfillment of clothing,

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<sup>1</sup> Endah Pujiastuti, *Pengantar Hukum Ketenagakerjaan*, vol. 1 (Semarang: Semarang University Press, 2018), p. 38.

food, housing, education, and health for workers. The scope of a decent life is not only for the worker himself but along for the wife or husband and children of the worker. Factors that meet educational needs are focused on the children of workers. The wages of workers should guarantee the needs of education and all its support in addition to meeting the needs of daily life.

Good and fair wages are determined through a wage system. Indonesia currently uses a wage system according to PP (Government Regulation) Number 36 of 2021. This regulation is a derivative regulation of Law Number 11 of 2020 concerning Job Creation. This wage system is quite different from the wage system based on the version of Government regulations No. 78 of 2015. Several crucial articles can change the process of giving and determining wages from employers to workers. This has a major impact on the rate of increase in the provincial minimum wage in Indonesia.

The average increase in the provincial minimum wage (UMP) in 2022 throughout Indonesia was announced by the Indonesian Minister of Manpower Ida Fauziyah, which was 1.09%<sup>2</sup>. This figure is relatively small when compared to the rate of increase in wages in previous years which used the Government regulations no. 78 of 2015. The increase in wages in 2020 is calculated by the Government regulations wage system. No. 78 of 2015 reached 8.51%. In previous years, the increase in the UMP from 2015 to 2016 reached an average of more than 10% and in the period 2017 – 2019 the increase in the UMP was around 8.33% (in 2017 there was an increase of 8.25%, in 2018 an increase of 8.71%, and an increase of 8.03% in 2019)<sup>3</sup>.

Based on the wage system and the number of wage increases in Indonesia in the last period, it was found that there was a significant difference. This is motivated by the difference in the minimum wage calculation formula in Government Regulation No. 36 of 2021 with Government Regulation No. 78 of 2015. This change hurts the fate and welfare of workers/laborers in Indonesia. With the increasing price of basic needs as a fulfillment of daily life and not accompanied by a significant increase in wages, it will exacerbate the problems of workers/laborers. The problem is the welfare of the workers and their families.

The change in the method of determining the minimum wage by using the Government regulations formula No. 36 of 2021 injures the view

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<sup>2</sup> Nyoman Ary Wahyudi, "Kenaikan Upah Minimum 1,09 Persen, Menaker Klaim Upah RI Tertinggi Di Dunia," *Bisnis.com*, 2021, <https://m.bisnis.com/amp/read/20211116/12/1466774/kenaikan-upah-minimum-109-persen-menaker-klaim-upah-di-ri-tertinggi-di-dunia>.

on November 23, 2021.

<sup>3</sup> Dewi Restu Mangeswuri, "Dampak Penetapan Upah Minimum Provinsi 2021 Di Tengah Pandemi Covid-19," *Info Singkat* Vol. XII, no. 21 (2020), p. 4.

of life and philosophy of Indonesian law. This was motivated by the violation of the 2nd principle of Pancasila which reads "Just and Civilized Humanity" and the 5th principle which reads "Social Justice for All Indonesian People". The violation of these two precepts is due to the implementation of the latest minimum wage determination method causing the lives of workers and their families to be inadequate. In addition, the increase in the minimum wage is also not proportional to the increase in the prices of existing necessities of life. The disproportionate increase in low wages with the increase in the necessities of life is feared to create a socio-economic gap between workers/labor and the surrounding community.

The creation of gaps as a result of the non-fulfillment of the daily needs of workers is evidence that the formulation of the minimum wage determination of Government regulations 36 of 2021 violates the 2nd and 5th precepts of Pancasila. The implementation of the formulation contained in the regulation does not pay attention to the human side based on a decent living for workers and their families. In addition, this regulation injures the sustainability of human life with dignity and does not take into account the elements of social justice on the part of workers and employers.

