



Wage Equality in the Perspective of Justice for Women Workers

Lusiana Adela^a, Nur Sabela^b

^{ab} Faculty of Social and Political Sciences, Tidar University, Email: lusianaadela@gmail.com

Abstract

Labor problems in the world are not limited to problems between workers or workers and companies. Another issue that requires special attention is wages. The problem of wages is often the main discourse on the equality of wages for male and female workers. The type of research used in compiling this paper is juridical-normative. The normative juridical research method is a library law research conducted by examining secondary data including primary legal materials and secondary legal materials. Labor law has not yet accommodated equal wages. The equality defined in this law is limited to work placements. Even though in Government Regulation Number 36 of 2021 equality of wages has been guaranteed, However, with no legal basis above it, this PP does not have a strong legal basis. Thus, it can be judged that the Manpower Law is actually not aligned with international legal instruments and the spirit of a decent living in the 1945 Constitution. In terms of the policy aspects carried out by the Ministry of Manpower in the national strategy, it is not yet aligned with the final objectives achieved and requires optimization in the future. Labor regulations in Indonesia have not accommodated equal pay. Equality that is accommodated is only equal in terms of opportunity and access to employment. policy, the Ministry of Manpower has not yet accommodated equal wages as a goal in the global instrument. This condition is possible because national legal instruments have not regulated gender equality.

Keywords: *Wages Equality, Employment, Women Workers*

A. Introduction

Labor problems are not limited to problems between workers with workers or workers and companies. Another issue that requires special attention is wages. The problem of wages is often the main discourse on the equality of wages for male and female workers. This problem is also discussed by the International Labor Organization (ILO) which shows that the wages of workers in the world are only 20% of the wages of male workers. . In its study, the ILO explained that there is a wage gap based on women who rarely occupy top positions in a job, as well as differences in working hours between women and men. It cannot be denied, there are still many countries that view

women as unable to work full time like men .

As already described, countries still provide low wages for women workers. The same thing happened in Indonesia. Referring to ILO data, the wage difference between women and men is 15%. . This data shows that there is no wage justice for workers. This condition contradicts the fact that Indonesia in the constitution mandates in Article 27 paragraph (2) that every citizen has the right to work and a decent living for humanity. This article interprets a decent life that can be achieved with decent work. That is, decent work that can bring a decent life can be defined as getting the right wages.

Looking further at the problem of the wage gap that is occurring in Indonesia, it

will be seen that Indonesia is actually still living in a patriarchal bondage. Historically, the patriarchy that lives in Indonesian culture gives the view that women are someone who takes care of domestic work while men work to earn a living. . Patriarchy then manifests into various aspects including in the economic field. This then forms the basis of the wage gap. Society and even employers view that women are weak creatures and cannot do heavy work. Unfortunately, in reality it is not uncommon to find women who work with men but still receive lower wages. So, the wages given are not worth it. This condition places women in a vulnerable inferior position .

The problem of the wage gap that occurs in Indonesia requires special attention which leads to the view that the Government has not optimally implemented the mandate of Article 27 paragraph (2) of the 1945 Constitution. As has been described in the definition of decent work based on Article 27 paragraph (2) of the 1945 Constitution, women should receive wages that are on a par with men. In response to this, the government through Law Number 13 of 2003 concerning employment has attempted to accommodate the principle

of non-discrimination for workers. Meanwhile, the complete wage regulations are regulated in Government Regulation Number 36 of 2021 concerning Wages. Some of the things that then become a problem are whether the principle of non-discrimination can guarantee equality in labor remuneration, especially for women workers in Indonesia? And what is the role of the main institution, the Ministry of Manpower, in guaranteeing the fulfillment of wages for women workers?

