

**THE LABOUR PAYMENT OF CONSTRUCTION PROJECT UNDER
PERSPECTIVE OF REGULATION OF THE MINISTER OF
EMPLOYMENT NO.15/2018 CONCERNING MINIMUM WAGE AND
MAQASHID SYARI'AH**

(STUDY IN UD. BENGKEL LAS BARAKAH MALANG)

Thesis

By:

Putri Langgeng Sari

NIM 15220184



SHARIA BUSINESS LAW DEPARTMENT

SHARIA FACULTY

MAULANA MALIK IBRAHIM

STATE ISLAMIC UNIVERSITY MALANG

2019

**THE LABOUR PAYMENT OF CONSTRUCTION PROJECT UNDER
PERSPECTIVE OF REGULATION OF THE MINISTER OF
EMPLOYMENT NO.15/2018 CONCERNING MINIMUM WAGE AND
MAQASHID SYARI'AH**

(STUDY IN UD. BENGKEL LAS BARAKAH MALANG)

Thesis

Presented to

Sharia Faculty of Maulana Malik Ibrahim State Islamic University Malang

in Partial Fulfillment of the Requirements

for the Degree of Bachelor of Law (S.H)

By:

Putri Langgeng Sari

NIM 15220184



SHARIA BUSINESS LAW DEPARTMENT

SHARIA FACULTY

MAULANA MALIK IBRAHIM

STATE ISLAMIC UNIVERSITY MALANG

2019

STATEMENT OF THE AUNTENTICITY

In the name of Allah (swt),

With consciousness and responsibility towards the development of science, the author declares that the thesis entitled:

**THE LABOUR PAYMENT OF CONSTRUCTION PROJECT UNDER
PERSPECTIVE OF REGULATION OF THE MINISTER OF
EMPLOYMENT NO.15/2018 CONCERNING MINIMUM WAGE AND
MAQASHID SYARI'AH
(STUDY IN UD. BENGKEL LAS BARAKAH MALANG)**

is truly the author's original work. It does not incorporate any material previously written or published by another person. If it is proven to be another person's work, duplication, plagiarism, this thesis and my degree as the result of this action will be deemed legally invalid.

Malang, 21 May 2019

Author,



Puji
Putri Langgeng Sari

NIM 15220184

APPROVAL SHEET

After examining and verifying the thesis of Putri Langgeng Sari, NIM 15220184, Sharia Business Law, Department of the Sharia Faculty of State Islamic University, Maulana Malik Ibrahim of Malang entitled:

**THE LABOUR PAYMENT OF CONSTRUCTION PROJECT UNDER
PERSPECTIVE OF REGULATION OF THE MINISTER OF
EMPLOYMENT NO.15/2018 CONCERNING MINIMUM WAGE AND
MAQASHID SYARI'AH**

(STUDY IN UD. BENGKEL LAS BARAKAH MALANG)

The supervisor states that this thesis has met the scientific requirements to be proposed and to be tested by the Thesis Board of Examiners.

Malang, 21 May 2019

Acknowledged by,
The Head of
Sharia Business Law
Department

Supervisor,



Dr. Fakhruddin, M.H.I.











NIP. 197408192000031002

Prof. Dr. H. Mohamad Nur Yasin, S.H., M.Ag.

NIP. 196910241995031003


CONSULTATION PROOF

Name : Putri Langgeng Sari
 Student Number : 15220184
 Department : Sharia Business Law
 Supervisor : Prof. Dr. H. Mohamad Nur Yasin, S.H., M.Ag.
 Thesis Title : THE LABOUR PAYMENT OF CONSTRUCTION
 PROJECT UNDER PERSPECTIVE OF REGULATION
 OF THE MINISTER OF EMPLOYMENT NO. 15/2018
 CONCERNING MINIMUM WAGE AND MAQASHID
 SYARI'AH)
 (STUDY IN UD. BENGKEL LAS BARAKAH
 MALANG)

No	Day/Date	Subject of Consultation	Signature
1	13 October 2018	Proposal	
2	25 October 2018	Proposal	
3	10 November 2018	Review Proposal	
4	05 March 2019	Chapter 1 and 2	
5	07 April 2019	Chapter 1 and 2	
6	15 April 2019	Review Chapter 1 and 2	
7	15 April 2019	Chapter 3,4 and 5	
8	23 April 2019	Chapter 3,4 and 5	
9	25 April 2019	Review Chapter 3,4 and 5	
10	04 April 2019	Review All Chapter	

Malang, 21 May 2019

Acknowledged by:

o.l. Dean
 Head of Sharia Business Law
 Department

 Dr. Fachrudin, M.H.I.
 NIP. 197408192000031002

LEGITIMATION SHEET

The Thesis Board of Examiners states that Putri Langgeng Sari, NIM 15220184, student of Department of Sharia Business Law, Sharia Faculty, State Islamic University of Maulana Malik Ibrahim of Malang, her thesis entitled:

THE LABOUR PAYMENT OF CONSTRUCTION PROJECT UNDER PERSPECTIVE OF REGULATION OF THE MINISTER OF EMPLOYMENT NO.15/2018 CONCERNING MINIMUM WAGE AND MAQASHID SYARI'AH

(STUDY IN UD. BENGKEL LAS BARAKAH MALANG)

She passed and certified with grade A

Board of Examiners:

1. Dr. Khoirul Hidayah, M.H.
NIP. 197805242009122003

(.....)

Chairman

2. Prof. Dr. H. Mohamad Nur Yasin, S.H., M.Ag.
NIP. 196910241995031003

(.....)

Secretary

3. Dr. Fakhruddin, M.H.I.
NIP. 197408192000031002

(.....)

Main Examiner

Malang, 21 May 2019



Dr. Saifullah, S.H., M.Hum
NIP. 196512052090031001

MOTTO

فَإِنَّ مَعَ الْعُسْرِ يُسْرًا (٥) إِنَّ مَعَ الْعُسْرِ يُسْرًا

For indeed, with hardship (will be) ease. Indeed, with hardship (will be) ease.

(Ash-Sharh: 5-6)



ACKNOWLEDGMENT

All praise due to Allah, The Cherisher and Sustainer of all the world. There is neither might nor power but with Allah the Great, the Exalted. With only His Grace and Guidance, this thesis entitled “The Labour Payment of Construction Project Under Perspective of Regulation of the Minister of Employment NO.15/2018 Concerning Minimum Wage and Maqashid Syari’ah (Study in UD. Bengkel Las Barakah Malang)”

With all the support and help, discussions, guidance and directions from all parties involved during the process of completing this thesis, the author wishes to express her utmost gratitude to the following:

1. Prof. Dr. Abdul Haris, M.Ag. as the Rector of The State Islamic University of Maulana Malik Ibrahim of Malang.
2. Dr. H. Saifullah, S.H, M.Hum., as the Dean of The Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim of Malang.
3. Dr. Fakhruddin, M.H.I., as the Head of The Department of Sharia Business Law of Sharia Faculty, The State Islamic University of Maulana Malik Ibrahim of Malang.
4. Dr. Khoirul Hidayah, M.H. as the Chairman and Prof. Dr. H. Mohamad Nur Yasin, S.H., M.Ag. as the Secretary and Dr. Fakhruddin, M.H.I. as the Main Examiner. Thank you very much for the opportunity that has been given to the author, so the author can convey/deliver the result of her research.
5. Prof. Dr. H. Mohamad Nur Yasin, S.H., M.Ag., as the thesis supervisor. The author expresses her gratitude for the guidance, suggestion, and directional motivation given in the course of completing this thesis. May Allah SWT shower him and his family with His blessings.
6. Ali Hamdan, MA, Ph.D., as supervisory lecturer during the author’s course of study in the Sharia Business Law Department of Sharia Faculty of State Islamic University, Maulana Malik Ibrahim Malang.
7. All lecturers for their sincere and dedicated teaching and supervisory efforts. May Allah (swt) shower them with His blessings.

8. Staff of the Sharia Faculty of State Islamic University, Maulana Malik, Malang. The author expresses gratitude for all their support and co-operation during the course of completing this thesis.
9. My beloved Father and Mother, Mr. Budi Purnomo and Mrs. Siti Fatimatus Zuhriyah who have given me chance to get adequate education, love, material, and spiritual supports, also endless praying until I am able to finish may study excellently and to my beloved sister and brother (Jihan Fatika Sari and Asyraf Ro'uf Ibrahim), thanks for your supports.
10. My honorable teachers, Mr. Achmad Qusyairi and Mr. Badrun Munir, S.HI. who have given me a lot knowledge and have also become my parents in the Asrama Putri Baitul Qur'an, thank you so much for the supports, prayers and help.
11. My Gratitude to all of my friends in the Lembaga Kajian Penelitian dan Pengembangan Mahasiswa (LKP2M) the State Islamic University of Maulana Malik Ibrahim of Malang. Thank you for support, motivation and discussion.
12. Thanks to all my friends of Sharia Business Law Department 2015 and International Class Program (ICP). Thank you for support and motivation.
13. Thanks a lot to all of those whom I can't mention one by one who has helped me in completing of this research.

