

### CHAPTER III

## THE IMPLEMENTATION OF GOVERNMENT REGULATION NUMBER 78 YEAR 2015 WAGE POLICIES TOWARDS THE SEMARANG CITY MINIMUM WAGE DETERMINATION

In the process of determining wages there are several stages that are passed by policy makers. The stage are explained as follows:

### 3.1 Communication

The graph below shows the direction of communication from the three parties in determining the Semarang City UMK.

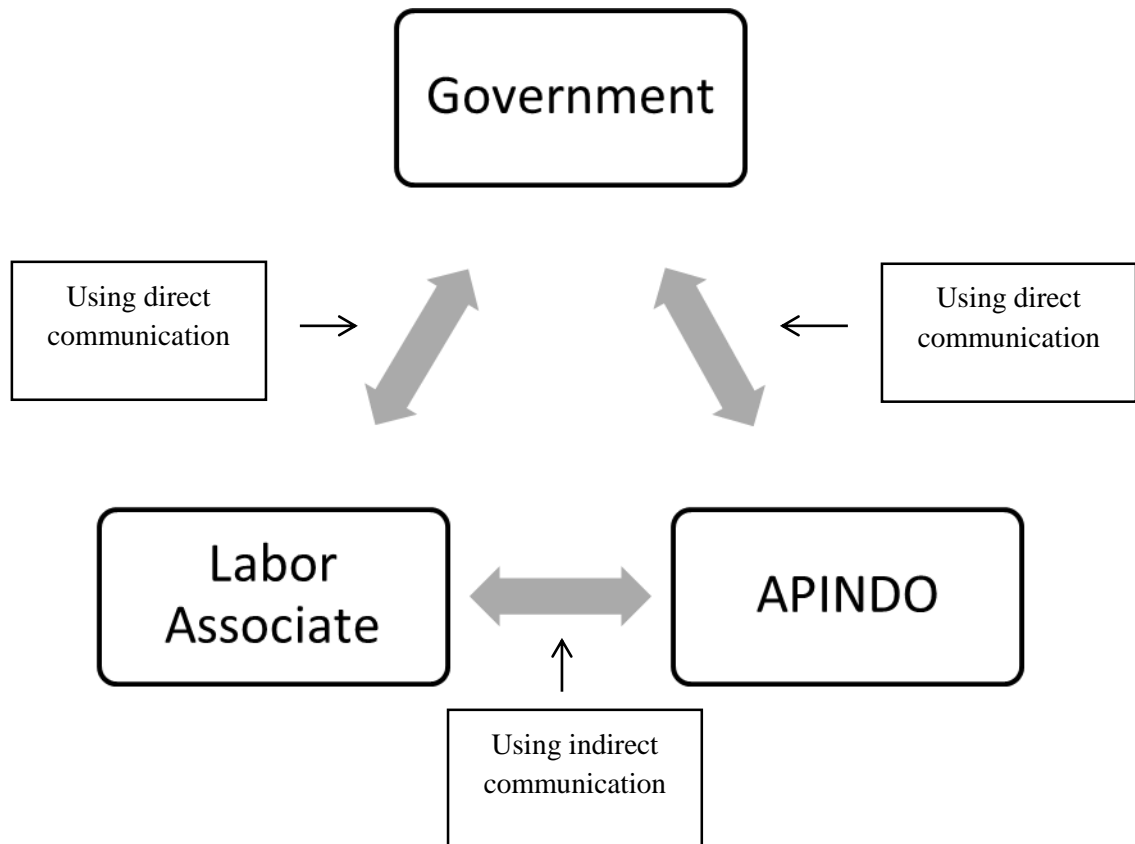


Figure 1 Communication Flow of Wage Council.

The form of communication above is direct communication. All data, opinions and objectives must be submitted in the UMK of Semarang City determination forum. The Department of Manpower which is neutral in nature is more accepting of opinions from each party. Whereas APINDO and Labor Associate are tasked with expressing their opinions and objectives to the Manpower Department. However, communication between APINDO and Labor Associate is indirect because of differences of opinion and goals.

