

**LEGAL PROBLEM ON MINIMUM WAGE DETERMINATION IN THE
SPECIAL REGION OF YOGYAKARTA**

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ABSTRACT

The issue of wage is a never ending problem in Indonesia. Recently, the central government has enacted a new regulation namely the Government Regulation No. 78 of 2015 on Wages to settle the problem of wage in Indonesia. However, this regulation has gained the response of pros and a con nationwide without exception is the Special Region of Yogyakarta (*DIY/Daerah Istimewa Yogyakarta*). The Government of DIY stated that this regulation has been already suitable for nowadays situation, while, the laborers in DIY claimed that Government Regulation was issued in favor of employers and they insisted the government to revoke that regulation, whereas the employers have different responds, some accepted this regulation while others rejected it. This study aims to analyze the legal problem (pros and cons) of the minimum wage determination in DIY and the role of local government in settling its legal problem. The research is an normative-empirical legal research using juridical approach with descriptive-qualitative analysis. The primary data were collected through library review and field research as well as indepth interview with relevant resource persons. The study reveals that the new wage formula for determination of an annual minimum wage increase is a wise policy to serve both the laborers and employers interests. To the government, the researcher recommends a much fair guideline for wage formulation in DIY and to not generalize the minimum wage in DIY by only using national inflation and national economic growth standard. To the employers and laborers, the researcher suggests to have more coordination and cooperation with the government in minimum wage determination.

Keywords: *Minimum Wage, Decent Living Needs, Special Region of Yogyakarta*

A. Introduction

Wage plays an important role in work relationship, wage is the main goal of a laborer to do the work. Wage is the most important and the most sensitive issue in the field of employment and industrial relation. There are many national problems and conflicts arising from wage, especially in the case of minimum wage. The never-ending debate between laborers and employers seems to have never found a common ground. Wage from the laborer's perspective is a right that is calculated from the amount to be received, while, wage from the employer's perspective is related to the productivity and cost of production. This is what has always been a problem and has not been resolved yet.

Thus, the government also participate in handling the issue of wage through various policies set forth in legislation. As a form of legal protection, the Indonesian government has regulated the wage in Articles 88-98 of Law No. 13 of 2003 on Manpower, and the central government has also issued the latest wage regulation, namely the Government Regulation No. 78 of 2015 on Wages which is expected to improve the welfare of laborers and protect the rights of laborers and employers. However in reality, the Government Regulation No. 78 of 2015 on Wages raises various pros and cons responses from the employers and laborers. The laborers rejected through conventional and non conventional ways, while the response of employers, some have accepted this regulation and some have not yet accepted this regulation.

The Government Regulation No. 78 of 2015 on Wage gives an impact in the determination of minimum wage in all over Indonesia, one of them is in DIY. The laborers in DIY rejected this regulation as the legal basis for minimum wage determination in DIY because the laborers stated that this regulation eliminate the role of laborers in negotiation of minimum wage determination, unfavorable and unjust to the workers. While, from the employers who accept this regulation, they support the existence of this regulation because employers are given the certainty in setting the wage. Then, from the employers who reject this regulation, they argue that this new formulation makes them more difficult in giving wage to laborers

because the standard used in the wage formulation is national inflation and national economic growth, not regional inflation and regional economic growth in DIY.

This makes the government of DIY who have the role as mediator between employers and laborers should be more extra work in enforcing this regulation to always fair and impartial. The existing wage dilemma should not be allowed to continue, it is necessary to find a solution so that between the interests or cons of laborers and employers can be minimized. If the wage dilemma is allowed to continue, it will result a non-conducive situation of industrial relations in DIY, and the goals of employment development and national/regional development will not be achieved.

With pros and cons condition againsts Government Regulation No. 78 of 2015 on Wages in DIY, the researcher is interested to find out why there is legal problem (pros and cons) arising between the laborers and employers in DIY after the implementation of this Government Regulation, and how is the role of local government in settling the legal problem of minimum wage determination in DIY. So, the researcher is decided to make a legal research entitled “**Legal Problem on Minimum Wage Determination in the Special Region of Yogyakarta**”.

