

The Existence of Wage Rules to Increase the Needs of a Just Living According to the Perspective of Maqashid Al-Sharia

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Abstract

The components of the necessities of life that are used as a reference in determining the minimum wage in Indonesia have changed 4 times. This change occurs because adjusting to the development of needs was previously considered less important but has now become important. In Islam there are 5 basic elements of human needs that must be met or known as maqasid shari'ah. The five main elements of maqasid shari'ah are divided into 3 categories, namely: Daruriyyah, Hajjiyah, and Tahsiniyyah. This study examines how the components of the necessities of life in the regulation of minimum wages in the maqasid shari'ah perspective. This study concludes that the development of the necessities of life which is used as a guide in determining the minimum wage has taken into account the level of living needs. Most of the components of the Decent Living Needs (KHL) are in the daruriyyah and hajjiyah areas, very few are classified as tahsiniyyah. The addition of the component quota and the improvement in the quality of the components are evidence that there is attention to the level of need starting from the daruriyyah first and then the hajjiyah and then the tahsiniyyah. This change indicates a change in the law in accordance with the development of the situation.

Keywords

existence of wage
rules; maqashid al
shari'ah; perspective



I. Introduction

Allah SWT created humans in the best form according to the nature of human existence in life in the world, namely carrying out the task of caliphate in the context of devotion to the Creator, Allah SWT. As His caliph on earth, humans are given the mandate to empower the entire universe as well as possible for the welfare of all creatures on this earth. The mission of a caliph can be seen from two sides, namely the vertical and horizontal sides. Human mission in the vertical dimension is to worship Allah. While the horizontal dimension is to prosper the world. Human Resources (HR) is the most important component in a company or organization to run the business it does. Organization must have a goal to be achieved by the organizational members (Niati et al., 2021). Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired (Shah et al, 2020). The development of human resources is a process of changing the human resources who belong to an organization, from one situation to another, which is better to prepare a future responsibility in achieving organizational goals (Werdhiastutie et al, 2020).

As we know that Allah swt created man as a zoon politicon. Namely, he needs other people who can be used as friends to share benefits in all matters, be it by means of marriage, buying and selling, ijarah, treatment before the law, social behavior in society or

in cultivating land and agricultural affairs and other things. other things from all aspects, all of which can make humans can gather, not be divided, are neighbors and not far apart.

In the life of humans who carry out social interactions cannot be separated from social competition, but if every human being does self-competition, it will be difficult for him to produce what can make life upright. In addition to the problem, humans also have a distinctive character of having a passion that always orders them into ugliness, ambition, and corruption. Therefore, Allah swt then put a rule of mu'amalah (social interaction), so that no one else can take what is not their right. In this way, human life will be established, rights will not be wasted, and benefits can be exchanged between one another among fellow human beings in the best possible form.

The welfare of life cannot be separated from economic problems because the fulfillment of economic needs is a measure of the welfare of a human being. To be able to meet economic needs, humans work for wages, this is considered noble in Islamic teachings. Wages are the rights of workers after carrying out their work and are the main obligation of employers to workers. In addition to wages, workers are also entitled to social security.

Talking about wages, of course it can be agreed that wages are a source of income to meet the needs of the worker and a reflection of job satisfaction. Meanwhile, entrepreneurs see wages as part of production costs, so their use must be optimized in increasing productivity and work ethic. While the government looks at wages, on the one hand, it is to ensure the fulfillment of a decent life for workers and their families, increase worker productivity and increase people's purchasing power. On the other hand, to encourage progress and business competitiveness. Therefore, the government needs to make rules regarding these wages so that workers get their rights according to their needs.

II. Review of Literature

2.1 Understanding Wages

Wages in Arabic are often called ajrun / ajran which means to give gifts / wages. The word Ajran contains two meanings, namely reward for work and reward. While wages according to the term are money and so on which are paid as remuneration or payment for the energy that has been devoted to doing something. Wages are given as remuneration or compensation for losses received by the workers due to the devolution of their labor to other people who are employers. According to Afzalur Rahman, wages are the price of labor (work) paid for his services in production.