Determination of the minimum wage is very important to note because it has a direct impact on social welfare for workers who work in industry. The Government element represented by the Department of Manpower acts as an intermediary and implements the rules of the Government in every decision in the meeting to determine the minimum wage. In the process of determining the minimum wage The Manpower Department notifies the labor associate and APINDO elements who have an important role in the Wage Council. Before the figures agreed upon, the wage council held a plenary session. In addition to the elements mentioned above, there are other parties who participated in the process of determining the minimum wage. The other parties are the Semarang Central Statistics Agency (BPS), the Legal Bureau, and the Semarang City National Unity and Politics (Kesbangpol). Each of the

elements (labor associate and APINDO) must have a concept to be conveyed at the hearing held in November.

The elements of the labor to sit on the wage council are determined by calculating representation. The Wage Council represented Labor Associate are the Semarang City National Workers 'Confederation (KSPN), the Semarang City National Workers' Union (SPNI), and the Semarang City Metal Workers Union Federation (FSPMI). The position of the Labor Associate in the wage council is to convey the materials used in the process of determining the minimum wage. The workers represented in the industry are represented and then this work unit maximally sided with the workers. The entrepreneurial element is represented by the Indonesian Employers' Association (APINDO) of Semarang City and in the wage council is to deliver the materials used in the process of determining the minimum wage. The role of APINDO in the wage council is to provide data on production process expenditure and industry income after the production process.

Both parties must prepare the material to be delivered at the minimum wage determination meeting. The elements of the labor associate and APINDO must be accurate and have real data because it involves the welfare of workers and the continuity of employers for the next year.

After the determination is complete, the Government would monitor the implementation of the UMK Semarang City. Its members are divided into three elements of the wage council and are distributed to several regions. This UMK can be

used as a safety net So that workers receive the appropriate wages (not too low or too high) so that all sectors can follow the existing rules and policies. Besides UMK there is a wage scale structure. UMK is addressed to labor who work for 0-1 years so if the labor has more than 1 year experience there should be a structure of wage scale and the salary follows from the industry. From the results of interviews with Mrs. Nunuk as Head of the Industrial Relations (HI) section, the following information can be cited:

*“The minimum wage is determined as a safety net to ensure survival for industrial workers who have 0-1 years of work experience. It is targeted at workers who are not yet married / single.”*

From the answer from Mrs. Nunuk researcher can conclude that UMK is determined to ensure workers get a decent wage and can meet their needs especially laborers with tenure between 0-1 years.. this is also adjusted for industry income.

### **3.2 Resources**

In determining the Semarang City UMK, there are two different numbers. This is not easy for the Manpower Department because it must be neutral and not take sides with any of the elements. Therefore, further discussion is needed. This requires an accurate data source so that the determination of bias goes well. The Manpower Department said that the data source was needed and had to be prepared before the meeting to determine the UMK. Those datas need such as the KHL survey, economic growth data from BPS, and other additional data such as the number of workers, industrial income every month.

Other resources are legal law resources. This means that the law that has been applied must be used so that the determination of UMK runs smoothly. As an example Labor associate consider the KHL survey more realistic in determining minimum wages. The survey conducted by the labor associate was conducted in traditional markets such as the Johar market, Karang Ayu market, Peterongan market, and Jatingaleh market because this also refers to Government Regulation (PP) number 78 year 2015 article 43 paragraph 1 which reads Minimum Wage Determination is done every year based on the needs of a decent life and by paying attention to productivity and economic growth. However this was denied by APINDO. They assume that in this era workers no longer shop in traditional markets but in modern markets and they considers that the figures presented by the labor associate are not credible and are not relevant to the applicable rules.

Each party in the Semarang City UMK determination meeting must prepare the resources needed. The Manpower Department must prepare all meeting requirements such as place, consumption, committee and all sources of law. From APINDO and Labor Associate must prepare data in the form of KHL, types and basic needs. Members of APINDO and Labor Associate who take part in the wage council are determined by the Manpower Department and approved by the Semarang City Mayor.