The determination of the minimum wage using the Government regulations No. 36 of 2021 method is also not in line with the Preamble of the 1945 Constitution, paragraph 4, which stipulates the goals of the Republic of Indonesia. The sentence which reads "...promoting the general welfare, educating the nation's life..." in paragraph 4 is contradictory to the facts and the impact of the implementation of the wage formulation of Government regulations No. 36 of 2021. This is because it is clear that general welfare, especially the welfare of workers, does not consider in these regulations. If the welfare of workers and their families is not fulfilled, then of course the educational problems in the workers' families will be affected. Not being able to participate in school activities and independent learning to the fullest due to limited costs and facilities makes the goal of the Republic of Indonesia in the sentence "educating the nation's life" to be hampered.

The previous laws and regulations considered the welfare of workers. For example Government regulations 78 of 2015 which in its formula uses considerations of inflation and economic growth simultaneously. Systematically, according to Law Number 13 of 2003 and its derivative regulations (Government regulations 78 of 2015), it stipulates that the standard of KHL (necessities of decent living) is used as a basic reference in determining the minimum wage. The minimum wage reference uses the KHL standard as stipulated in Article 88 paragraph (4) of Law Number 13 of 2003 concerning Manpower.

With the current wage arrangements, workers and employers still

have not found common ground. According to the entrepreneur's point of view, high wages are considered very burdensome for the company and can hamper the production process due to high production costs. Meanwhile, from the point of view of workers demand high wages. This is due to the reason that the cost of living is increasingly expensive, especially to be able to be present in the production process in a physically and mentally healthy condition so that they can work optimally and increase company productivity.<sup>4</sup>

The percentage of poor people in Indonesia in September 2020 was 10.19 percent, an increase of 0.41 percentage points against March 2020 and an increase of 0.97 percentage points against September 2019<sup>5</sup>. Poverty data is used as one of the comparison materials in this study because the meaning of poor itself is not having wealth; underprivileged (very low income). This implies that if a person is unable to fulfill his or her needs or lacks in daily life due to low income, it can be said that someone is trapped in poverty. Poverty is automatically far from the word prosperous because a person cannot fulfill his daily needs both in terms of material and non-material.

Indonesian workers should not be trapped in poverty. This is motivated by the goals of the Indonesian nation as stated in the 4<sup>th</sup> paragraph of the Preamble to the 1945 Constitution. The objective is written as "promoting general welfare" which will be torn apart if the state does not make efforts to improve the welfare of workers. The state should guarantee the welfare of its people regardless of class or strata, including the welfare of workers and their families.

For the welfare of workers in Indonesia, it is necessary to evaluate the wage system. This evaluation is based on the old and latest government regulations on wages. With the evaluation, it is hoped that there will be an improvement in the wage system that is oriented towards the welfare of workers/labor, work effectiveness, and fairness between workers/laborers and employers. If this happens, it will cause a point of equilibrium (balance) between workers/laborers and employers. Based on this, problems arise regarding efforts to create a just and balanced wage system between workers/laborers and entrepreneurs in Indonesia. This problem will be studied through a comparison of the Government of Indonesia's policies from Government regulations No. 78 of 2015 and Government regulations No. 36 of 2021.

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<sup>4</sup> Nizar Sukma Purnama, "Efektivitas Pengaturan Upah Tenaga Kerja Berdasarkan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Jurnal Pemuliaan Hukum* Vol. 4, no. 1 (2021), p. 67-68.

<sup>5</sup> RI Central Statistics Agency, "Profil Kemiskinan Di Indonesia September 2020," *Berita Resmi Statistik No. 16/02/Tb. XXIV* (Jakarta, 2021), p. 1

The writing of this scientific journal uses normative legal research methods. Normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer legal problems faced.<sup>6</sup> In essence, normative legal research is studying the law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior<sup>7</sup>.