Hopefully, by imparting what has been learned during the course of study in the Faculty of Sharia of State Islamic University, Maulana Malik Ibrahim Malang, it will benefit all readers and the author herself. Realizing the fact that error and weakness are impartial to being human, and this thesis is still far from perfection, the author appreciates constructive criticism and suggestions for the improvement of this thesis.

Malang, 21 May 2019

Author,

Putri Langgeng Sari

NIM 15220184

TRANSLITERATION GUIDANCE

A. General

The transliteration guidance which is used by the Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim Malang is the EYD (*Ejaan Yang Disempurnakan*). This usage is based on the Consensus Directive (SKB) from Religious” Ministry, Education Ministry and Culture Ministry of the Republic of Indonesia, dated 22 January 1998, No. 158/1987 and 0543.b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

Arab	Latin	Arab	Latin
ا	A	ط	Th
ب	B	ظ	Zh
ت	T	ع	‘
ث	Ts	غ	Gh
ج	J	ف	F
ح	H	ق	Q
خ	Kh	ك	K

د	D	ل	L
ذ	Dz	م	M
ر	R	ن	N
ز	Z	و	W
س	S	هـ	H
ش	Sy	ء	‘
ص	Sh	ي	Y
ض	Dl		

C. Vocal, Long-pronunce, and Diphtong

In every written Arabic text in the latin form, the vowels *fathah* is written with “a”, *kasrah* with “i”, and *dlommah* with “u”, whereas elongated vowels are written as such:

Elongated (a) vowel = â

example قال becomes *qâla*

Elongated (i) vowel = î

example قيل becomes *qîla*

Elongated (u) vowel = û

example دون becomes *dûna*

Specially for the pronouncing of *ya' nisbat* (in association), it cannot be represented by “i”, unless it is written as “iy” so as to represent the *ya' nisbat* at the end. The same goes for sound of a diftong, *wawu* and *ya'* after fathah it is written as “aw” da “ay”. Study the following example:

Diftong (aw) = و

example قول becomes *qawlun*

Diftong (ay) = ي

example خير becomes *khayrun*

D. Ta' Marbûthah (ة)

Ta' marbûthah is transliterated as “t” if it is in the middle of word, but if it is *Ta' marbûthah* in the end of word, it transliterated as “h”. For example الرسالة المدرسة will be *al-risalat li al-mudarrisah*, or in the standing among two words that in the form *mudlaf and mudlafilayh*, is transliterated as “t” which is enjoined with the previous word, for example في رحمة الله *fii rahmatillah*.

E. Auxiliary Verb and Lafadh al-Jalalah

Auxiliary verb “al” (ﻻ) written with lowercase form, except if it is located at the beginning of word, while “al” in *lafadh al-jalalah* which located in the middle of two words or being or become *idhafah*, it is removed from writing. Study the following:

1. Al-Imâm al Bukhâriy said...
2. Al- Bukhâriy explains, in the prologue of his book...
3. *MasyâAllâhkânawamâ lam yasya” lam yakun.*
4. *Billâhi „azzawajalla.*

TABLE OF CONTENT

COVER	
STATEMENT OF AUTHENTICITY	i
APPROVAL SHEET	ii
CONSULTATION PROOF	iii
LEGITIMATION SHEET	iv
MOTTO	v
ACKNOWLEDGMENT	vi
TRANSLITERATION GUIDANCE.....	viii
TABLE OF CONTENT.....	xii
ABSTRACT	xv
CHAPTER 1 : INTRODUCTION	
A. Backround of Problem.....	1
B. Problem Formulation.....	6
C. Objective of Research	6
D. Significant of Research	7
E. Operational Definition.....	7
F. Discussion Structure.....	8
CHAPTER II : REVIEW OF RELATED LITERATURE	
A. Previous Research	10
B. Theoretical Framework	
1. Labour	17
2. Employer	17

3. Company	18
4. Wage.....	18
5. <i>Maqashid Syari'ah</i>	32

CHAPTER III : RESEARCH METHOD

A. Type of Research.....	38
B. Approach	39
C. Research Locus.....	39
D. Data Sources.....	40
E. Data Collecting Technique.....	41
F. Data Analysis Technique.....	43
G. Data Validity Technique	45

CHAPTER IV : FINDINGS AND DISCUSSION

A. Description of Research Object.....	47
B. The Labour Payment System of Construction Project in the UD Bengkel Las Barokah Malang	49
C. The Labour Payment of Construction Project Under Perspective of Government Regulation No. 15/2018 Concerning Minimum Wage in the UD. Bengkel Las Barakah Malang	56
D. The Labour Payment of Construction Project Under Perspective of <i>Maqashid Syari'ah</i> in the UD. Bengkel Las Barakah Malang.....	65

CHAPTER V : CONCLUSSION AND SUGGESTION

A. Conclusion	69
B. Suggestion	70
BIBLIOGRAPHY	72
APPENDIXES	
CURRICULUM VITAE	



ملخص

فوطري لانجنيج ساري، ١٨٤، ١٥٢٢٠، ٢٠١٩. "الأجور الإنشائية لمشروع العمال في مراجعة لقرار وزير القوى العاملة رقم ١٥ لسنة ٢٠١٨ بشأن الحد الأدنى للأجور والمقاصد الشرعية (دراسة في مصنع التجار باركة مالانج). قسم قانون الأعمال الإسلامية، كلية الشريعة، الجامعة الإسلامية مولانا مالك إبراهيم مالانج. المشرف: الدكتور محمد نور ياسين، الحاج الماجستير.

الكلمات الأساسية: مشروع بناء الأجور، القرار وزير القوى العاملة رقم ١٥ لعام ٢٠١٨، مقاصد الشريعة.

. المشكلة المتعلقة بالأجور هي المشكلات التي لم يتم حلها للمناقشة. كل عام مطالب الزيادات في الأجور تحدث دائما. طلب العمال أن الأجور التي تقدمها الشركات زيادة. من ناحية أخرى، فإن زيادة الأجور التي لا تتبعها زيادة في الإنتاجية ستخلق صعوبات لرجال الأعمال. مشاكل الأجور التي تحدث عندما يكون عمال مشروع البناء في هذا البحث قد عملوا لأكثر من عام واحد ما زالوا يتلقون أجرا دون أجر مالانج ريجنسي الأدنى. لا يتوافق هذا مع الفقرة ٢ من المادة ١٧ من لائحة وزير القوى العاملة رقم ١٥ لعام ٢٠١٨ بشأن الحد الأدنى للأجور التي تنص على أن تكون أجور العمال / العمال الذين لديهم فترة عمل ١ (سنة واحدة) أو أكثر أعلى من الحد الأدنى للأجور.

مسائل البحث: (١) كيف يقوم الأجور مشروع البناء في استعراض لائحة وزير القوى العاملة رقم ١٥ لعام ٢٠١٨ بشأن الحد الأدنى للأجور في مصنع التجار باركة مالانج؟ (٢) كيف يدفع العمال بناء مشروع العمال مقابل مراجعة مقاصد الشريعة في مصنع التجار باركة مالانج؟

هذا البحث هو نوع من البحث التجريبي أو البحث الميداني باستخدام منهج نوعي واستخدام منهج قانوني اجتماعي يحدد الباحثون القوانين في أنظمة الحياة الحقيقية ويتم وصفهم في جمل جيدة وصحيحة. المواد القانونية التي تم الحصول عليها في هذا البحث هي المواد القانونية الأولية والثانوية والثالثية.

نتائج هذا البحث: (١) أن الشركة لم تكن قادرة على توفير أجور أعلى من الحد الأدنى للأجور في مالانج ريجنسي للعاملين لأن هناك عددا من العوامل التي تؤثر على قدرة الشركة ونسبة تكاليف الأجور والتكاليف الأخرى وجودة العمال. إذا كانت الأجور أكثر من مجرد مجموعة، ستتكدب الشركة خسائر. (٢) ثم من حيث مقاصد الشريعة، وهي تحقيق الحفاظ على ٥ (خمس) الجوانب الأساسية، وهي الدين والنسب لا تزال في مستوى الضرورية. في حين أن الوفاء في جانب الأصول يذهب إلى مستوى التحسينية. ثم من حيث الروح و العقل لم تتحقق.