Meanwhile, Sadono Soekirno defines wages as: "As payments obtained for various forms of services provided and provided by workers to entrepreneurs. Meanwhile, T. Gilarso defines wages as: "as compensation for the production factor of human labor, which broadly includes salary, honorarium, overtime pay, allowances and others'.

According to Government Regulation Number 78 of 2015 concerning Wages, it is explained in Article 1 that wages are the rights of workers/laborers that are received and expressed in the form of money as a reward from the entrepreneur or employer to the worker/labourer which is determined and paid according to a work agreement, agreement, or laws and regulations, including allowances for workers/laborers and their families for a job and/or service that has been or will be performed.

Meanwhile, according to Law Number 13 of 2003 concerning Manpower, what is meant by wages is the rights of workers/labourers received and expressed in the form of

money as a reward from the entrepreneur or employer (employer) to workers who are determined and paid according to an employment agreement, or laws and regulations, including allowances for workers or laborers and their families for a job and or service that has been or will be performed.

In addition to wages, there are several terms that are often used to designate the same meaning, namely compensation and rewards. In general, economists equate the three terms. However, in modern human resource management, the terms reward and compensation are more widely used.

Based on some of the opinions above, it can be concluded that the understanding and understanding that wages are a name for something in the form of money or not which is commonly used as a reward or remuneration, or as a replacement for services from work that has been issued by the employer to the other party. worker or labourer.

III. Results and Discussion

3.1 Legal Sources and Determination of Wages

The wage system in a country is based on the philosophy or economic system of that country. In Indonesia, labor wages are determined by each region. Determination of labor wages is determined by taking into account the needs, the Consumer Price Index (CPI), the ability, development and continuity of the company, wages generally applicable in certain regions and between regions, labor market conditions, and the level of economic development and per capita income. Needs are a priority in determining worker wages. In determining wages other than based on Decent Living Needs (KHL), it is also based on considerations of productivity and economic growth.

The needs referred to above are what is now known as the Decent Living Needs (KHL). Determination of the components of the Decent Living Needs (KHL) is regulated in the Regulation of the Minister of Manpower. The components of needs that are used as the basis for determining the minimum wage have developed. This development follows the changing needs of the workers. Decent Living Needs (KHL) contains 46 items as stated in the Decree of the Minister of Manpower Number 17 of 2005. Then in 2012 it was amended by Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia (Permenakertrans RI) Number 13 of 2012. In the new regulation, Decent Living Needs (KHL) plus 14 more items to make 60 components. Changes in the components of the Decent Living Needs (KHL) based on the development of the living needs of the workers as mandated in Article 89 paragraph (2) of Law Number 13 of 2003 concerning Manpower. Meanwhile, its relation to Decent Living Needs (KHL) can be seen from Article 88 paragraph (1) which states that: "Every worker has the right to earn an income that meets a decent living for humanity."

The desire of the working community to live in accordance with the concept of the Pancasila welfare state law according to the 1945 Constitution, of course contains the soul and spirit of Pancasila, which is called "the soul and content of the Pancasila legal state", namely the state requires harmonious relations between the government and the people based on the principle of harmony; the establishment of a proportional functional relationship between state powers; settlement of disputes by deliberation, while the judiciary is the last means; emphasizes human rights that are balanced with human obligations.

With regard to the wage policy, of course, the government does not only see the importance of wages for improving their welfare, but also has to pay attention to other

aspects. A decent wage must be based on certain criteria. Because the provision of clear criteria will determine the rationality of the assessment of the wages.

Substantive justice criteria for workers in the field of wage law are in the form of basic needs, secondary needs, saving and social needs; It is still the demand of the working community every Labor Day May 1 every year. When commemorating the 2013 World Labor Day, demands were simultaneously conveyed by almost all elements of workers in various cities. The demand for a living wage and welfare is still the main theme in the commemoration of World Labor Day for hundreds of thousands of workers who hold demonstrations in a number of urban centers in Indonesia.