This writing uses a statute approach, a comparative approach, and a conceptual approach. Data collection techniques in this paper use secondary data collection methods. In detail, the secondary data contains three legal materials, namely primary legal materials, secondary legal materials, and non-legal materials<sup>8</sup>. The legal material analysis method used is a descriptive technique that explains legal events or conditions<sup>9</sup>.

## Discussion

Wage if interpreted grammatically are the process, method, and act of giving wages. While wages themselves in Indonesian grammar are money and so on which are paid as compensation for services or as payment for labor that has been expended to do something. Wages based on the form can be divided into wages in the form of money and wages in the form of goods. Based on the basic definition, wages must be in the form of money or detail in the form of nominal currency prevailing in the Republic of Indonesia, namely the rupiah.

The Indonesian Civil Code Article 1602 h explains that wages set in money must be made in the legal tender in Indonesia. If wages are determined in the currency of a foreign country, the payment of such wages shall continue to use the Indonesian currency. Therefore, the wages in the foreign currency value must be converted into rupiah currency based on the prevailing rate or exchange rate at that time. This has the aim of creating transparency and legal clarity regarding the wages received by workers.

Wages in the form of goods (in-kind, in-kind) are regulated in several regulations that provide for the distribution of provisions, among others, as follows: employers provide decent housing, treatment and care, and also

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<sup>6</sup> Peter Mahmud Marzuki, *Penelitian Hukum : Edisi Revisi* (Jakarta: Kencana, 2005), p. 47.

<sup>7</sup> Ishaq, *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Dan Disertasi* (Bandung: Penerbit Alfabeta, 2017), p. 66

<sup>8</sup> Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020). Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), p. 59 – 60

<sup>9</sup> I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Jakarta: Prenada Media Group, 2017), p. 152.

transportation costs to the place of deployment. In the provision of wages, care must be taken so that workers are not harmed by the provision of goods that are not directly needed by the workers<sup>10</sup>. Wages in kind must pay attention to the needs of the workers and their welfare. This element of welfare must also be considered in the form of money wages.

In terms of value, wages are distinguished between nominal wages and real wages. Nominal wages are the amount in the form of money, while real wages are the number of goods that can be purchased with that amount of money. For workers, the most important thing is real wages, because with their wages they must get enough goods needed for their life together with their families. An increase in nominal wages has no meaning for him if the increase in the price of the necessities of life is in the broadest sense of the word. A decrease in the price of necessities of life due to, for example, an increase in the production of these goods will constitute an increase in wages for workers even though the amount of money they receive from employers is the same as before. On the other hand, an increase in the price of necessities of life always means a decrease in wages for workers. When the value of money fluctuates or continues to decline, it is beneficial for workers to be given wages in the form of living necessities (supply) free of charge or at the price of the assistance<sup>11</sup>.

The main factor in the formation of workers' welfare is the provision of wages that can adequately meet their daily needs. The welfare of workers is one of the most important aspects in the occurrence of social and economic stability, in which this condition will minimize social inequality in society, maintain purchasing power parity, and meet material and non-material needs in the welfare element.

Material and non-material needs are implicitly stated in the definition of welfare according to the Law on welfare<sup>12</sup> namely a system of material and spiritual social life and livelihood that is filled with a sense of safety, decency, and inner and outer peace, which makes it possible for every citizen to make efforts to fulfill the best possible physical, spiritual and social needs for himself, his family, and the community by upholding human rights and human obligations by Pancasila.

Based on the definition of welfare according to the welfare law, the material elements forming welfare in individuals include physical and social needs. It consists of clothing, food, housing, education, health,

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<sup>10</sup> Ujang Charda S, "Model Kebijakan Pemerintah Indonesia Dalam Sistem Pengupahan," *Jurnal Wawasan Hukum* Vol. 34, no. 1 (2016), p. 25.

<sup>11</sup> Ibid, p. 24.

<sup>12</sup> Law of the Republic of Indonesia 1 No. 6 of 1974 concerning The Basic Provisions of Social Welfare Article 2 paragraph (1)

communication, and transportation. Meanwhile, the non-material element is related to inner well-being. It includes spiritual needs, the safety of the soul, and purity of mind. Measurement of welfare must pay attention to the balance between material elements and non-material elements so that the level of welfare of an object (person) can be known.