### **3.3 Disposition**

After the wage policy is on the Government's agenda, the next step is to choose an alternative solution to solve the problem of determining the minimum wage. Here the Government which is represented by the Semarang City Wage Council would be faced with several policy choices that can be taken to solve the problem. At this stage the Semarang City Wage Council would be confronted with a debate over the interests of the labor associate and the Apindo involved. Policy choices would be based on a compromise between two parties who have an interest, namely the employer and the labor associate.

After agreeing with the meeting results in the form of one number, the number is also recommended to the Mayor. However in practice each element has different opinions, methods and how to figure or determining the minimum wage as is the case with the wage determination meeting in 2018 which produced two different figures. Finally, in order to avoid conflict, elements of the Government still accepted the figures presented by the labor associate and APINDO.

Because PP 78 requires the wage council to use economic growth data. However labor associate continue to use the KHL survey from January to October. The goal is to compare the data and they assume that the KHL survey is more realistic. Finally this meeting produced two different figures and was submitted to the Mayor. Next the mayor proposed to the Governor to be decided. Indeed, in the old rules the determination still uses the Decent Living Needs (KHL) survey in Semarang

traditional markets such as Johar market, Karang Ayu market, Peterongan market, and Jatingaleh market. Moreover for the old rules the items that are used as a foundation or benchmark have already been determined such as food and clothing. Whereas now it only needed to look at economic growth data from BPS.

This figure would still be submitted to the Mayor of Semarang according to procedure. Because after the meeting is completed the results in the form of figures for the minimum wage would be given to the Mayor of Semarang and then submitted to the Governor of Central Java to be approved. On many occasions, labor associate have quite different figures from the figures agreed upon by the Government and APINDO elements. In the case of last year, the Government and APINDO had the same figures because they both followed labor rules. However, the labor associate displays a different number, which is a difference of around Rp. 300,000 above the figures displayed by the Government and APINDO. This is because the labor associate still includes the KHL survey element. It can be quoted from the results of an interview with Mrs. Ernie as Deputy Head of Division as follows:

*“In meetings for determining minimum wages, there are often significant differences in figures. This is what we finally discussed with the Mayor as a report that there were differences in numbers. If so, that depends on the Mayor's decision”*

The problem faced is that there are two numbers obtained from the results of the meeting to determine the minimum wage and between the labor associate and the

Apindo Element, no one wants to budge. Moreover the Mayor of Semarang held negotiations because there were two numbers. Finally, the mayor asked the Apindo Element to raise a little so that it was between the figures of the labor associate version and APINDO. However this found a dead end because APINDO continued to refer to the initial figure agreed and not all referred to PP 78 because it would still adhere to what they think is right. What was said by the labor associate is true because the KHL survey is more realistic, however because of changes in rules and there is an argument that now not all workers shop in traditional markets.

After being given to the Governor of Central Java and determined that the numbers used are figures agreed upon by elements of the Government and Apindo Elements. Knowing this, the labor element carried out a demonstration which resulted in reduced labor and production time in the industry. This also results in losses for the industry because workers do not carry out their obligations in the production process but take part in demonstrations.

Even though there is already a law paying wages below the UMK, it cannot close the possibility of practices such as violations of employment agreements. Events like that also make this problem urgent. In Semarang alone many people can only afford to pay a limited salary. On the other hand, the city of Semarang is still heterogeneous. In other words, for the citizens of Semarang, the most important thing for labors is work and get a salary. Finally, the demand and supply are not balanced.



Moreover, many workers are not yet members of the labor associate. In fact, if these workers join the labor associate in a company, they would have more bargaining positions, suppose he has not been paid in advance. However when there is labor associate as the management representative talks with management on the basis of existing laws, because now the relationship between employers and workers is a relationship of openness so it is possible to negotiate with each other. In the sense that employers and workers can mutually claim their respective rights. When seen again there are still many small businesses whose employees have salaries below the UMK. If this is followed up by the provincial supervisor, it would impact on increasing unemployment. When unemployment curves, the impact would spread. When it comes to deal with policies, what is faced is not only regulations, laws and actors that have an interest but also the community because the policy is set to be applied to the community. If it is not realized soon, there would be many losses experienced by various parties. Labors have often demonstrated in large numbers. From the data of the Semarang City Manpower Department, hundreds or even thousands of demonstration workers have taken to the streets demanding their rights as workers. Workers' rights are in the form of salaries to fulfill decent living needs (KHL) which can improve their welfare. However disputes between workers and employers continue to occur, and can hamper the labor process itself. The dispute resulted in an imbalance between workers and employers. The position of workers in the industry is very weak because they have to follow the rules of the employer.