In order to achieve this substantive justice, an idea is needed to reformulate the regulations in the field of wages in order to achieve a decent wage system. The idea of decent wages reform based on substantive justice is the answer to what is the problem of wages. Ideal factors which are legal ideals and real factors that reflect the need for wage law, as inputs for labor law regulation in an effort to realize social welfare in the future.

3.2 Legal Substance in the Application of Wages

Wage from the side of the worker (labor) is a right that is generally seen from the amount, while from the side of the entrepreneur (employer) it is generally associated with productivity. This is what is still a problem and difficult to bridge. The problem stems from the desire to get high wages, while productivity is still low due to inadequate levels of education and skills. When viewed from the interests of each party, this becomes a dilemma for the government as part of the Tripartite party to overcome it, namely to intervene to harmonize existing industrial relations.

According to Law no. 13 of 2003 concerning Manpower, Article 1 point 30 states that wages are the rights of workers/labourers that are received and expressed in the form of money as a reward from the entrepreneur or employer to the worker/labourer which is determined and paid according to a work agreement, agreement or legislation. , including allowances for workers/ laborers and their families for a job and/or service that has been or will be performed.

Based on the Articles of the 1945 Constitution, it is stated that wages must fulfill a decent living for humanity. Thus, the fulfillment of a decent wage for livelihood and humanity is a wage concept that is constitutionally applicable in Indonesia. Therefore, Law no. 13 of 2003 concerning Manpower defines wages as a basic right of workers that must be fulfilled by employers. If employers do not pay workers wages, then this is a violation of human rights and a crime that can be punished. The concept of wages in Indonesia today has shifted from civil rights to criminal rights violations.

In the world of work, wages generally always consider the ability of workers which is reflected in work productivity. The government intervened because it was very interested in aligning wages that meet a decent living for humanity and the achievement of work productivity, namely by paying attention to:

1. Workers' necessities of life.
2. Social gap.
3. work performance, and
4. Human values and self-respect.

The government's policy in the field of wages is motivated by wage problems that always arise which are triggered by conflicts of interest between employers and workers. Key remuneration issues include:

1. Low wages for bottom workers.
2. Lowest and highest wage gap.

3. Variation of wage components.
4. The relationship between wages and productivity is unclear.

The low wages for low-level workers are deeply felt by workers, but are difficult to detect by labor inspectors in the context of implementing the minimum wage. For formal workers it may be easier to detect, but for informal workers it will be difficult if there are no reports from the community or workers. Meanwhile, the gap between the lowest wages for workers and the highest wages for company leaders has occurred at the regional and national levels which can trigger social jealousy. In addition, the provision of wages in the form of wage components is still a lot of confusion for workers when it comes to the policy of providing minimum wages and also wage increases based on performance appraisals are very poorly understood by workers due to lack of socialization.

The government's policy on Minimum Wage Determination or now called Minimum Wage. The condition of Indonesia's labor regulations, there are still several legal rules that are not consistent. There is a vertical inconsistency in the regulation of the minimum wage. Protection for each worker's wage is based on Article 27 paragraph (2) of the 1945 Constitution, namely that every citizen has the right to work and a decent living for humanity and Article 28 D paragraph (2) of the 1945 Constitution. that is, everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship. The translation of a fair and decent wage in an employment relationship is a decent income for humanity (Article 88 paragraph (1) of Law Number 13 of 2003). Wages are defined as: rights of workers/laborers received and expressed in the form of money as compensation from the entrepreneur or employer to workers/laborers who are 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 or services that have been or will be performed. (Article 1 number 30 of Law Number 13 of 2003).

This provision is not further elaborated in the implementing regulations. The minimum wage depends on the Decent Living Needs (KHL). Decent Living Needs (KHL) is the standard of needs for a single worker/labor to be able to live physically decently for the needs of 1 (one) month (Article 1 point 1 Permenakertrans Number 13 of 2012 concerning Components and Implementation of Stages of Achieving Decent Living Needs (KHL). This vertical inconsistency also results in a violation of the legal theory of living wages.