ABSTRACT

Putri Langgeng Sari, 15220184, 2019. **The Labour Payment of Construction Project Under Perspective of Regulation of the Minister of Employment NO.15/2018 Concerning Minimum Wage and Maqashid Syari'ah (Study in UD. Bengkel Las Barakah Malang)**, Thesis, Sharia Business Law Department, Sharia Faculty, Maulana Malik Ibrahim State Islamic University Malang.
Supervisor: Dr. H. Mohamad Nur Yasin, S. H., M.Ag.

Keywords : Labour Payment of Construction Project, Regulation of the Minister of Employment NO.15/2018, *Maqashid Syari'ah*

Problem about wage has never been resolved to be discussed. Every year the demands of wage increase always occur. Labour requested that wage was given by companies more increase. On the other hand, wage increase that is not followed by increase in productivity will cause difficulties for employer. Wage problem that occurs is the labours of construction project in this research who have been working 1 (one) more year still got wage under the Minimum Wage of Malang Regency. This is not accordance with Article 17 paragraph (2) of Regulation of the Minister of Employment concerning Minimum Wage which the wages of worker/labour with work period 1 (one) year or more must be above the minimum wage.

There are 2 (two) formulations of the problem in this study: (1) How is the labour payment of construction project under perspective of Regulation of the Minister of Employment NO.15/2018 concerning Minimum Wage in the UD. Bengkel Las Barakah Malang? (2) How is the labour payment of construction project under perspective of *maqashid syari'ah* in the UD.Bengkel Las Barakah Malang?

The type of this research is empirical research or field research with qualitative approach and sociological juridical approach that the researcher identified laws in the real life system and described in good and correct sentences. Legal materials obtained in this research are primary, secondary and tertiary legal materials.

The results of this study show that (1) The company did not provide wage in above the Minimum Wage of Malang Regency to the labour because there are several factors that influence, the ability of company, the proportion of wage cost with other cost and the quality of labour. If the wage was given more than determined, the company wills loss. (2) Based on *Maqashid Syari'ah* that is the fulfillment to maintenance of 5 (five) basic aspects i.e. religion and generation still on the level of *dharuriyyat*. While the maintenance on the aspect of treasure on the level of *tahsiniyyat*. Then from the aspect of the soul and mind are not fulfilled.

ABSTRAK

Putri Langgeng Sari, 15220184, 2019. **Pengupahan Buruh Proyek Konstruksi dalam Tinjauan Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum dan Maqashid Syari'ah (Studi di UD. Bengkel Las Barakah Malang)**, Skripsi, Jurusan Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri (UIN) Maulana Malik Ibrahim Malang.

Pembimbing: Dr. H. Mohamad Nur Yasin, S. H., M.Ag.

Kata Kunci : Pengupahan Buruh Proyek Konstruksi, Permen Ketenagakerjaan Nomor 15 Tahun 2018, *Maqashid Syari'ah*

Permasalahan mengenai upah merupakan permasalahan yang tidak pernah selesai untuk dibahas. Setiap tahunnya tuntutan akan kenaikan upah selalu terjadi. Buruh meminta agar upah yang diberikan oleh perusahaan semakin meningkat. Di sisi lain kenaikan upah yang tidak diikuti oleh kenaikan produktivitas akan menimbulkan kesulitan bagi pengusaha. Permasalahan pengupahan yang terjadi bahwasannya buruh proyek konstruksi pada penelitian ini yang telah bekerja 1 (satu) tahun lebih masih mendapatkan upah di bawah Upah Minimum Kabupaten Malang. Hal tersebut tidak sesuai dengan Pasal 17 ayat (2) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum bahwasannya upah pekerja/buruh dengan masa kerja 1 (satu) tahun) atau lebih harus di atas upah minimum.

Terdapat 2 (dua) rumusan masalah dalam penelitian ini yakni: (1) Bagaimana pengupahan buruh proyek konstruksi dalam tinjauan Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum di UD Bengkel Las Barakah Malang? (2) Bagaimana pengupahan buruh proyek konstruksi dalam tinjauan *maqashid syaria'h* di UD. Bengkel Las Barakah Malang?

Penelitian ini merupakan jenis penelitian empiris atau penelitian lapangan dengan menggunakan pendekatan kualitatif serta menggunakan pendekatan yuridis sosiologis yakni peneliti mengidentifikasi hukum dalam sistem kehidupan yang nyata dan diuraikan dalam bentuk kalimat yang baik dan benar. Bahan hukum yang diperoleh dalam penelitian ini adalah bahan hukum primer, sekunder dan tersier.

Hasil dari penelitian ini menunjukkan bahwa (1) Perusahaan belum bisa memberikan upah di atas Upah Minimum Kabupaten Malang kepada buruh karena terdapat beberapa faktor yang mempengaruhi diantaranya kemampuan perusahaan, proporsi biaya upah dengan biaya lain dan kualitas pekerja. Jika upah diberikan melebihi dari yang telah ditetapkan maka perusahaan akan mengalami kerugian. (2) Kemudian ditinjau dari segi *maqashid syari'ah* yakni pemenuhan terhadap pemeliharaan 5 (lima) aspek dasar yakni agama dan keturunan masih dalam tingkatan *dharuriyyat*. Sedangkan pemenuhan dalam aspek harta masuk ke dalam tingkatan *tahsiniyyat*. Kemudian dari segi jiwa dan akal tidak terpenuhi.



CHAPTER I INTRODUCTION

A. Background of Problem

The Constitution of the Indonesia states the rights of citizen. An example of the rights is to get a job and to have decent life. The rights are mentioned in Article 27 paragraph (2) of the constitution which states: “Every citizen has the right to get a job and to have decent live for humanity.”¹

¹Pasal 27 ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

That right shows that worker/labour as part of citizen who has right to have decent life for humanity. In this case every worker/labour has right to get wage that fulfills a decent live for humanity.

The explanation about the right above shows that the right as citizen protected by law that is in the constitution. The constitution is the highest formal legal source in Indonesia. The constitution is a fundamental set of belief, principle, and system to regulate the right and obligation organizational citizen or citizen.²

According to the Research Council of National Payment (*Dewan Penelitian Pengupahan Nasional*) “wage is acceptance of work to function as guarantee of the continuity of a decent life for humanity and production is stated according to an approval of Law and Regulation and is paid based on of employment agreement between the employer and the labour.”³

Allah SWT says in Surah At-Taubah verse 105 which state:

وَقُلْ اَعْمَلُوا فَسَيَرَى اللّٰهُ عَمَلَكُمْ وَرَسُولُهُ وَالْمُؤْمِنُونَ ۖ وَسَتُرَدُّونَ اِلٰى عَالَمٍ الْغَيْبِ
وَالشَّهَادَةِ فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ تَعْمَلُونَ

“And say: “Work you!, then Allah and His messenger and the believers will see your work, and you will be returned to (Allah) The

²Mohamad Nur Yasin, *Politik Hukum Ekonomi Syariah di Indonesia* (Malang: UIN-Maliki Press, 2018), 101.

³Anggota Dewan Pengupahan Nasional, *Dewan Pengupahan Nasional* (Jakarta: Dewan Pengupahan Nasional).

Knower of the Invisible and the Visible, and He will tell you what you have done.”⁴

The Interpretation of verse 105 Surah At-Taubah above according to M. Quraish Shihab is, “Say, O Muhammad.,: *Work you*, for only Allah with various godly deeds and beneficial, both for yourself or for the general public, *then Allah will see* by judging and rewarding *your charity*, *and His messenger and the believers* will see and also judge, then adjust their action with your charities and then *you will have returned* through death *to Allah swt. The Knower of the Invisible and the Visible, and He will tell you* sanction and reward for *what you have done*, both that appear to the surface and you hide in your heart.”⁵

The issue of wage is something which never stops to discuss. Wage is something sensitive, because it concerns the life of worker/labour. Without wage, worker/labour is not able to fulfill need of his and his family the primary, secondary and tertiary.

Maqashid Syari'ah is the purpose of the decreased of the Sharia to a Muslim. The purpose of Allah swt implies His law is to maintain the benefit of humanity and also avoid the damage, both in the world or in the hereafter. To realize human benefit in the world and in the hereafter there are five basic elements that must be maintained and realized; religion, soul, mind, generation, and treasure. A person will get benefit when he can

⁴QS. at-Taubah (9): 105.