If studied further, it can be seen about the welfare of workers with the existing minimum wages juxtaposed. Such a statement becomes a rhetorical question when juxtaposed with the existing fact that the determination of the minimum wage currently no longer uses the provisions of the KHL (decent living needs). This KHL becomes the standard for the physical needs of single workers/laborers to live decently within one month. If the KHL provisions that contain the standard needs of single workers are not met, it can be seen that the level of welfare of workers who have families and still have to provide educational support for their children.

### **Minimum Wage Determination System According to Government Regulation Number 78 of 2015 and Government Regulation Number 36 of 2021**

The determination of minimum wages for both provinces and cities has been regulated by applicable laws. In 2021 the determination of the minimum wage 2022 will be carried out using the method of Government Regulation Number 36 of 2021. According to Ida Fauziyah, the Minister of Manpower of the Republic of Indonesia, this determination is carried out to serve as an instrument for alleviating poverty and to encourage equitable and competitive Indonesian economic progress.<sup>13</sup> Based on this urgency, this minimum wage is included in the ranks of national strategic programs that must be obeyed and implemented by all parties, including the government, employers, and workers.

The determination of the minimum wage through the Government regulations No. 36 of 2021 method arises a problem. Namely, the average increase in the UMP (provincial minimum wage) in Indonesia tends to be below. It even decreased drastically when compared to previous years which used the method of determining wages for Government regulations No. 78 of 2015. In this case, the workers were of course at a loss. The loss is caused by the high price of daily necessities and the low increase in wages which will lead to an imbalance in wage receipts with expenditures for daily living needs. This of course will injure the welfare elements materially and non-materially because the wages received are not sufficient to meet the living needs of the

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<sup>13</sup> Humas Sekretariat Kabinet RI, "Menaker: Penetapan UMP Semua Provinsi Paling Lambat 21 November," setkab.go.id, 2021, <https://setkab.go.id/menaker-penetapan-ump-semua-provinsi-paling-lambat-21-november/>.

workers and their families.

The method of determining the minimum wage according to Government regulations No. 36 of 2021 needs to be evaluated to improve the welfare of workers. This evaluation can use a policy comparison of the previous minimum wage determination method, namely Government regulations No. 78 of 2015.

It is stated in Government regulations Number 36 of 2021 Article 24 that "Wages for Workers/Labourers with a working period of 1 (one) year or more are guided by the structure and scale of wages". The structure and scale of wages in question are to realize just wages. This is because wages that are guided by the structure and scale of wages refer to the competence of workers, years of service, position, and education as well as all regulations, and their application are made by the ability of the company. The unilateral determination of the company will certainly lead to the exclusion of the interests, thoughts, and welfare of the workers.

Whereas in Government regulations Number 78 of 2015 Article 42 explains that "Wages for Workers/Labourers with a working period of 1 (one) year or more are negotiated bipartitely between Workers/Labourers and Employers in the company concerned". This article emphasizes the negotiation between workers and employers in determining the wage rate received by workers. By determining the value of wages based on negotiations, both workers and employers can exchange ideas and get the appropriate wage value. The wages are fair and are based on efforts to create worker welfare through the provision of decent wages. Thus, it is hoped that the welfare of workers will increase and the interests of employers will not be disturbed because the process has been negotiated in a bipartite manner.

Regarding the determination of the minimum wage, it is regulated in Government regulations Number 36 of 2021 Article 25 and Article 26, namely that the minimum wage is determined based on economic and employment conditions, including purchasing power parity (balance of shopping ability), labor absorption rate, and median wage (the margin between 50 percent of wages). the highest salary and the lowest 50 percent of employees in a particular position or job). Determination with this method of course does not pay attention to the standard of KHL (necessities of decent living) and has the potential for low wage increases. This is because the increase in wages is limited to a predetermined median wage.