If a rule of law contradicts a legal theory that has been recognized as universal in nature, it is highly likely that a violation of its philosophy will occur. The provision of fair wages for workers/ laborers has not been achieved. Errors in the regulation of minimum wages at the level of legal dogmatics, legal theory and legal philosophy have resulted in new problems in aspects of life.

Legal substance that does not pay attention to the methods of legal theory and legal philosophy, results in a wrong assumption of legal value. Law is only interpreted in a piece limited to legal certainty, not justice in substance. Bismar Siregar views this as a mistake in legal education in Indonesia. The error must be corrected as soon as possible. The role of legal scholarship is very important. Legal experts, legal observers, law reviewers and law enforcers must regard the law as an open system.

3.3 Wage Law Reform

Reformulation is an effort to reformulate the wage articles regulated in the Manpower Act. This reformulation of the wage issue cannot be separated from making changes, either adding, reducing or including foreign laws in the Manpower Act. Legal reform in general cannot be separated from the context of legal reform. The emergence of

a moral spirit in the current wage law relationship is due to the blunt positive law (Labor Law) in its implementation.

There is a pattern of neglecting the wage system with a minimum wage pattern so that there is no lawsuit against workers' rights to get a decent wage. If there is a claim by workers against an increase in wages, the maximum limit is the demand for an increase in the minimum wage, not a claim for a decent wage. This legal reformulation arises because in paying workers' wages it turns out that the wages are not only limited to the Minimum Income (UMP) which is not acceptable for workers and their families.

Whereas Article 88 of the Manpower Law has stipulated that the principle of proper wages is clearly stated, although it also regulates the UMP. The fact is that in the practice of paying workers' wages, employers only pay the UMP with efforts to avoid an "increase in the UMP" in the following year, which means avoiding real legal certainty. The proper wage in Article 88 turns out to be vague in its description, because the details are related to the technical wage.

Article 88 (1) should be developed to achieve a decent wage standard, with the supporting paragraphs. Reformulation of Article 88 of the Manpower Law. The effectiveness of employment law is the thought of Kamala Sankaran who states that:

"Employment law, which regulates decent work and income, is a study of the effectiveness of labor law in protecting workers in developing countries. A large number of workers are outside the scope of (informal) labor law either de jure or de facto throughout the world, as a result of changing patterns of production and employment. The weakening role of national state regulations in the social economy today, as a result of globalization. Surprisingly, globalization in the socio-economic, political and ideological dimensions, is considered as the main determinant and challenge. The implication of this development is that employment law is the subject of debate that lives in the academic community.

Decent wages should be the standard of exemplary wages. Therefore, companies that should be able to pay decent wages according to the Manpower Act. The question is why are employers not paying decent wages? The answer is, because they are entrepreneurs, it is enough to only pay the minimum wage, on the grounds that the Manpower Act itself justifies paying workers the minimum wage. If so, the Manpower Law itself violates the 1945 Constitution, then Article 88 of the Manpower Act and even the Manpower Act as a whole must be declared null and void (no longer valid).

3.4 Maqashid Al-ShariahAs an Indicator of Fair Living Needs

At this time Muslims are faced with problems in life, as a result of the development of human civilization. The emergence of problems with various forms and varieties that are so complex, also raises legal problems among the people. The complexity of the problems in modern times today demands elasticity and flexibility in providing solutions to the problems at hand.

Moreover, the reality that has provided a clear picture, namely "Indeed the text has ended, while the event never ended". The emergence of new discoveries due to advances in science and technology, has also resulted in shifting perspectives and forming patterns of thought flow that bring logical consequences and form new norms in people's lives.