⁵M. Quraish Shihab, *Tafsir Al-Mishbah*, Volume 5 (Jakarta: Lentera Hati, 2002), 670.

maintain the five basic elements. Instead, he will get damage if he cannot maintain it properly.⁶

Work is one way to maintain the existence of the elements contained in the *maqashid syari'ah*. For example, when human works, they will get a salary. After they get salary/wage from work, later it will be used to fulfill the needs like eating and drinking. Eating and drinking is one of the human ways to maintain his soul.

Wage is very important to worker/labour who has spent energy and time for a job. Worthy wage is right that is acceptable by worker/labour. As mentioned in Article 88 paragraph (1) Law No.13/2003 about Employment which reads: "Every worker/labour has the right to get income that fulfills a decent life for humanity."⁷

To realize income that fulfills a decent life for humanity, the government establishes wage policy to protect worker/labour.⁸ One of that policy is minimum wage. The employer is prohibited to pay a wage lower than the minimum wage.⁹

The minimum wage only applies for worker/labour with a work period of less than 1 (one) year at the company concerned."¹⁰ "Wage of

⁶Suyatno, *Dasar-Dasar Ilmu Fiqh dan Ushul Fiqh* (Jogjakarta: Ar-Ruzz Media, 2011), 159.

⁷Pasal 88 ayat (1) Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

⁸Pasal 88 ayat (2) Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

⁹Pasal 90 ayat (1) Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

¹⁰Pasal 17 ayat (1) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

worker/labour with a work period 1 (one) year or more must be above minimum wage.”¹¹

Based on empirical fact in the UD Bengkel Las Barakah Malang, the wage system is given per day about between Rp. 55.000 until Rp. 150.000.¹² If totaled in one month, the total is about Rp. 1.320.000 until Rp. 3.600.000 with 6 (six) working days in the 1 (one) week. The lowest wage about Rp. 1.320.000 is under the minimum wage of Malang District that is Rp. 2.781.564,24 in 2019.¹³

UD Bengkel Las Barokah Malang is a company of construction service provider. The company usually builds high buildings. The project to build the buildings is done through auction process. Usually the auction to work a tender is offered by Limited Liability Company (PT) or University that builds a building then the company win from the auction and has right to do the tender.

Labour is very dependent on the wage, because it is used to fulfill his need and his family. But on the other hand, the employer giving wages also considers the labour quality and productivity. So the wage which is provided also must be balanced with the productivity.

Based on the explanation above it is needed to review and examine further about the problem of labour payment of construction project in the

¹¹Pasal 17 ayat (2) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

¹²Fiky, *interview* (Bululawang, 5 February 2019).

¹³Keputusan Gubernur Jawa Timur Nomor 188/665/KPTS/ O13/2018 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2019.

UD Bengkel Las Barokah Malang so it is expected to be able to create a sense of justice for both, labour or employer.

The researcher raises an interesting title to examine, that is **“The Labour Payment of Construction Project Under Perspective of Regulation of the Minister of Employment No.15/2018 Concerning Minimum Wage and *Maqashid Syari’ah*.” (Study in UD. Bengkel Las Barakah Malang)**

B. Problem Formulation

Based on the backround of research above, the problems formulated are as follows:

1. How is the labour payment of construction project under perspective of Regulation of the Minister of Employment No. 15/2018 concerning Minimum Wage in the UD. Bengkel Las Barakah Malang?
2. How is the labour payment of construction project under perspective of *Maqashid Syari’ah* in the UD. Bengkel Las Barakah Malang?

C. Objective of Research

Based on the statement of problem above, the purpose of this research are as follows:

1. To analyze the labour payment of construction project under perspective of Regulation of the Minister of Employment No. 15/2018 concerning Minimum Wage in the UD. Bengkel Las Barakah Malang.

2. To analyze the labour payment of construction project under perspective of *Maqashid Syari'ah* in the UD. Bengkel Las Barakah Malang.

D. Significant of Research

There are several significants of research that obtained from this research:

1. Theoretically

As a treasure of thought and academic contribution for academics and observers of wages in the UD Bengkel Las Barokah Malang.

2. Practically

- a) This research is expected to serve as a new thought object for the development of payment for worker/labour.
- b) For the writer, as an exercise material to develop discourse and academic practice to create a scientific work.

E. Operational Definition

1. Payment is activity done by the employer to give wage to woker/labour. Wage is workers' right recived and expressed in the from of money as reward from employer to worker/labour which set and paid according to a work agreement, the deal or legislation, including allowance for worker/labour and their families for a job and/ or serve has been done or will do.¹⁴

¹⁴Pasal 1 angka 30 Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

2. Labour of construction project is labour who work in the UD Bengkel Las Barakah Malang that used as the object of research .
3. Regulation of the Minister of Employment No.15/2018 about Minimum Wage is a type of positive law that applied in Indonesia, then used as the first analysis tool by researcher to review the problem.
4. *Maqashid Syari'ah* is a type of Islamic law, then used as a second analysis tool by researcher to review the problem.

F. Discussion Structure

The preparation of this research is systematically, directed and interconnected one chapter with another chapter, then the researcher generally describes the arrangement as follows:

The first chapter is an introduction; this chapter contains some of the basic elements of this research, including background of research as an explanation about the emergence of the idea of a problem. Then from the background of research there are formulation the questions which are the statement of problem. Furthermore, the researcher includes the objective/purpose and benefit of the research and this is meant to gets a logic of thinking and data exposure which are logic and systematic. Then there are the operational definition and discussion structure as an initial description from the overall research.

The second chapter contains a literature review of previous research and theoretical framework. Previous research contains information about the researches or the creations other peoples who have

done research on themes that have similarities and differences with current research. The literature review contains the legal foundations or theories of discussion which contain about labour, employer, the concept of wage and *maqashid syari'ah*.

The third chapter contains research method involving the type of research, research approach which is a method to make it easier to get information in reserach. The research location is the researcher's places to do the research, type and data sources. Data collecting technique contains methods for collecting data in the form of interview, documentation, and data analysis technique which contains methods for processing the data from the research result and analyzes problem in research. Furthermore, the researcher uses the data validity technique to ensure the accuracy of the data obtained.

The fourth chapter contains the result of research and analysis. It presents the data obtained, and then the next process is analyses of data so that obtained answer from the problmes raised by the author.

The fifth chapter contains the conclussions obtained from discussions by the author. In addition, it contains suggestions for the result of the research and the parties concerned.



CHAPTER II

REVIEW OF RELATED LITERATURE

A. Previous Research

This section describes research or scientific work that relates to this research. To avoid duplication 5 previous research are presented here. The following are scientific works related to research:

1. Thesis written by Robiatul Adawiyah (12220016) from Maulana Malik Ibrahim State Islamic University Malang in 2016 with the title “Analisis Terhadap Perubahan Ketentuan Pengupahan di Indonesia

melalui Teori Masalah Mursalah (Studi Peraturan Pemerintah (PP) Nomor 78 Tahun 2015 tentang Pengupahan)”¹⁵

The results of the research stated that all articles in Government Regulation (PP) No.78/2015 were in accordance with the principles of employment law. However, there are problems that arise. In Article 43 paragraph (5) concerning on the review of the KHL component which is carried out every 5 (five) years. This provision is slightly different from the principle of labor protection because it is too long considering that the inflation always changes. Whereas when viewed from the point of view of At-Thufi in the theory of *masalah mursalah*, *first*, if it is associated with the provisions of Government Regulation (PP) No.78/2015, it appears that the purpose of the Government Regulation is to create a good and fair life for all parties in employment relations, *secondly*, the scope of *masalah* limited on the issue of worldly interaction and custom. If it is connected with Government Regulation (PP) No. 78/2015 it is appropriate because the regulation regulates in the field of muamalah between workers and employers and employers and the government.

The difference between this research and previous research is the focus of the research. In the previous research the focus is on changes in wage provisions in Government Regulation (PP) No. 78/2015. While this research focuses on payment system. The next difference is that previous research is normative research or library research, while this research is

¹⁵Robiatul Adawiyah, *Analisis Terhadap Perubahan Ketentuan Pengupahan di Indonesia melalui Teori Masalah Mursalah (Studi Peraturan Pemerintah (PP) Nomor 78 Tahun 2015 tentang Pengupahan)*, Skripsi, (Malang: UIN Malang, 2016).

empirical research or field research. The similarity between previous research with this research is on the object of research that is about payment.