B. Research Method

The type of this research is normative-empirical legal research with juridical approach. The methods of collecting data are by library research and field research (interview). The research was conducted in the Department of Manpower and Transmigration of DIY, the office of Employers Association of Indonesia (APINDO/*Asosiasi Pengusaha Indonesia*) Chapter DIY and the Secretariat of Confederation of All Indonesian Laborers Union (KSPSI/*Konfederasi Serikat Pekerja Seluruh Indonesia*) Chapter DIY. The respondents are Mrs. Hermelien Yusuf as the representative of the Indonesian Employers Association (APINDO) Chapter DIY and Mr. Kirnadi as the representative of the Confederation of All Indonesian Laborers Union (KSPSI) Chapter DIY, while the informant is Mr. R. Darmawan as the representative of the Department of Manpower and

Transmigration of DIY. The data analysis of this research is descriptive-qualitative analysis.

C. Finding and Analysis

1. The Legal Problem (Pros and Cons) in Minimum Wage Determination in DIY

a. Minimum Wage Determination in DIY

Before the issuance of the Government Regulation No. 78 of 2015 on Wages, the determination of minimum wage was determined by the result of minimum wage survey done by the survey team established by provincial or regency/city wage council which its membership consists of tripartite elements (government, laborers, employers), academics/experts, and the local Central Bureau of Statistics. After the issuance of the Government Regulation No. 78 of 2015 on Wages, the minimum wage is determined by implementing a new formula of minimum wage determination regardless the result of market survey by wage council.

Furthermore, before the issuance of Government Regulation No.78 of 2015 on Wages, the mechanism of minimum wage determination was always colored by politicization, pressure and other aspects that led to lack of legal certainty and business certainty. Each party that become the pillar of employment, both the employers and laborers have large and crucial interests in the mechanism of wage determination, so there was always a horizontal conflict between them.

After the issuance of Government Regulation No. 78 of 2015 on Wages, in Article 44 paragraph 2 stated that the minimum wage is determined based on the formula. Through the Government Regulation No. 78 of 2015, the government intends to provide clearer and more capable rules to maintain business continuity and sustainability of labor, in order to accommodate the principle of predictability and sustainability, as well as

legal and business certainty. This formula brings new changes to the minimum wage setting process.¹

$$MW_{(n)} = MW_{(t)} + \{MW_{(t)} \times (\text{Inflation}_{(t)} + \% \Delta GDP_{(t)})\}$$

Explanation:

- MW_(n)** = Minimum wage to be set
- MW_(t)** = Minimum wage of the current year
- Inflation_(t)** = Inflation calculated from the September of the previous year up to the September of the current year
- ΔGDP_(t)** = Growth of Gross Domestic Product calculated from the third and fourth quarter of the previous year and the first and second quarter of the current year.

Here is the calculation of the minimum wage of DIY in 2018 based on the minimum wage of DIY in 2017:

Table 2. Provincial Minimum Wage of DIY in 2017

No.	Province	Provincial Minimum Wage
1.	Special Region of Yogyakarta	Rp1.337.645

Table 3. Regency/City Minimum Wage of DIY in 2017

No.	Regency/City	Regency/City Minimum Wage
1	Yogyakarta City	Rp1.572.200
2	Sleman Regency	Rp1.448.385

¹ Hadi Adha, "The Wages Policy after Enactment of Government Regulation No. 78 of 2015 on Wages in Indonesia", *Unram Law Review* Vol. 1 No. 2 (2017): p. 9.