B. Research Methods

The type of research used in compiling this paper is juridical-normative. The normative juridical research method is a library law research conducted by examining secondary data including primary legal materials and secondary legal materials.¹. The approach method used is a statutory approach to primary legal materials, namely laws and regulations including the 1945 Constitution, Law Number 13 of 2003 concerning Manpower, Law Number 6 of 2023 concerning Establishment of Regulations Government in lieu of Law Number 2 of 2022 concerning Job Creation, Government Regulation Number 36 of 2021 concerning Wages and other

¹ Muhaimin, *Metode Penelitian Hukum* (NTB: Mataram University Press, 2020).

regulations related to employment. As well as, the approach to employment policy. Secondary legal materials to be studied are literature, scientific papers, regarding developments in the formation of laws and regulations

C. Discussion

1. The Principle of Non-Discrimination and Remuneration for Women Workers

An overview of wage equality in an international perspective, will be seen based on legal instruments, namely the 1948 Universal Declaration of Human Rights (UDHR) and the Convention on Human Rights in the Political, Social, Cultural and Economic Fields. The UDHR divides human rights into several aspects, namely the right to receive legal protection, civil-political rights, and economic, social and cultural rights. In the field of economic and social rights, the Universal Declaration of Human Rights stipulates that everyone has the right to work and is free to choose a job. In line with these jobs, Article 23 confirms that everyone has the right to receive equal wages from equal work. This article clearly defines that every equal job must be paid

the same wages. This means that regardless of whether the work is done by men or women, the wages must be equal.² In the context of guaranteeing equality of wages regulated in the Convention on Human Rights in the Political, Social, Cultural and Economic Fields, the economic aspect also regulates the right to equal employment and wages.³ The Convention on Human Rights in the Political, Social, Cultural and Economic Fields was also acceded by Indonesia through Law Number 12 of 2005 concerning Ratification of the Convention on Human Rights in the Political, Social, Cultural and Economic Fields. In its considerations, Indonesia considers that the Politics, Social, Culture and Economy regulated in this convention are in line with the respect for human rights guaranteed in the constitution. Referring that Indonesia has acceded, legally Indonesia is required to at least base human rights legislation on this convention.

In Indonesia, regulations that guarantee the protection of human rights have been regulated in the state constitution, Article 27 to Article 32 of the 1945 Constitution. In terms of wage equality, it is regulated in

² Sekar Banjaran Aji, "Memahami Standar Dan Instrumen Hak Asasi Manusia" (2019): 12.

³ Ikkal Ikkal, "Implementasi Hak Ekonomi Sosial Dan Budaya Masyarakat Adat Dalam Hukum Ham

Internasional Di Indonesia," *FLAT JUSTISIA: Jurnal Ilmu Hukum* 5, no. 3 (2015).

Article 27 paragraph (2) of the 1945 Constitution that every citizen has the right to work and decent livelihood. This article implies the spirit that decent work is the basis for citizens to have a decent life. Thus, subsequent labor regulations must be based on this article

In line with the 1945 Constitution, Law Number 39 of 1999 concerning Human Rights also regulates decent work and livelihood. Article 38 (1) stipulates that every citizenra has the right to decent work and paragraph (4) of this article confirms that everyone, both men and women in employment has the right to receive fair wages according to the work he does. This reinforces that in employment regulations must be based on equality in wages for women and men workers.

Law Number 13 of 2003 concerning Manpower as partially amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation (“Law of Employment”) is the main legal basis for the implementation of employment in Indonesia . This law is based on the spirit of equal employment opportunities

without discrimination. The expected goal, in line with the 1945 Constitution and Law Number 39 of 1999 concerning Human Rights, is that workers have the right to earn income that fulfills a decent living. However, this law does not accommodate women's participation in the wage aspect⁴. The non-discrimination context described in this law is limited to equal work placement and equal employment opportunities.

Government Regulation Number 36 of 2021 (PP No. 36 of 2021) concerning Wages regulates the wage system in Indonesia. This PP is in line with the Labor Law, namely that workers have the right to a decent life. A decent life is also realized through decent wages. The wage system in this PP is emphasized on the principle of non-discrimination. Workers are entitled to equal pay for equal work. That is, each worker gets a wage for work completed based on a unit of time or unit of output.⁵

As has been described, it can be concluded that equal pay in the global context has been regulated by the Universal Declaration of Human Rights and the Convention on Human Rights in the Political, Social and Economic Fields. The

⁴ Sali Susiana, “Pelindungan Hak Pekerja Perempuan Dalam Perspektif Feminisme,” *Aspirasi: Jurnal Masalah-Masalah Sosial*, 8, no. 2 (2019): 207–222.