The progress of science and technology and human civilization should not be confronted with the texts, but a solution must be found by ijihad. One of the basic methods of developing Islamic law is maqasid al-syari'ah, which is about the purpose of establishing Islamic law. Because of the importance of maqasid al-syari'ah, the theorists of Islamic law make it one of the criteria for mujtahids who carry out ijihad. The essence of

this maqasid concept is to realize goodness while avoiding evil or rejecting benefits and attracting harm.

The discussion on maqasid specifically, systematically, and clearly was carried out by ash-Syatibi from the Malikiyyah, in his book al-Muwaffaqat. He explicitly said that the main purpose of Allah establishing His laws is to realize the benefit of human life, both in this world and in the hereafter. Therefore, taklif in the field of law must lead to and realize the objectives of the law. According to him, the benefit is to maintain five main points, namely religion, soul, mind, lineage, and property. Al-Qarafi added the number of five to six, namely maintaining honor and dignity.

Imam ash-Syathibi is of the view that the main purpose of maqashid ash shari'ah is to maintain and fight for three categories of law, namely:

1. Daruriyyah

Literally means an urgent need or emergency. In this category there are five things that need to be considered, namely maintaining religion, preserving the soul, maintaining the mind, maintaining honor and lineage, and maintaining property. In the needs of Daruriyyat, if this level of need is not met, it will threaten the safety of mankind in this world and in the hereafter.

2. Hajiyyah

Linguistically means secondary needs. If this need is not realized, it does not threaten safety, but will experience difficulties. To eliminate these difficulties, in Islam there is the law of rukhsa (lightening) which is the law that is needed to lighten the burden, so that the law can be implemented without feeling pressured and restrained.

3. Tahsiniyyah

Linguistically means things that are perfect. This level of need is in the form of complementary needs. If this need is not met, it will not threaten nor cause difficulties.

Knowledge of Maqashid Shari'ah, as emphasized by Abd al-Wahab Khallaf, is a very important thing that can be used as a tool to understand the editors of the Qur'an and Sunnah, resolve conflicting arguments and, most importantly, to establish laws against cases that not accommodated by the Qur'an and Sunnah in linguistic studies.

To be able to be used as an analysis tool on the components of needs, the concept of maqashid al-syari'ah is used as a benchmark for human needs. In this study, the author uses the order of levels initiated by Imam Haramayn, namely daruriyyah, hajiyyah and tahsiniyyah. Then the main elements of maqashid al-syari'ah the author uses the idea of ash-Syatibi namely humans to prosper, maintain religion (din), life (nafs), education ('aql), offspring (nasl), and property (mal). Then to strengthen the concept of maqashid al-syari'ah so that it can be used as an analytical knife, the author follows the predecessors that reason can be used to find law if the text does not explicitly explain something.

Efforts to make a rule in this regard determine the components of Decent Living Needs (KHL) in accordance with al-Qarafi's proposal for fath zara'i (opening facilities) in order to lead to maqashid al-syari'ah. The concept of maqashid al-syari'ah in analyzing this component can at least bridge those who have and those who don't. The concept of maqashid al-shari'ah levels is linked. So that there can be a shift in levels according to the situation.

This change of level according to the situation is in accordance with the idea of Izz ibn Abd al-Salam and Ibn Qayyim that the change of law occurs with the consideration of the situation. The situation is meant by paying attention to the good conditions of place, time, social conditions, intentions, and customs. So in changing the law, reason plays an active role, using the help of rational science. Because the concept of maqashid al-syari'ah

is an idea based on goals that should be comprehensive, open, hierarchical, interdependent, and multi-dimensional.

In this case, it means that work and wages are related to maintaining property. By working someone hopes to get prosperity in financial terms. Whereas according to the theory of *maqashid al-syari'ah* needs to be prosperous, the five basic elements of *maqashid al-syari'ah* must be fulfilled. Therefore, the author wants to know how much the contribution of wages in meeting the needs of life protection and supporting other protection needs. In this case, to determine the level of many components based on rational. This is more due to the lack of explanation from the nash source. These levels can change according to the situation, and the system of justice and fairness in wages must also be considered as an effort to accommodate the needs of the community.