Therefore, intervention from the Government in the labor associate is needed that can formulate wage policies that are expected to answer questions and meet the desires of workers and employers that have been happening in this regard the different perceptions of wage levels. In the case of determining minimum wages, the data listed on the Department of Manpower website, there is a table that shows the number of strikes carried out by Workers (TK) because they were not satisfied with the Government's decision and the settlement of Industrial Relations Disputes (PHI) in 2018. The data is as follows:

Table 3. 1 Manpower Department

Semarang City Strike Data Year 2011-2018

No.	Year	Number of Companies	Manpower Involved	Lost Work Hours
1.	2011	6	296	679
2.	2012	4	440	6.160
3.	2013	4	1.650	21.300
4.	2014			
5.	2015			
6.	2016			
7.	2017	6	1130	
8.	2018	8	5230	

	<b>Total</b>	<b>14</b>	<b>2.386</b>	<b>28.139</b>
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Website <http://naker.semarangkota.go.id>

The data above shows that workers who participated in the demonstration rejected the Government's decision regarding minimum wages. In the period 2011 to 2013 the number of workers participating in the demonstration continued to increase and the lost work hours are directly proportional to more and more lost. In the 2017 to 2018 period an increase in the number of workers involved. This is why the Government is very aware that determining minimum wages is very important. 2014-2016 there was no strike because of several things, one of which was the need for workers to be fulfilled.

### **3.4 Bureaucratic Structure**

Bureaucratic structures and actors involved in determining UMK are those who have influence, rights and positions on the Wages Council. Outside the wage council there are actors who can also influence the determination of the Semarang City UMK. The actors are the Mayor of Semarang and the Governor of Central Java. Bureaucratic structure will be explained in the following chart:

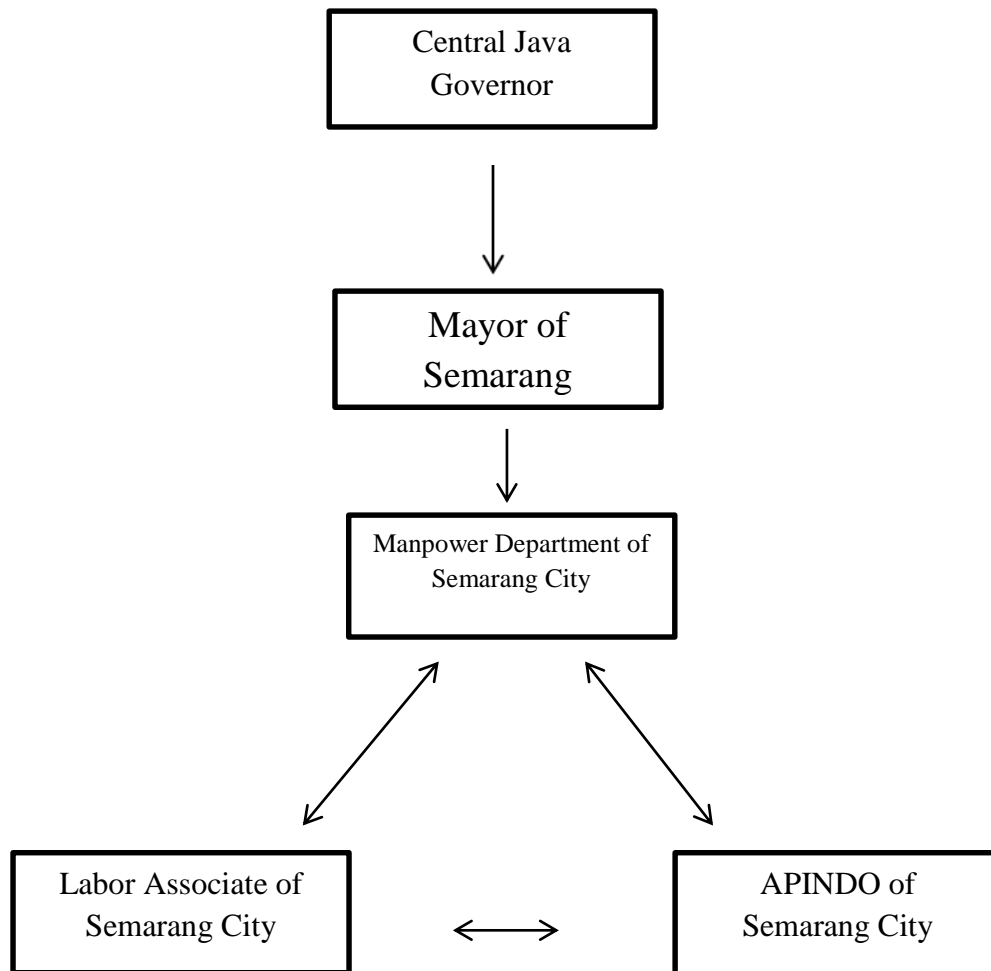


Figure 2 bureaucratic structure of determining Semarang City UMK

Each of these actors has a role in determining the Semarang City UMK. The Central Java Governor has the duty to approve figures agreed upon by the Wage Council. The Mayor of Semarang is tasked with electing members of the Wage Council and submitting UMK figures to the Governor of Central Java. The Manpower Department is in charge of representing the Government in the Wage Council. Labor Associate and APINDO play the most important actors, namely

delivering data and materials in determining UMK. This is because the Labor Associate and APINDO know the field conditions.

After the mayor of Semarang has received several proposals from a number of alternative policies, it was decided to take them as a way to Solve the policy problem. Furthermore the final step in forming the policy is to determine the chosen policy So that it has binding legal force. In this case the Mayor of Semarang submits a number.

The Governor of Central Java revealed that every region in Central Java with a large UMK is clearly not the same if it adheres to Government Regulation number 78 year 2015. There is not much the Government can do especially if it is related to Government regulations. Therefore the Governor of Central Java confirmed that the UMK in 2018 was based on the results of a decent living needs (KHL) survey that referred to Law no. 13 year 2003 concerning Employment.

If there is a problem or violation in the implementation of the minimum wage, The Manpower Department would conduct monitoring by contacting the Supervisor. Superintendent who is destined is the Superintendent of the province. This is because for the sake of fluency and remembering that the conditions in the field must be different from one another.

Table 3. 2 Conflict between Industrial and Labors

Month	Rights	Type of Dispute	Work Termination (PHK)	Total
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	Number of cases	Labor Involved	Number of Cases	Labor Involved	Number of cases	Labor Involved	Cases	Labor Involved
January	4	53	0	0	8	246	12	299
February	2	2	3	9	6	6	11	17
March	1	1	1	2	4	26	6	29
April	3	1.608	2	2	3	13	8	1.623
May	4	36	2	3	8	8	14	47
June	0	0	0	0	6	8	6	8
July	3	35	3	4	6	6	12	45
August	0	0	0	0	4	11	4	11
September	1	34	2	2	5	10	8	46
October	2	93	3	3	7	10	12	106
November	1	1	4	4	8	45	13	50
December	3	3	3	3	8	11	14	17
Total	24	1.866	23	32	73	400	120	2.298

<http://naker.semarangkota.go.id>

In solving the problems, The Manpower Department has SOP's that have been regulated. This SOP is the responsibility of the Industrial Relations Sector. The settlement is based on the law of the Republic of Indonesia Law No. 13 year 2003 concerning manpower, Law No. 21 year 2000 concerning SP / SB, and Law No. 2

year 2004. This regulation is used to elucidate industrial relations disputes and termination of employment. The goal is that between the labor associate and the Apindo Elements there is a problem that causes a dispute and it is obliged to report to The Manpower Department. The following is an excerpt from an interview with Ms. Ernie as Deputy Head of Industrial Relations.