2. Thesis written by Vivin Asysyifa' (052311044) from IAIN Walisongo Semarang in 2009 with the title "Analisis Hukum Islam Terhadap Penundaan Pembayaran Upah Karyawan Harian (Studi Kasus di Industri Pengecoran Logam "Prima Logam" Desa Ngawonggo, Kecamatan Ceper, Kabupaten Klaten)"¹⁶

Previous research focuses on implementing the postponement of payment of wages. Islam does not allow if the employer delays payment of wages for his workers, while the employer is able to pay it at that time. However, delays in payments in Prima Logam industry is allowed because of noticing the factors that cause the delay that is *dlorurot* and unintended element. In the leasing agreement there is no argument that prohibits it. The absence of a forbidden argument is enough to be used as a basis that renting with money back is allowed or *halal*. So, only the time is slow because of *dlolurot*, but the rent the services of workers is that wage will return and this is *halal*.

The difference between this research and previous research is: the focus of the research. In previous research focusing on delay of wage payments by employers to workers. While this research focuses on payment systems The similarity between the previous research with this

¹⁶Vivin Asysyifa', *Analisis Hukum Islam Terhadap Penundaan Pembayaran Upah Karyawan Harian (Studi Kasus di Industri Pengecoran Logam "Prima Logam" Desa Ngawonggo, Kecamatan Ceper, Kabupaten Klaten)*, Skripsi, (Semarang: IAIN Walisongo Semarang, 2009).

research is on the object of research that is about payment and also field/empirical research. The author did research in Malang Regency while the previous research was in Semarang City.

3. Thesis written by Vikha Vardha Aulia (12220119) from Maulana Malik Ibrahim State Islamic University Malang in 2016 with the title “Praktik Pengupahan Buruh Gendong di Pasar Blimbing Malang Perspektif Mazhab Syafi’i”¹⁷

The research conducted to examine the agreement made between workers and employers without agreement in the paper, just a statement. They use the basis of mutual trust because the agreement made has become customary. The practice of wages according to the Shafi’i School, when viewed from the point of view of the agreement between the two parties, is valid because the terms and conditions have been fulfilled, because the payment practice done by both are based on agreement and likes. And the agreement is valid according to Islam.

The difference between this research and previous research is: the focus of the research, in the previous research focus on unwritten employment agreements between employers and workers on the basis of mutual trust. While this research focuses on payment system. The similarity previous research with this research is on the object of research, that is about payment. And also do field research or empirical. The author

¹⁷Vikha Vardha Aulia, *Praktik Pengupahan Buruh Gendong di Pasar Blimbing Malang Perspektif Mazhab Syafi’i*, Skripsi, (Malang: UIN Malang, 2016).

did research in Malang Regency while the previous research was in Malang City.

4. Thesis written by Daimatus Sa'adah (052311195) from IAIN Walisongo Semarang in 2009 with the title "Pelaksanaan Upah Jasa Mapak Kapal di Tempat Pelelangan Ikan (TPI) Desa Tasikagung Kecamatan Rembang Kabupaten Rembang"¹⁸

The research conducted to review the wage of labour with fish that the amount is determined by how much fish is produced by the ship. It contains elements of obscurity because the wages must be adjusted to the fish produced every time the ship arrives, but the skipper and laborers have willing in giving and receiving wages.

The difference between this research and previous research is: the focus of the research, in the previous research focus on the obscurity of the nominal wages obtained, but each party have willing. While this research focuses on payment system. The similarity previous research with this research is on the object of research, that is about payment. And also do field research or empirical. The author did research in Malang Regency while the previous research was in Rembang Regency.

5. Thesis written by Achmad Sielmy (12220062) from Maulana Malik Ibrahim State Islamic University Malang in 2016 with the title "Penerapan Standar Pemenuhan Kebutuhan Hidup Layak oleh Dewan

¹⁸Daimatus Sa'adah, *Pelaksanaan Upah Jasa Mapak Kapal di Tempat Pelelangan Ikan (TPI) Desa Tasikagung Kecamatan Rembang Kabupaten Rembang, Skripsi*, (Semarang: IAIN Walisongo Semarang, 2009).

Pengupahan Kota Malang (Perspektif Peraturan Menteri Tenaga Kerja dan Transmigrasi N0 13 Tahun 2012 dan *Maqashid Syari'ah*”¹⁹

The research conducted to review the technical of Wage Council of Malang in deciding the component of decent life (Komponen Hidup Layak (KHL)), which establishes the quality and technical specifications of each component and the type of KHL, forming a survey team of KHL, set the value of the KHL and review KHL for workers and see how the applied.

The difference between this research and previous research is: the focus of the research, in the previous research focus on the technical determination of KHL by the Wage Council of Malang. While this research focuses on payment system. The similarity of previous research with this research is on the object of research, that is about payment. And also do field research or empirical The author did research in Malang Regency while the previous research was in Malang City.

The description of the research above and the similarities and differences between previous researcher with author can be seen in the following table:

¹⁹Achmad Sielmy, *Penerapan Standar Pemenuhan Kebutuhan Hidup Layak oleh Dewan Pengupahan Kota Malang (Perspektif Peraturan Menteri Tenaga Kerja dan Transmigrasi N0 13 Tahun 2012 dan Maqashid Syari'ah, Skripsi*, (Malang: UIN Malang, 2016).

Table 1
Similarity and Difference with Previous Research

No	Name/University /Year	Title	Similarity	Difference
1	Robiatul Adawiyah/ UIN Maulana Malik Ibrahim Malang/ 2016	Analisis Terhadap Perubahan Ketentuan Pengupahan di Indonesia melalui Teori Masalah Mursalah (Studi Peraturan Pemerintah (PP) Nomor 78 Tahun 2015 tentang Pengupahan)	This research and the research author discuss about payment.	Research focus on the changes of wage provisions. Research author on the system.
2	Vivin Asysyifa' / IAIN Walisongo Semarang/ 2009	Analisis Hukum Islam Terhadap Penundaan Pembayaran Upah Karyawan Harian (Studi Kasus di Industri Pengecoran Logam “Prima Logam” Desa Ngawonggo, Kecamatan Ceper, Kabupaten Klaten)	This research and the research author discuss about payment.	Research focus on the delays of payment. Research author on the system.
3	Vikha Vardha Aulia/ UIN Maulana Malik Ibrahim Malang/ 2016	Praktik Pengupahan Buruh Gendong di Pasar Blimbing Malang Perspektif Mazhab Syafi'i	This research and the research author discuss about payment.	Research focus on the work agreement. Research author on the system.
4	Daimatus Sa'adah/IAIN Walisongo Semarang/2009	Pelaksanaan Upah Jasa Mapak Kapal di Tempat Pelelangan Ikan (TPI) Desa Tasikagung Kecamatan Rembang Kabupaten Rembang	This research and the research author discuss about payment.	Research focus on the obscurity of wage nominal. Research author on the system.
5	Achmad Sielmy/ UIN Maulana Malik Ibrahim Malang/2016	Penerapan Standar Pemenuhan Kebutuhan Hidup Layak oleh Dewan Pengupahan Kota Malang (Perspektif Peraturan Menteri Tenaga Kerja dan Transmigrasi N0 13 Tahun 2012 dan <i>Maqashid Syari'ah</i>)	This research and the research author discuss about payment.	Research focus on the technical of determination of KHL. Research author on the system.

B. Theoretical Framework

1. Labour

a) Definition of Labour

Labour is person who works for other people to get wage.²⁰

According to W.J.S. Poerwadarminta labour is a person who works to get wage.²¹ Meanwhile, *Oxford Advanced Learner's Dictionary*, defines *labor* as a worker, especially those who work with their hands.²² Generally labour is the person who works by receiving wages.²³ In Labour law, there is no difference between soft labour and grainy labour. They are all "labours" who have the same rights and obligations.²⁴

Based on Article 1 Point 9 of the Regulation of the Minister of Employment No.15/2018 about Minimum Wage, that the worker is a person who works by receiving wages or benefits in other forms.²⁵

2. Employer

Employer is:²⁶

²⁰Kamus Besar Bahasa Indonesia (KBBI), (Jakarta: Balai Pustaka, 1990), 927.

²¹W.J.S. Poerwadarminta, *Kamus Umum Bahasa Indonesia* (Jakarta: Balai Pustaka, 1986), 170.

²²AS Hornby, *Oxford Advanced Learner's Dictionary* sebagaimana dikutip dari Abdul R.

Budiono, *Hukum Perburuhan*, (Jakarta: PT. Indeks, 2009), 9.

²³Abdul R. Budiono, *Hukum Perburuhan* (Jakarta: PT. Indeks, 2009), 9.

²⁴Agusfian Wahab, *Dasar-Dasar Hukum Perburuhan* (Jakarta: PT. RajaGrafindo Persada, 2012), 40.