3	Bantul Regency	Rp1.404.760
4	Kulon Progo Regency	Rp1.373.600
5	Gunung Kidul Regency	Rp1.337.650

The data of national inflation and national economic growth were used to calculate the minimum wage of DIY in 2018, i.e:

- 1) National inflation = 3.72%
- 2) National economic growth = 4.99%

Total for provincial minimum wage and regency/city minimum wage increase is 8.71%. The minimum wage of DIY in 2018 will be calculated with the wage formula, as follows:

$$MW(n) = MW(t) + \{(MW(t) \times (Inflation(t) + \% \Delta GDP(t))\}$$

$$\begin{aligned}
 MW(t) &= Rp1.337.645 \\
 Inflation(t) &= 3,72\% \\
 \Delta GDP(t) &= 4,99\% \\
 MW(n) &= Rp1.337.645 + \{(Rp1.337.645 \times (3,72\% + 4,99\%)\} \\
 &= Rp1.337.645 + \{Rp1.337.645 \times 8,71\% \} \\
 &= Rp1.337.645 + Rp116.508,90 \\
 &= Rp1.454.153,9 \text{ or } Rp1.454.154
 \end{aligned}$$

Table 4. Provincial Minimum Wage of DIY in 2018

No.	Province	Provincial Minimum Wage
1.	Special Region of Yogyakarta	Rp1.454.154

Table 5. Regency/City Minimum Wage of DIY in 2018

No.	Regency/City	Regency/City Minimum Wage
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1	Yogyakarta City	Rp1.709.150
2	Sleman Regency	Rp1.574.550
3	Bantul Regency	Rp1.527.150
4	Kulon Progo Regency	Rp1.493.250
5	Gunung Kidul Regency	Rp1.454.200

b. Parties Involved in Minimum Wage Determination in DIY

There are three elements that affect each other in industrial relations, especially wages, which if one of the functions and roles of these three elements are not working, then the employment conditions will not run well. The three elements consists of:

1) Employer

Law No. 13 of 2003 on Manpower stated that the employer is an individual, a partnership or a legal entity that runs a company of his/her own, or independently runs a company not of his/her own, or represents a company domiciled outside Indonesia.

2) Labor Union

Labor union is an organization that protect the interests of the laborers. A labor union is an organization founded by and for laborers voluntarily.² The organization is also established to promote, protect, and improve the social, economic, and political interests of the laborers through collective action.³

3) Government

In relation to the minimum wage, the government is normatively and publicly being a mediator and decision maker of the minimum wage through calculation based on the minimum wage formulation stipulated in the Government Regulation No. 78 of 2015 on Wages.

c. Pros and Cons in Minimum Wage Determination in DIY

² Sugiyono, *Manajemen Tenaga Kerja*, (Yogyakarta: Bina Aksara, 2010), p. 191.

³ Edwin B Flippo, *Manajemen Personalia*, (Jakarta: Erlangga, 1990): p. 58.

Before the issuance of Government Regulation No. 78 of 2015 on Wages, minimum wage determination was based on the market survey and often raises the debate between laborers and employers. The debate occurs because the values of basic living needs found by both parties are different. The high increase of wage is considered inconsistent with the productivity of laborers where the market competition is increasingly getting tighter. However, since the issuance of Government Regulation No. 78 of 2015 on Wages, some employers feel that they got certainty in raising the wage, while others are not. Then, for laborers, the Government Regulation and the new minimum wage formula are not fair for them. They feel that they have limited efforts to improve their welfare through minimum wage.

After the issuance of the Government Regulation No. 78 of 2015 on Wages, the pros and cons on minimum wage determination in DIY still continue which generally on the matters of:

- 1) Article 44 paragraph (2) concerning the formula of minimum wage
- 2) The increase in minimum wage based on inflation and economic growth
- 3) The change and review of components of KHL once in 5 years

The laborers reject this regulation because it eliminates the role of labor union in the process of minimum wage determination. This regulation also makes the wages of laborers in DIY continues to be the lowest because it is limited only by national inflation and national economic growth that make the result is far from the decent living needs that should be received for laborers.