*“Things which are normative if left unchecked would be problems and disputes. Things like disputes in work relationships can have negative and detrimental effects on others. Therefore, we provide complaints and problem solving services between workers and employers.”*

The SOP used is a complaints service model implemented by employees of the Department of Manpower for Industrial Relations (HI). The SOP procedure is explained in the chart as follows:

Table 3. 3 Manpower Department's SOP

URAIAN PROSEDUR	SKPD	PELAKSANA					BAKU MUTU		KETERANGAN	
		PEMOHON	JFU	JFT MEDIATOR	KASI	KABID	KADIS	WAKTU		OUTPUT
1 Pemohon mengajukan surat pengaduan ke Kepala Disnaker Kota Semarang dengan dilengkapi persyaratan sesuai dengan ketentuan		Mula	TU				Terima surat pengaduan	1 hari	Disposisi	Menerima berkas
2 Kadisnaker Memerintahkan Kabid HI untuk melakukan memproses surat pengaduan sesuai ketentuan yang berlaku						Tindakan lanjut surat		1 hari	Disposisi	Menerima berkas
3 Kabid HI memerintahkan Kasi Penyelesaian Perselisihan HI untuk menunjuk Mediator memberikan pelayanan penyelesaian PHI/PHK				Mediator memanggil para pihak untuk di mediasi	Menunjuk Mediator melakukan pelayanan			21 hari	berkas	Menerima berkas
4 Mediator HI memanggil para pihak yang berselisih untuk mengadakan mediasi					Terima			1 hari	surat	Produk surat
5 Mediator HI membuat Persetujuan Bersama apabila terjadi kesepakatan dalam mediasi / membuat surat anjuran apabila dalam mediasi tidak ada titik temu								4 hari	Laporan	Laporan
6 Mediator membuat risalah penyelesaian kasus PHI/PHK								1 hari	Laporan	

At first the applicant submitted a letter of complaint to the Head of the Semarang City Manpower Department with the required conditions. The stipulation is that before following up, there is one stage that must be passed by the complainant, namely the complainant must conduct internal deliberations before going through the next stage and has proof that an internal consultation has been carried out. If the meeting is deadlocked, the relevant parties have the right to report and receive treatment from The Manpower Department and be resolved by mediation.



The second stage is that the Head of The Manpower Department orders the Industrial Relations (HI) Department to process the complaint letter in accordance with applicable regulations.

The third stage is to the field of Industrial Relations (HI) instructing the Head of the Industrial Relations Dispute Settlement Section (HI) to appoint a Mediator to provide PHI / PHK settlement services.

The next stage is the Industrial Relations Mediator (HI) calling the disputing parties to mediate. In this case mediation is carried out between the disputing parties. Mediation is carried out by means of clarification and the mediator acts as a mediator and applies applicable rules to find a win-win solution.

The next step is the Industrial Relations Mediator making a joint agreement if it finds an agreement. However if the Solution is not found, the mediator would make a recommendation letter and minutes of reSolving the PHI / PHK case.

This is as what have been done by the Governor of Cental Java. The Governor of Central Java invited Semarang City labor associate joining the demonstration to come to the Governor's office. The Governor conducts discussions and deliberations with labor associate and together calculate the minimum wage version of labor associate. The governor instead thanked the labor associate for making it easier to determine the amount of wages they should receive. However, because the policy has

been established and is unlikely to be withdrawn, the Governor promised to use the formula used by the labor associate at the upcoming minimum wage meeting.

However The Manpower Department continues to work closely with supervisors. The Manpower Department as the supervisor has the duty to examine all violations that occur in wage practices. If a violation is found, the supervisor would issue an inspection note to the company. This inspection note is a warning sign for employers who do not provide wages according to the agreed figures and if there is a repeat of the violation, Moreover there would be a penalty applied. Punishment is according to article 90 paragraph 1. The penalty is regulated in article 185 paragraph 1. The contents are a minimum of 1 (one) year imprisonment and a maximum of 4 (four) years and pay a minimum of Rp. 100,000,000 (one hundred rupiahs) and a maximum of Rp. 400,000,000 (four hundred million rupiah) must be paid.