²⁵Pasal 1 angka 9 Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum. Pekerja/Buruh adalah setiap orang yang bekerja dengan menerima upah atau imbalan dalam bentuk lain.

²⁶Pasal 1 angka 10 Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

- a) Individual, partnership, or legal entity that runs a private enterprise;
- b) Individual, partnership, or legal entity that operates independently of company not owned by them;
- c) Individual, partnership, or legal entity located in Indonesia representing companies as referred to in points a and b that are located outside the territory of Indonesia.

3. Company

Company is:²⁷

- a) The form of business that is legal or not, individual owned, a partnership, or a legal entity, whether privately owned or State owned that employ worker/labour by paying wages or returns in any other form;
- b) Social efforts and other businesses that have the organizer and employ other people by paying wages or other forms of compensation.

4. Wage

a) Introduction

Wage from the perspective of worker is a right which is seen from the amount, whereas from the perspective of the employer is generally associated with productivity. This up to now still becomes a problem and is difficult to solve. The problem comes from the desire to earn a high wage, while productivity is still low

²⁷Pasal 1 angka 11 Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

because education level and skill level are inadequate. When viewed from the interests of each party it becomes a problem to the government as part of the Tripartite to resolve it, which is to intervene in order to harmonize existing industrial relations.²⁸

b) Understanding Wage

Wage is the right of worker/labour which is received and expressed in money as return from employer to the worker/labour which is set and paid in accordance with a work agreement, agreement, or statutory law, including allowance for worker/labour and his family on a job and/or service that has done or will be done.²⁹

Based on the understanding above it is clear that the wage is actually paid based on agreement of the parties, but to keep in order to the wages that are too low, then the government plays a rule establishing the lowest wage standard through the regulations. This is commonly referred to as the minimum wage.

The right to receive wages arises at the time of the employment relationship and ends at the time of employment busted. In setting wages employer should not discriminate between men and women labours for the same work value.³⁰

²⁸Widodo Suryandono, *Asas-Asas Hukum Perburuhan* (Jakarta: PT. RajaGrafindo Persada, 2014), 99.

²⁹Pasal 1 angka 30 Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

³⁰Lalu Husni, *Pengantar Hukum Ketenagakerjaan Indonesia* (Jakarta: PT RajaGrafindo Persada, 2005), 144-145.

If viewed from the point of wage value the wages are distinguished into two: nominal wages, which is a sum of money. And the real wages, that is, the amount of goods that can be bought for that amount of money.³¹

Wages are one of the means used by workers to improve their welfare.³² Under the provisions of Article 1 Point 31 of Law No.13/2003 concerning Employment it is mentioned that the welfare of worker/labour is a fulfillment of physical and spiritual needs both within and outside the working relationship, directly or indirectly can enhance work productivity in a safe and healthy work environment.³³

c) Principles of Wages³⁴

- 1) The right to receive wages arises at the time of the employment relationship and terminates at the time of employment break. Employer should not discriminate on wages for men and women worker for the same type of work.
- 2) Wage is not paid when worker or labour do not work (no work no pay).

³¹Zainal Asikin, *Dasar-dasar Hukum Perburuhan* (Jakarta: PT Raja Grafindo Persada, 2002), 130.

³²Asri Wijayanti, *Post-Reform Labor Law* (Jakarta: Sinar Grafika, 2017), 107.

³³Pasal 1 angka 31 Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan. Kesejahteraan buruh adalah suatu pemenuhan kebutuhan dan/atau keperluan yang bersifat jasmaniah dan rohaniah, baik di dalam maupun di luar hubungan kerja, yang secara langsung atau tidak langsung dapat mempertinggi peroduktivitas kerja dalam lingkungan kerja yang aman dan sehat.

³⁴Eko Wahyudi, dkk, *Hukum Ketenagakerjaan* (Jakarta: Sinar Grafika, 2016), 55.

- 3) The wage component composed are basic wages and fixed allowance, with formulation of basic wage, minimal 75% of the total wage and fixed allowance.
- 4) Claims for payment of wage and any payments that arise from work relationship are expired after a period of 2 (two) years from inception.

d) Type of Wage

Juridically there is no clear understanding of the type of wages, but if we look at some wage provisions, wage types can be grouped as follows.

1) Work Agreement Status³⁵

A. Fixed Wage

Fixed wage is wage paid by employer to worker or labour regularly (salary). This salary is not affected by anything, both by work overtime or other factors.

B. Non-fixed Wage

Non-fixed wage is a wage paid by employer to worker irregularly. This not-fixed wage is influenced by the nominal of the wages of overtime work or other factors performed by worker or labour. The more work overtime or the other factors being done, then the bigger the wage which worker or labor receives.

³⁵Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 125-126.

C. Daily Wage

Daily wage is wage paid by employer to worker or labour on a daily basis or on a level of attendance. This wage applies to the previous day's worker.

D. Wholesale Wage

Wholesale wage is wage paid by the employer to the worker or labour based on the volume of unit of work.

Payment method of wage juridically must be arranged in employment agreement, corporate regulation or collective labour agreement. From these arrangement it is known how the payment and payment place.³⁶

2) By Payment Time³⁷

A. Monthly wage

Monthly wage is wage paid by employer to worker or labour every month. Usually at the end of the month or the beginning of the month. So wage is paid once a month.

B. Weekly wage

Weekly wage is wage paid by employer to labour depend on mutual agreement.

3) According to Payment Place³⁸

A. At the office, generally agreed automatically by the parties in the employment agreement.

³⁶Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 126.

³⁷Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 126.

³⁸Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 127.

B. At the work location or other places which agreed, based on practical consideration or simplicity because the work place is not in one place.

4) Territory Coverage³⁹

A. Province Minimum Wage

Province minimum wage is the minimum wage applicable to all districts or cities in one province..

B. Minimum Wage of District or City

Minimum wage of district or city is the minimum wage applicable in the district or city.

5) Business Sector⁴⁰

A. Provincial Sectoral Minimum Wage

Provincial sectoral minimum wage is the minimum wage applicable sectorally in all districts or cities in a province.

B. The Minimum Wage of District or City Sectoral

The Minimum Wage of District or City Sectoral is the minimum wage applicable sectorally in the district or city.

Example: The Minimum Wage of District or City Sectoral of timber and forestry, oil and natural gas, and others.

e) Component of Wage

Component of Wage consists of basic wage and fixed allowance. The amount of minimum basic wage is 75% of basic

³⁹Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 127.

⁴⁰Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 127.

wage and fixed allowance.⁴¹ Often the employer decides that the amount of basic wage and allowance are equal to the minimum wage, while the allowance there is non-permanent so that if counted the wage receipt is still under the minimum wage.⁴²

In the Circular Letter of the Minister of Employment No.07/MEN/1990 about the Grouping of Wage and Non-Wage Income Components mentioned below.

a) Including the wage components are:

- 1) Basic wage, is basic wage paid to labour according to the level or type of employment that is determined by the employment agreement;
- 2) Permanent allowance, a regular payment in relation to regular work for the worker and his family which is paid together with basic wage such as child allowance, health allowance, housing allowance, office allowance, eligibility allowance, side dish allowance;
- 3) Non-Permanent allowance, a payment that is directly or indirectly related to the worker and his family and is paid not together to the payment of basic wage.

b) Not including the wage components are:

- 1) Enjoyment facility in real because of special things or to improve the welfare of worker, such as transport vehicle

⁴¹Pasal 94 Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

⁴²Widodo Suryandono, *Asas-Asas Hukum Perburuhan...*, h. 104.

facilities, free meals, worship facilities, baby care, cooperative and the like.

- 2) The bonus, payment which is received by the labour from the profit of the company or because of the achievement of labour exceeds normal production targets or increased the productivity.
- 3) Allowance of Feast Day (Tunjangan Hari Raya (THR)) and other profit sharing.

f) Payment System at Enterprise Level

There are several factors that influence the level of remuneration in the company:⁴³

- 1) Education and training
- 2) Labour market condition
- 3) The proportion of wage cost and other cost
- 4) Use of technology
- 5) Company ability
- 6) The capability of worker organization
- 7) The policy and intervention of government in harmonization of industrial relation.

g) Protection of Wage

Wages has an important role and characterize a relationship called work relations, even wages can be the primary purpose of a

⁴³Widodo Suryandono, *Asas-Asas Hukum Perburuhan...*, h. 102-103.

worker to work on another person or legal entity. That is why the government is involved in handling these wage issue through various policies written in the legislation.⁴⁴

The government gives full attention to wage. Based on the provision of Article 88 of Law No.13/2003, that every worker/labour has right to get income that fulfill a decent live for humanity as referred to in paragraph (1), the government establishes a wage policy that protect worker/labour.