First, Justice, in the provision of compensation we need to also pay attention to the principle of justice. Justice does not mean that everything should be divided equally. Justice must be linked between sacrifice (input) and income (output). The higher the sacrifice, the higher the expected income. Second, Eligibility, in addition to the issue of justice, it is also necessary to pay attention to the element of feasibility. This feasibility can be compared with wages at other companies, or it can also use Government regulations on minimum wages or also use minimum basic needs. It can also be done by comparing with the way of remuneration in other companies, which is intended to maintain what is called "External Consistency". If the wages in the company concerned are lower than in other companies, this can result in difficulties for the company to obtain workers. Therefore, to fulfill the two "Consistencies", both "internal" and "external", it is necessary to use a job evaluation.

Islam also sees that wages are very closely related to moral concepts, while the west does not, Islam is not only material (material or worldly) but penetrates the boundaries of life, namely the afterlife dimension called reward, while the west does not, as for the similarities between the two concepts of wages between the west and Islam are the principle of justice and the principle of adequacy. In Islam, eligibility means sufficient in terms of food, clothing and shelter and one should not harm others, by reducing the rights that should be obtained. In a further sense, entitlements in wages mean that you should not hire someone's wages, far below the wages that are usually paid.

In line with the development of time and strong pressure to demand improvements to the minimum wage, the government then revised the existing components of a Decent Living (KHL) by launching Permenakertrans No. 13 of 2012 concerning Components and Implementation of the Stages of Achieving Decent Living Needs (KHL). Significant changes in grouping have occurred since using the term Decent Living Needs (KHL). From the original only 4 groups, in the next development this grouping increased to 7 groups of needs. The seven groups of needs are food and drink, clothing, housing, education, health, transportation, and recreation and savings. This grouping is still used today starting in 2005, although in 2012 there was an increase in component items from 46 to 60.

From the description of the development of the components of the necessities of life above. It can be seen that the Decent Living Needs (KHL) which is currently used as a guideline is a development of the previous version. The 2012 KHL version of the necessities of life includes all existing components. Thus, to analyze the components of the necessities of life according to the *maqashid al-syari'ah* perspective, it is enough to use the components of the 2012 KHL version.

The changes and developments indicate that there are more important factors that have been determined first, then in the next version there are additional components that

were not previously there. The addition is by looking at the times. Moreover, it was found that indeed the earlier version contained things that were more *daruriyah*, followed by *hajiyyah* and then *tahsiniyyah*. However, in addition to the addition there is also a replacement component. This is adapted to current conditions. This change indicates a change in the law in accordance with the development of the situation. This is in line with the *maslahah* concept of legal change as initiated by al-Tufi and Ibn Qayyim Al-Jawziyah.

IV. Conclusion

The conclusions of this paper are: First, the development of the necessities of life which is used as a guide in determining the minimum wage has taken into account the level of living needs. This can be seen from what used to be only physical needs and even then very limited, but now includes spiritual needs as well. The addition of the component quota and the improvement in the quality of the components are evidence that there is attention to the level of need starting from the *daruriyyah* first and then the *hajiyyah* and then the *tahsiniyyah*. This change indicates a change in the law in accordance with the development of the situation. This is in line with the *maslahah* concept of legal change as initiated by al-Tufi and Ibn Qayyim Al-Jawziyah.

Second, most of the components of a decent living (KHL) are in the *daruriyyah* and *hajiyyah* areas and very few are classified as *tahsiniyyah*. The next finding is that there is relevance between the theory of needs which is used as a guideline for determining the minimum wage and the concept of need in the theory of *maqasid shari'ah*. This relevance is indicated by the presence of components in the form of material but capable of supporting other needs. Even without these components, it would be difficult to maintain the *maqasid shari'ah* element. This relevance can be seen from the need for religion which is supported by the inclusion of sarongs, mukena, caps, and savings in the components of needs.

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