In Government regulations, No. 78 of 2015 article 43 explains that the determination of the minimum wage is carried out every year based on the need for a decent living by taking into account productivity and economic growth. This article of course prioritizes the concept of real wages, which measures the value of wages based on the number of goods that can



be purchased with that amount of money. By using the KHL element in determining the minimum wage, it is hoped that it can be one step to realize the welfare of workers. This KHL element can be used as a benchmark and basic reference in determining wages that aim to improve the welfare of workers.

Although the KHL value is not the only factor considered in determining the minimum wage, there are still four other qualitative factors, namely productivity, economic growth, marginal business capacity, and labor market conditions. While KHL is a quantitative factor.<sup>14</sup> This means that the determination of KHL in Government regulations No. 78 of 2015 is very important because it will be used as the basis for consideration of determining the minimum wage and is related to the fulfillment of worker welfare.

Government regulations Number 78 of 2015 also regulate the determination of wages by the governor based on the results of an agreement between the negotiations of the employers' association and the trade union in a forum, namely the wage council. This is stated in Article 45 paragraph (3) which reads:

*"If late a review of the needs for a decent living as referred to in Article 43 paragraph (5) has been carried out, the governor shall determine the provincial minimum Wage by taking into account the recommendations of the provincial Wage Council."*

and Article 47 paragraph (2) which reads:

*"If a review of the needs for a decent living as referred to in Article 43 paragraph (5) has been carried out, the governor shall determine the district/city minimum Wage by taking into account the recommendations of the regent/mayor as well as the suggestions and considerations of the provincial wage council."*

The two articles clearly emphasize the role of governors in determining provincial and city/district minimum wages for the sake of reviewing a decent life. This review is carried out to improve the welfare of workers and is oriented towards fair wages.

Meanwhile, Government regulations Number 36 of 2021 explain wage determination, namely the governor's decision by referring to the applicable minimum wage calculation formula. This formula in making adjustments to wages every year uses an upper and lower limit scheme which is determined by the average consumption per capita and the number of

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<sup>14</sup> Syarifah Mahila, "Kebutuhan Hidup Layak Dan Pengaruhnya Terhadap Penetapan Upah Minimum Provinsi Ditinjau Dari Hukum Ketenagakerjaan," *Jurnal Ilmiah Universitas Batanghari Jambi* Vol. 14, no. 2 (2014), p. 51.

household members. This average data uses data in the area concerned. This is stated in Article 26 paragraph (2) of Government regulations Number 36 of 2021 as follows:

“Adjustment of the minimum Wage value is set at a certain value range between the upper and lower limits of the minimum Wage in the area concerned”.

Article 30 of Government regulations Number 36 of 2021 explains that there are certain conditions in determining the city/district minimum wage for governors. These certain conditions include regional economic growth or inflation in the city/district concerned. Thus, the determination of the minimum wage with this method is not based on KHL points which are considered more accurate in assessing the real wages received by workers. KHL points should still be considered, considering the concept of real wages which affects whether or not the daily needs of workers are fulfilled.

### **The Impact of the Wage System of the Government regulations Method Number 36 of 2021 on City/Regency MSEs**

According to Imam Soepomo in Ridwan Halim, the purpose of workers doing work is to earn sufficient income to finance their lives together with their families, namely a decent living for humanity.<sup>15</sup> Departing from this, the government seeks to improve the welfare of workers through the wage method of Government regulations No. 36 of 2021. The government through this system of determining the minimum wage hopes that the minimum wage rate will be evenly distributed in every province in Indonesia.

The expectation of an even distribution of the minimum wage has an impact on the workers themselves. With wage increases that tend to be below, it will certainly affect the lives of workers and their families. That's because wages are needed to maintain one's life<sup>16</sup>.