⁵More details in Article 15 of Government Regulation Number 36 of 2021 concerning Wages. Wages are based on time units and output units, for time unit wages set hourly, daily or monthly.

visible indicator is that if someone gets a decent job, they will get a decent life. Thus, it is decent work that must provide decent wages. Looking at national regulations, it is aligned with international conventions. This can be seen in the 1945 Constitution which affirms that every citizen has the right to get a job and live a decent life. This ideal is regulated more fully by labor law. However, it is a pity that the labor law has not yet accommodated equal wages. The equality defined in this law is limited to work placements. Even though PP Number 36 of 2021 has guaranteed equal wages, the absence of a legal basis above makes this PP do not have a strong legal basis. Thus, it can be judged that the Manpower Law is actually not aligned with international legal instruments and the spirit of a decent living in the 1945 Constitution.

2. Ministry of Manpower and Equal Pay Guarantee

The wage policy mandated in Government Regulation Number 36 is carried out by the Central Government as an effort to realize workers' rights or a decent living for humanity. Wages policy is part of the national strategic program.

Thus, for local governments in determining wage policies guided by central government policies. This policy at least pays attention to the wage function⁶namely: 1) ensuring a decent life for workers and their families; 2) reflects rewards for one's work and provides incentives in terms of supporting productivity. So, the policies made later must pay attention to these indicators.

Labor policy in the context of the central government is carried out by the Ministry of Manpower through a strategic plan. This discussion will examine the Strategic Plan of the Ministry of Manpower for 2020-2024⁷. The strategy undertaken includes increasing wage policies and the structure of the wage scale. In Government Regulation Number 36 of 2021 the structure of the wage scale is determined, namely wages without allowances, basic wages and fixed allowances, fixed basic wages and non-fixed allowances. This wage structure is carried out by taking into account the ability and productivity of the company.

The minimum wage policy is carried out by the Ministry of Manpower through various stages. Policy decisions become

⁶ Veronika Nugraheni Sri Lestari, Dwi Cahyono, and Muh. Barid Nizaruddin Wajdi, "Sistem Pengupahan Di Indonesia," *Economic: Jurnal Ekonomi dan Hukum Islam* 8, no. 2 (2017): 144–154.

⁷ Peraturan Kemnaker, "Rencana Strategis Kementerian Ketenagakerjaan Tahun 2020-2024," no. 3 (2020): 1–5, <https://peraturan.bpk.go.id/Home/Details/152564/permenkes-no-21-tahun-2020>.

the end of the various procedures carried out⁸. In the process of establishing the provincial minimum wage policy through the establishment of the Provincial Wage Council. This council consists of 3 elements, namely tripartite non-structural institutions including elements of government, companies, trade unions, academics and experts⁹. Based on Article 69 PP Number 36 of 2021 the wage council is a council formed by the president, and at the provincial level is a council formed by the regent/mayor to propose the amount of the minimum wage to the governor. The aim of forming this council is that the minimum wage is determined according to the welfare level of workers based on each region.

In 2020-2024 the Ministry of Manpower is trying to revise several regulations in line with changes to Law Number 13 of 2003 concerning Job Creation to become Law Number 6 of 2023 concerning Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Job Creation Law). Later, the PP

will follow changes in the law. Changes in wages in this law, among others, namely the wage policy which will be further regulated in government regulations. This means that the PP that will be made later includes a more detailed scope related to wage policy¹⁰. This change is intended so that PP Wages can be flexible and can encourage worker productivity. This change only emphasizes flexibility and productivity, not income equality.

Reviewing the ultimate goal that the government wants to create through labor regulations and policies has basically pushed for equality of opportunity but not for equality of wages. This can be seen from a series of policy regulations, it appears that the intended equality is only limited to determining equal access to work and the widest possible access to workers¹¹. Thus, the policy that was formed regarding the minimum wage limit was not based on non-discrimination. This condition certainly creates its own challenges for the Ministry of Manpower. This challenge will become increasingly

⁸ Z ZULKIFLI, "Peran Dinas Penanaman Modal, Transmigrasi Dan Tenaga Kerja Aceh Utara Dalam Pengawasan Hak-Hak Tenaga Kerja Pada Waduk Krueng Keureutoe," *Asia-Pacific Journal of Public Policy* 5, no. Mei 209 (2019): 37-55, <https://www.neliti.com/publications/339145/peran-dinas-penanaman-modal-transmigrasi-dan-tenaga-kerja-aceh-utara-dalam-penga>.