In addition, The Manpower Department also holds technical guidance (technical guidance) on wage scale structures. It is regularly held every year and has two or three batches and participants are entrepreneurs in Semarang City. It aims to provide information to entrepreneurs about the importance of providing minimum wages and contributing to the determination of minimum wages.

Furthermore, efforts are made to avoid differences or disputes namely a minimum wage socialization program is held annually. In this program there are presenters who can give a more picture of market prices, and other factors that affect the minimum wage. The relationship between laborers and industry players are also

explained in order to minimize the possibility of internal industrial disputes. Because matters related to normative, if not fulfilled or resolved by deliberation, it would be vulnerable to cause disputes between labor associate and APINDO. There is also a labor supervisory board from the province who formerly supervisors were from the city districts however since the rule of Law number 32 in the period of January 1 year 2017 the supervisors were chosen from the provinces.

### **3.5 Determination of Minimum Wages**

Labor issues in industrial matters consist of employers, workers, and the government. These three things have many common and basic problems and one of which is wages for workers. Therefore in a work relationship it is necessary to draw up and make a work agreement that contains the rights and obligations between workers and employers and it must be balanced and guaranteed with the principle of freedom of contract. It is intended that workers get a decent living by getting sufficient salary to meet the Decent Living Needs (KHL) and the needs for the family.

However, in applying the minimum wage policy, it is currently still below the Minimum Living Needs (MIC). The interviewee also added that it was true that determining the minimum wage was difficult to apply if it relied on the Decent Living Needs (KHL) survey because although the location and items to be surveyed have been determined, the price can be relative. Thus in the survey there must be oversight from elements of the government.

Wages based on Law 13 year 2003 Employment Article 1 number 30 is a right received by workers and expressed in cash as compensation from employers or employers for workers who are determined and paid according to an employment agreement, agreement or statutory regulation, including benefits for workers and their families for work done. In article 89 of Law 13 year 2003 concerning the determination of minimum wages, the government determines the amount of the minimum wage through the amount of Living Needs (KHL) and by taking into account productivity and economic growth.

That refers to article 89 paragraph 4 which mentions the components and implementation stages in achieving the Living Needs (KHL) as referred to in paragraph 2 which is regulated by a Ministerial decree. Like other areas, the population continues to grow and population growth in the city of Semarang resulted in increased living needs that must be met.

As a condition in making PKB, collective bargaining of wages is possible if the company already has a union and its membership reaches 50% + 1 or has the support of the number of workers in a company. However, this is difficult to realize because there are several things that hamper such as not all companies have Labor Associate, the number of Labor Associate membership in a company is low, and the wage scale has not been set in the company. Wage scale is a range of nominal values according to occupational group.

With the minimum wage policy implemented by the government, so that the welfare of workers is guaranteed. However what needs to be seen is human resource management. Wages must also be seen as investment or human investment. As a human investment, an increase in wages or labor welfare can be seen as an improvement or improvement in the quality of human resources.

For these reasons, The Manpower Department realizes that large wages are reasonable considering the necessities of life tend to increase. Therefore to meet the needs, it also require a fairly high cost namely ideal and harmonious relationship between employers and Labor Associate in carrying out industrial relations for the achievement of a common desire that the company develops and workers become prosperous.

Meanwhile the formula used to determine the minimum wage rate is as follows:

$$UM_n = U_{m_t} + \{U_{m_t} \times (\text{Inflasi} + \% \Delta \text{PDB}_t)\}$$

- $UM_n$  is the minimum wage for the year to be determined.
- $U_{m_t}$  is the current year's Minimum Wage.
- Inflation is year-on-year inflation calculated from the period of September last year to the period of September of the current year.
- $\Delta \text{PDB}_t$  is the growth of constant gross domestic product prices calculated from the growth of gross domestic product covering the third and fourth quarters of the previous year and the first and second quarters of the current year.