The Government regulations No. 36/2021 method on determining the city/district minimum wage certainly has a big impact. Considering the many differences in the elements in the minimum wage calculation formula, the regulations for its stipulation, and not paying attention to the KHL element in its calculation.

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<sup>15</sup> Ridwan Halim, *Hukum Perburuhan Dalam Tanya Jawab* (Jakarta: Ghalia Indonesia, 2001), p. 178.

<sup>16</sup> Arrista Trimaya, “Pemberlakuan Upah Minimum Dalam Sistem Pengupahan Nasional Untuk Meningkatkan Kesejahteraan Tenaga Kerja,” *Aspirasi* Vol. 5, no. 1 (2014), p. 12.

In Government regulations No. 36 of 2021 regarding wages, the governor can determine the UMK with certain conditions, namely the average economic growth of the district/city concerned for the last three years and higher than the average economic growth of the province. The value of economic growth minus inflation of the district/city concerned for three years is always positive and is higher than the provincial value.

Furthermore, the UMK is determined after the determination of the UMP. The UMK must be higher than the UMP. MSEs that do not yet have minimum wage provisions use a wage calculation formula with the stages of calculating the relative MSE to the UMP based on the purchasing power parity ratio, labor absorption rate, median wage, then the three are re-averaged. calculated based on the average of the last three years from available data. If these conditions are not met, the governor cannot determine the UMK for districts/cities that do not yet have a UMK.

The calculation of the UMK value is carried out by the Regency/City Wage Council. After finding the nominal according to the formula, it is then submitted to the Regent/Mayor to be recommended to the governor. After that, the governor can set the UMK for all regions within his province.

### **Fair Remuneration Between Workers and Employers**

Fair wages are a solution between the interests of employers and workers' expectations to improve their welfare through work. With fair wages, it is hoped that they will find a meeting point between the wishes of both parties (workers and employers) so that they are equally fulfilled. Of course, by fulfilling these two desires, it is intended that no party feels aggrieved and feels that their rights have been violated.

According to Thomas Aquinas, the concept of justice is a form of equality. According to him, justice is about what should or should be for others according to proportional equality.<sup>17</sup> Aquinas divides the concept of justice into two, namely general justice and special justice. Based on the two concepts of justice according to Aquinas, it can be seen that the purpose of justice is the general good (*bonum commune*).<sup>18</sup>

Departing from Thomas Aquinas's concept of justice, the meaning of fair wages is wages given by the employer to workers by adhering to proportional equality and in its implementation with the aim of the general

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<sup>17</sup> Popon Srisusilawati and Nanik Eprianti, "Penerapan Prinsip Keadilan Dalam Akad Mudharabah Di Lembaga Keuangan Syariah," *Law and Justice* Vol. 2, no. No. 1 (2017), p. 15.

<sup>18</sup> Giovanni Aditya Arum, "Konsep Keadilan (Iustitia) Perspektif St. Thomas Aquinas Dan Relevansinya Bagi Pemaknaan Sila V Pancasila," *Lumen Veritatis: Jurnal Filsafat Dan Teologi* Vol. 10, no. 1 (2019), p. 25.

good. The definition of fair wages can illustrate that the wages given must have a generally good purpose. The general good here refers to the goodness between the two parties by uniting the goals and objectives by consensus. Thus, it can create a wage system that remains profitable for employers and still pays attention to the welfare of workers. Welfare is also included in meeting the needs of workers both materially and non-materially.

The concept of equitable remuneration is based on Article 28 D paragraph (2) of the 1945 Constitution of the Republic of Indonesia which reads "Everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship". The article explicitly states that every worker is entitled to fair and proper remuneration (wages). On this basis, fair wages must be realized immediately. The wages will of course be oriented towards welfare and feasibility on the side of the workers and the interests and economic motives of the entrepreneur (employer).