⁹ N K LAYLIYAH, S Zakir, and J Junaidi, "Formulasi Kebijakan Dalam Penentuan Upah Minimum Kota Palembang Tahun 2022 Di Dinas

Ketenagakerjaan Kota Palembang" (2022), <https://repository.unsri.ac.id/78154/>.

¹⁰ Peraturan Kemnaker, "Rencana Strategis Kementerian Ketenagakerjaan Tahun 2020-2024."

¹¹ Hartika Arbiyanti, "Perempuan Dan Karier: Perbandingan Kesenjangan Upah Gender Di Indonesia Dengan Negara-Negara Di Eropa (Studi Kasus: Finlandia, Inggris, Prancis, Dan Jerman)," *Jurnal Hawa: Studi Pengarus Utamaan Gender dan Anak* 2, no. 2 (2020).

real, consistent with the data that will be described as follows:

Upah Rata - Rata Per Jam Pekerja Menurut Jenis Kelamin (Rupiah/Jam)

Ke halaman: 1 2 3 Selanjutnya

Jenis Kelamin	Upah Rata - Rata Per Jam Pekerja Menurut Jenis Kelamin		
	2020	2021	2022
Laki - Laki	17 836	18 210	18 261
Perempuan	17 410	17 848	16 056

• Sumber: Sakernas BPS
• Tahun 2015-2019 angka revisi dengan penimbang baru

Picture. 1

Data on Average Wage of Workers by Gender

Source: bps.go.id

Upah bulanan bersih pekerja berdasarkan capaian pendidikan (Rp.)

	Laki-laki	Perempuan
Sekolah Dasar	2.117.361	1.280.826
SMP	2.357.497	1.658.672
SMA	3.099.936	2.115.726
SMK	3.059.119	2.288.670
D1-D3	4.414.594	2.930.465
Universitas	5.436.083	3.701.652

Figure 2.

Average Monthly Wages of Workers Based on Educational Attainment

Source: ILO.org

Based on data by BPS and ILO, it shows that women are still below men in terms of wages. In 2021-2022, men earn more than women. The same data as the ILO shows that women's wages are 23% lower

than men's. Only a quarter of women hold high-paying jobs. Even when in the same position, women still earn less than men¹².

If you look at the alignment between global instruments, national regulations and national policies. Then a meeting point will be found, which is entirely aimed at creating decent living conditions through decent work. The main indicator of decent work is what the state has to guarantee that the wages received are also decent⁽¹³⁾. That is, a living wage must be received by all workers regardless of gender but based on the work performed. This is what must be protected in the policy. However, in terms of policy, the Ministry of Manpower has not yet become the main focus. Equality policy is aimed at equal opportunity. So, for the time being it can be concluded that the policies implemented by the Ministry of Manpower in the national strategy are not aligned with the final objectives achieved and require optimization in the future.

D. Closing

Wages are part of the indicators of life and decent work agreed upon by all countries, including Indonesia. Thus, to ensure

¹² ILO, "Kesenjangan Upah Berbasis Gender Di Indonesia," no. September (2020) [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_755542.pdf)

[jakarta/documents/publication/wcms_755542.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_755542.pdf)

¹³ Et.al Indrasari Tjandraningsih, *Menuju Upah Layak* (Jakarta: Direktur Perwakilan FES Indonesia, 2009).

wages are given, it is necessary to guarantee wage protection. Along with developments, wage problems emerged, mainly on the equality of wages for women and men workers. This is because women are always below men in terms of income even though the work they do is the same. The law realized this, the 1948 Global Declaration of Universal Human Rights (UDHR) instrument and the Political, Social, Economic and Cultural Convention on Human Rights were formed. This instrument was also declared by Indonesia. Then Indonesia must carry out a series of provisions regulated in this global provision. Mainly in terms of pay equity. However, labor regulations in Indonesia have not accommodated equal pay. Equality that is accommodated is only equal in terms of opportunity and access to employment. In line with the policy, the Ministry of Manpower has not yet accommodated equal wages as stated in the global instrument. This condition is possible because national legal instruments have not regulated gender equality. Thus, existing policies also follow existing legal rules. Thus the principle of non-discrimination in the targeted labor law has not been able to lead to equal pay. This condition needs to be corrected as soon as possible by the Central

Government to create the goal of a decent living for all citizens.

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