The wage policy that protects worker/labour is regulated on the provision of Article 88 paragraph (3) of Law No.13/2003, which consists:

- a. Minimum wage;
- b. Wage for overtime work;
- c. Wage for not entering work because of absence;
- d. Wages for not entering work because of doing other activity outside of work;
- e. Wage for exercising the right of resting time;
- f. Form and method of payment of wage;
- g. Things that can be calculated with wage;
- h. Proportional wage structure and scale;
- i. Wage for severance pay;
- j. Wage for calculation of income tax.

⁴⁴Lalu Husni, *Pengantar Hukum Ketenagakerjaan...*, h. 142.

Wage and other rights of worker/labour are the debt that must be paid in advance, which is to be paid in advance of other debt or in other word, the worker as a creditor of his wage is a special creditor.⁴⁵

h) Minimum Wage

The most fundamental principle of minimum wage policy is in an effort to realize a decent income for worker or labour, and consider the enhancement of labour welfare without neglecting the enhancement of productivity and progress of the company and the general economic development. More specifically, the minimum wage policy is intended as a protection for new worker/labour who is low educated, has no experience, has work period under 1 year and is single or unmarried. The purpose is to prevent of employer in paying wage to new worker or labour.⁴⁶

The minimum wage is directed to the achievement of a decent life, that is every minimum wage setting should be adjusted to the stage of achieving the minimum wage comparison with the decent life which the amount is set by Minister. The achievement of a decent life need is determined by the ability level of the business world.⁴⁷

⁴⁵Hardijan Rusli, *Hukum Ketenagakerjaan* (Bogor: Ghalia Indonesia, 2011), 89.

⁴⁶Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 129.

⁴⁷Hardijan Rusli, *Hukum Ketenagakerjaan...*, h. 91.

Minimum wage consist of:⁴⁸

- 1) Minimum wage based on provincial region or district or city;
- 2) Minimum wage based on sector in province or district or city.

Employer arranges structure and scale of wage with attention the category, occupation, period of work, education, and competence. Formulation of structure and scale of wage is purposed as a wage determination guide so that there is wage certainty of each worker and to reduce the gap between the lowest and highest wage in the company.

Employer should review wage periodically and observe the company's ability and productivity, for adjusting the price of life, work performance, development, and company capability.⁴⁹

Technically, the legal basis of setting a minimum wage is the Regulation of the Minister of Employment No.15/2018 about Minimum Wage.

Based on Article 1 point 1 of the Regulation of the Minister of Employment No.15/2018 about Minimum Wage that is defined as the Minimum Wage is the lowest monthly wage in the form of wage without any allowance or basic wage, including fixed allowance which is set by the governor as a safety net.

Minimum wage is only applicable to worker/labour with work period under 1 year in the Company concerned.⁵⁰

⁴⁸Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

⁴⁹Hardijan Rusli, *Hukum Ketenagakerjaan...*, h. 93-94.

Worker/labour with work period 1 year or more must be over of minimum wage.⁵¹

Minimum Wage is paid monthly to worker/labour.⁵² Based on an agreement between the labour and the employer, the minimum wage can be paid on a daily or weekly with the minimum wage requirement based on monthly wage.⁵³

Article 94 of Law No.13/2003 about Employment regulates that the amount of basic wage is at least 75% of the total wage and fixed allowance. Fixed allowance is payment to labour which is given regularly and not associated with the attendance of labour or work achievement. Therefore, the elements of fixed allowance are:⁵⁴

- 1) Payment from employer to workers;
- 2) Performed regularly;
- 3) Not associated with the presence of labour or the work achievement.

Concretely the process of determining the minimum wage of the city/district is a series of long processes and involve element of government, employer, and union labour. In the process, there are

⁵⁰Pasal 17 ayat (1) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

⁵¹Pasal 17 ayat (2) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

⁵²Pasal 18 ayat (1) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

⁵³Pasal 18 ayat (2) Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah Minimum.

⁵⁴Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 129.

frequent debates, *walk out*, *dead lock*, so throughout the year in wage setting it is always colored by massive rallies in various cities in Indonesia to demand the right wage determination as mandated by the constitution and legislation.

Many factors that cause the problem of determining wage policy can not be enforced in accordance with legislation, such as social and political conditions that are less supportive of the investment climate, governance more secure the employer than real need, and the welfare of worker/labour. Based on KHL survey result, which was conducted by wage council, employer is also closed to provide wage in accordance with the capability of the company, other obstacle, still not enough the ability of human resources, negotiable ability, data capability, and more important the lack of unity of the organizer of labour union.⁵⁵

Wage is the benefit received by the worker/labour for services rendered in the process of producing of goods or services in the company. Therefore worker/labour and employer have a direct interest in the system and the condition of payment in each company. Worker/labour and their families depend on the wage which is received to fulfill the need of cloth, food, housing, and other needs. Therefore, worker/labour always expects greater wage to improve their standard of living. On the other hand, employer often see wage

⁵⁵ Adrian Sutedi, *Hukum Perburuhan* (Jakarta: Sinar Grafika, 2009), 145-146.

as part of cost, so the employer is usually very careful in improve the wage.

Government is also interested in establishing the wage policy, on the one hand it can guarantee a decent standard of living for worker and their families, increase productivity, and increase public purchasing power. On the other hand, wage policy should be able to stimulate investment to encourage economic growth and job opportunity expansion, and able to withstand of inflation.

Workers or labour who have low income, will not fulfill their nutritional and health needs adequately. Worker/labour with less protein will suffer lethargic blood and can not work optimally. Therefore, wage/labour wage should be feasible and continuously improved in order to improve the quality of life of themselves and their families. The increase of wage labour will increase the purchasing power of the general public, which will then stimulate the business world and encourage of economic growth.

On the other hand, wage increases that are not followed by the increase in productivity of worker/labour will raises difficulties for employer. Increased the productivity should not only compensate for the increase in wages, but must also provide greater opportunity for company to grow. Therefore the payment system on the one hand

should reflect justice by rewarding the service rendered and encourage the welfare of the worker/labour and their families.⁵⁶

5. *Maqashid Syari'ah*

a) Understanding of *Maqashid Syari'ah*

In the language, *maqashid syari'ah* consists of two words that is, *maqashid* and *shari'ah*. *Maqashid* is a plurality of *maqshid* which means discrepancy or purpose, *shari'ah* means the way to the water source. The way to this water source can also be said as way to the main source of life.⁵⁷ According to Asy-Syatibi, *maqashid syari'ah* is the purpose of shari'ah which is more observed with public interest.⁵⁸

Maqashid syari'ah can also be interpreted with the purpose of the sending down of the shari'a to a Muslim. All human obligation derived from the *shari'ah* which is revealed by Allah SWT in order to realize the benefit of man itself. There is no one *shari'ah* of Allah which revealed to man which has no purpose. *Shari'ah* that has no purpose is the same as imposing something that can not be implemented.⁵⁹

⁵⁶Adrian Sutedi, *Hukum Perburuhan...*, h. 146-147.

⁵⁷Totok, *Kamus Ushul Fiqh* (Jakarta: Dana Bakti Wakaf, 2005), 97.

⁵⁸Sahal Mahfudh, *Nuansa Fiqih Sosial* (Yogyakarta: LKIS, 1994), 22.

⁵⁹Al-Syatibi, *al-Mufaqqat fi Ushul al-Syari'ah* (Kairo: Mustafa, t.th.), 150.

b) Essence of *Maqashid Syari'ah*

Based on the explanations in the previous discussion, it can be understood that the purpose of Allah SWT to emphasize His law is to maintain the benefit of human it is also to avoid mafsadat, both in the world and hereafter. The purpose can be achieved by *taklif*, whose the implementation depends on the understanding of the Qur'an and the hadith. In order to realize the benefits of humanity in the world and hereafter based on the research of ushul fiqh experts, there are five essential elements that must be maintained and realized; religion, soul, mind, generation, and treasure. People will get the benefits while maintaining the five aspects. On the contrary, it will get the mafsadat when he can not keep it well.⁶⁰

Imam Asy-Syatibi has a view that the purpose of *maqashid shari'ah* is to maintain and defend for the three categories of law: *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*.⁶¹ This grouping is based on the need and priority scale. The ordinal of this level will be seen the interest, when the benefits at each level of the level are contradictory. In this case, the rank of *dharuriyyat* occupies the first level, then the rank of *hajiyyat*, next the rank of *tahsiniyyat*. However, on the other hand, it can be seen that the third rank and second rank complements the rank of the first.