Based on the 1970 ILO Convention (K131) concerning Minimum Wage Determination in Article 3 provides elements of consideration in determining the minimum wage level. Minimum wages should cover (a) the needs of workers and their families, taking into account the general level of wages in the country concerned, cost of living, social security, and the relative standard of living of other social groups; (b) economic factors, including economic development needs, productivity levels, and the need to achieve and maintain high levels of employment. From a long time ago, international conventions have emphasized that wages paid must contain the concept of justice and include the fulfillment of interests between workers and employers.

Equitable wages must be handled professionally. Handling wages professionally, absolutely requires an understanding of the three aspects. These aspects are technical, economic, and legal aspects that must be understood comprehensively<sup>19</sup>. From this understanding, it is hoped that it will create a fair wage law.

Wage law is not only concerned with aspects of procedural justice that have been regulated in legislation and supervision, but also substantive justice. This means that: 1) workers can work in a lasting, calm, comfortable, and harmonious manner with employers; 2) workers have the right to receive and enjoy a decent wage, to meet the needs of clothing, food, and housing; 3)

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<sup>19</sup> Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia* (Bandung: PT Citra Aditya Bakti, 2009), p. 1.

workers can save part of their wages for health/education costs; and the cost of living in a decent and dignified society<sup>20</sup>.

Efforts to realize just wages can be done through a decent living needs survey. By knowing the constituent factors of the KHL for workers, it is also possible to know the real wages that must be met. From real wages, it is hoped that it will make it easier for workers to fulfill their daily needs. The fulfillment of daily needs, both material and non-material, at the same time the welfare of workers will begin to be realized.

From the employer's perspective, fair wages can be realized through the competence and effectiveness of workers. However, the provision of wages needs a minimum limit so that there are no inappropriate wages and overrides human values. The embodiment of the minimum limitation in wages is the existence of the UMP and UMK set by the government.

Fair wages can be realized through the implementation of a wage scale structure. The structure of the wage scale uses the minimum wage limitation with the UMK. Furthermore, by considering the competence, education, skills, and effectiveness of workers, employers can increase wages more than the applicable UMK. The determination of the increase in the wages of workers will be further regulated through company regulations that will be established regarding fair wages and based on Indonesian laws and regulations.

## **Conclusion**

Based on the explanation above, it can be concluded that remuneration is a process, method, and act of giving money and so on which is paid as a recompense or as a payment for the energy that has been expended to do something. Wages based on the form can be divided into wages in the form of money and wages in the form of goods. In addition, wages based on type are divided into nominal wages and real wages. The number of real wages can affect the level of welfare of workers/laborers and their families.

There is a significant difference between the minimum wage determination system according to the Government regulations No. 78 of 2015 method and the method of Government regulations No. 36 of 2021. Both in terms of regulation, formulation, to the determination of wages, these two government regulations are different. The provisions for determining the minimum wage in Government regulations Number 36 of

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<sup>20</sup> Zulkarnain Ibrahim, "Hukum Pengupahan Yang Berkeadilan Substantif (Kajian Teoritis Terhadap Teori Upah Teladan)," *Jurnal Masalah-Masalah Hukum* Vol. 42, no. 2 (2013), p. 298.

2021 are considered to have eliminated wage democracy in determining minimum wage limits at the provincial and city/district levels.

Determination of the city/district minimum wage using the Government regulations No. 36/2021 method has a huge impact on the welfare of workers. This is because there is no KHL element (the need for a decent living) in the UMK calculation formulation in Government regulations No. 36 of 2021. The determination is carried out by calculations that take into account the purchasing power parity ratio, labor absorption rate, median wage, then the three are re-averaged the parity variable purchasing power, employment rate, and median wages are calculated based on the average of the last three years from available data.

Fair wages are wages given by the employer to workers by adhering to proportional equality and in its implementation with the aim of the general good. This proportional equality covers the interests of workers who aim to improve their welfare and standard of living as well as the interests of the entrepreneur himself. Fair wages can be realized through wages whose formulation uses elements of the KHL. By knowing the constituent factors of the KHL for workers, it is also possible to know the real wages that must be met.

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