The employers who have accepted this regulation said that this regulation saves their time and energy, because it does not need to conduct decent living needs survey in traditional market and argue with the laborers. In addition, the employers also have more certainty to raise the wage of laborers because it can be predicted and will not interfere the company's financial planning. Then, for the employers who have not yet accepted, they feel objected because the standard used in the formulation is a national

standard, then surely the wage increase will be higher, while the economic situation in DIY is different from other regions.

2. The Role of Local Government in Settling the Legal Problem of Minimum Wage Determination in DIY

The government has the main function to make the relationship between laborers and employers harmonious and balance. In addition, the government also play a role as mediator in resolving conflicts or disputes fairly. The role of government of DIY in settling the dilemma in determining minimum wage is to conduct deliberation/coordination with three elements of tripartite (government, employers, laborers) to discuss matters relating to minimum wage, including the procedure, legal basis, etc. So, it will reach the mutual agreement on determination of minimum wage in accordance with applicable laws and regulations, because the government will always stand in the legal position. Then, the government also stated not to see on wage only, because the welfare components of the laborer is not only wage, but there are education, occupational injury insurance, health insurance, life insurance, pension/retirement insurance and 15 (fifteen) rental flats for laborers provided by the government of DIY.

In addition, to fulfill the demand of laborers and employers from the Government of DIY not fully use national inflation and national economic growth standard in fixing the minimum wages in Yogyakarta, in the 2019 evaluation, the government of DIY will propose a suggestion to the central government to consider the local condition in deciding the formulation in determining minimum wages. However, for today's needs the government of DIY concludes that this wage formulation has been running well, because besides already involving the decent living needs in the current year of minimum wage, it has also considered the inflation and economic growth that always rise consistently, even though it does not above 10%.

D. Conclusion

1. The legal problem, especially from the laborers, the new wage formula in the Government Regulation No. 78 of 2015 on Wages is not sufficient for the welfare of laborer because the wage increase is limited only by considering national inflation and national economic growth. Then, from the employers, some accepted and some rejected this new wage formula. Employers who accepted the formula stated that the wage formulation in the regulation make the employers easier to determine the amount of wage for laborers, while, employers who rejected stated that employers will be more difficult to determine the wage for laborers because the wage increase based on national inflation and national economic growth which are clearly different from DIY (local) condition.
2. The role of local government is already good in settling the legal problem on minimum wage determination in the Special Region of Yogyakarta (DIY), for example, the Governor of DIY has issued the Governor Regulation No. 74 of 2016 on Minimum Wage to protect the laborers. In addition, in order to calm down the controversy and to make the laborer and the employer understand more on the prevailing regulation, the local government of DIY has facilitated the deliberation/coordination with three elements of tripartite (government, employers, laborers) to discuss matters relating to minimum wage, including the procedure, legal basis, etc. Furthermore, to improve the welfare of laborers, the local government of DIY has also provided education insurance, occupational injury insurance, health insurance, life insurance, pension/retirement insurance and 15 (fifteen) rental flats for laborers.

E. Suggestion

1. The Central Government

The central government as the policy-maker is suggested to be able to accommodate the interests of employers and laborers in all regions in Indonesia. The central government should not generalize the minimum

wage in all regions by using national inflation and national economic growth standard, because the economic situation of each region is different.

2. The Local Government

The local government as the implementer should pay more attention to all aspirations and opinions of the parties concerned. The regional minimum wage determination is suggested to keep using the decent living needs survey and conducting openly so that the participation of both parties becomes more real.

3. The Employer

The employer is suggested to improve communication and cooperation with the laborer in paying the minimum wage in accordance with wage formula, to ensure the wage setting is acceptable to both parties and to reach mutual agreement without misunderstanding.

4. The Laborer

Although the laborers disagree with the minimum wage formula, they are suggested not to use their own ego and interest in minimum wage determination and they should listen the opinions of the employers and local government.

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