⁶⁰Suyatno, *Dasar-Dasar Ilmu Fiqh dan Ushul Fiqh*, (Jogjakarta: Ar-Ruzz Media, 2011), 159.

⁶¹A. Djazuli, *Fiqh Siyasah* (Bandung: Prenada Media, 2003), 397.

Maintaining the group of *dharuriyyat* is maintaining the primary needs in human life. The primary need is maintaining the religion, soul, mind, generation, and treasure within the boundaries not to threaten the existence of the five basic needs. Not maintained of the needs will threaten the existence of five principle. Different from the group of *dharuriyyat*, the need in the group of *hajiyyat* is not included in special need, no need that can prevent the people from their life's difficulty. Unprotecting this group of needs will not threaten the existence of the five points above, but will only create a difficulty for person. This group is closely related to *rukhsah* or relief in fiqh science. While, the need in the group of *tahsiniyyat* is the need to support the promotion of the person in society and in front of God Almighty.⁶²

In reality, both groups *dharuriyyat*, *hajiyyat*, and *tahsiniyyat* is intended to preserve and create five points above. It's just that the rating is different from each other. The need in the first group can be said as a primary need, which if the five principles are neglected, will result in the threatening of the fifth existence of the principal. The need in the second group can be said as a secondary need. This means that if the five points in this group are neglected then it will not diminish the existence, but will narrow and complicate of human life. Whereas, the need of the third group is to

⁶²Suyatno, *Dasar-Dasar Ilmu Fiqh...*, h. 163-164.

keep the etiquette in accordance with propriety, and not to narrow, even less to threaten the five principals. Therefore, it can be said that the need in the third group is more complementary.⁶³

c) Classification of *Maqashid Syari'ah*

1) Maintaining Religion (*Hifdzud Din*)

Maintaining religion is a main purpose of Islamic law, because religion is a guidance to human life. The religion contains the elements of faith for every Muslim. In addition, there is element of *shari'ah* that is a way of life of a Muslim in relation to his God, and with fellow human beings⁶⁴

2) Maintaining Soul (*Hifdzun Nafs*)

Allah SWT instructs to realize and preserve human race by marriage and to continue the offspring. Therefore, Islam requires to eat, drink, wearing clothes and others in order to ensure of human life.

3) Maintaining Mind (*Hidzul Aql*)

Allah SWT forbids everything that can damage or weaken the mind. Allah SWT instructs to keep it and suggests to abuse of mind to get knowledge. Mind preservation is very important because with human reason person can think about

⁶³Suyatno, *Dasar-Dasar Ilmu Fiqh...*, h. 164.

⁶⁴Duhriah, *Tingkatan-Tingkatan Maqashid al-Syari'ah* sebagaimana dikutip dari Rahma Vihana Enggardini, *Kesejahteraan Karyawan Perspektif Maqashid Syari'ah Pada Pusat Penelitian Kopi dan Kakao*, (Surabaya: Jurusan Ekonomi Syariah, Fakultas Ekonomi dan Bisnis UNAIR, 2016), 604.

Allah SWT, the universe and himself. The thing that Muslims need to do in educating their minds is through education.

4) Maintaining Generation (*Hifdzun Nasl*)

Maintaining Generation is the kind of humanity and to grow affection and to mutual interaction between humans. Parents are required to impose believe, worship and moral to their children.⁶⁵

5) Maintaining Treasure (*Hidzul Maal*)

Maintain treasure can be done by anticipation of deeds, which violate rules like stealing, gambling, bribery, and so on.⁶⁶

Property is one of the core needs of life, where human can not be separated from that.⁶⁷

المَالُ وَالْبَنُونَ زِينَةُ الْحَيَاةِ الدُّنْيَا

*Property and children are the jewelry of world life.*⁶⁸

Human is motivated to look for treasure to maintain their existence and to increase the enjoyment of matter and

⁶⁵Duhriah, *Tingkatan-Tingkatan Maqashid al-Syari'ah* sebagaimana dikutip dari Rahma Vihana Enggardini, *Kesejahteraan Karyawan Perspektif Maqashid Syari'ah Pada Pusat Penelitian Kopi dan Kakao*, (Surabaya: Jurusan Ekonomi Syariah, Fakultas Ekonomi dan Bisnis UNAIR , 2016), 604-605.

⁶⁶Duhriah, *Tingkatan-Tingkatan Maqashid al-Syari'ah* sebagaimana dikutip dari Rahma Vihana Enggardini, *Kesejahteraan Karyawan Perspektif Maqashid Syari'ah Pada Pusat Penelitian Kopi dan Kakao*, (Surabaya: Jurusan Ekonomi Syariah, Fakultas Ekonomi dan Bisnis UNAIR , 2016), 605.

⁶⁷Ahmad Al-Mursi Husain Jauhar, *Maqashid Syariah* (Jakarta: AMZAH, 2009), 167.

⁶⁸QS. al-Kahfi (18): 46.

religion, he can not stand as a barrier between himself and treasure. However, all of these motivations are limited to three conditions, there are the property which is collected with the correct way, used for halal matters, and of this property must be given the right of God for the society in which he lives.

After that, he can enjoy the treasure as he likes, but without waste because waste for material enjoyment will result in the opposite that is body ache as a result of exaggeration. The way to create wealth is to work and to inherit, so human can not eat the treasure of other people in the wrong way.⁶⁹

⁶⁹ Ahmad Al-Mursi Husain Jauhar, *Maqashid Syariah...*, h. 167-168.

CHAPTER III

RESEARCH METHODS

Research method has a very important contribution in a research. Research method that is formulated correctly and detail will serve as guidelines that facilitate the course of the research process. Good research will give result a valuable theoretical learning and methodology. That is our contribution to science.⁷⁰ Therefore in this reserach, researcher used the following methods:

A. Type of Research

The type of this research is empirical research or *field research*. Field research studies intensively the background of the present situation and the interaction of a social, individual, group, institution, and society.⁷¹

This research is conducted by jumping into the field directly. This

⁷⁰Sulistyowati Irianto, *Metode Penelitian Hukum Konstelasi dan Refleksi* (Jakarta: Yayasan Pustaka Obor Indonesia, 2017), 314.

⁷¹Husaini Usman dkk, *Metode Penelitian Sosial* (Jakarta: PT. Bumi Aksara, 2006), 5.

research is descriptive one which describes precisely the characteristics of an individual, condition, symptom or certain group, or to determine the spread of a symptom, or to determine that there is a relationship between a symptom and other symptoms in the community.⁷²

B. Approach

The approach which was selected in this research is qualitative approach. It is called qualitative because the data was analyzed and was described in good and correct sentences, so that it is easy to read and understand.

The approach which was also used is sociological juridical approach. The sociological juridical approach is intended to identify and conceptualize law as a real and functional social institution in a real life system.⁷³ The sociological juridical approach is emphasized in research that aim to obtain legal knowledge empirically by jumping directly to the object, that is about labour payment of construction project at UD Bengkel Las Barakah Malang.

C. Research Locus

This research was conducted at UD Bengkel Las Barakah Malang. Determination of the location of this research was based on wage problem which was raised by the author in the thesis title and the problem was occurring in a construction service company that is UD Bengkel Las Barakah Malang.

⁷²Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT RajaGrafindo Persada, 2006), 215.

⁷³Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI- Press, 1986), 51.

D. Data Sources

The type of data in this research is non-numerical data which were obtained through recording, observation, interview and written material in the form of verbal expressions.

The type of data source is about where the data is obtained. The data obtained from direct source (primary data) or the data obtained from indirect source (secondary data).⁷⁴ The sources of data was used by the author are

- a. Primary data is data obtained by a researcher directly from the source without the intermediary of another party (directly from the object).⁷⁵ This primary was obtained from the result of interview of researcher with Fiky as Manager of UD Bengkel Las Barakah Malang. Then the researcher interviewed Mr. Didik, Mr. Saiful, Firja and Mr. Arif as labour of construction project UD Bengkel Las Barakah Malang.
- b. Secondary data is data obtained by researcher indirectly from the source (research object), but through other source such as books, journals, magazines, newspapers, documents, legislation, and so on.⁷⁶

In this case, the researcher took data through books, journals that discuss the wage and *maqashid shari'ah*, document and regulations.

⁷⁴Suteki dan Taufani, *Metodologi Penelitian Hukum...*, h. 213-214.

⁷⁵Suteki dan Taufani, *Metodologi Penelitian Hukum...*, h. 214.

⁷⁶Suteki dan Taufani, *Metodologi Penelitian Hukum...*, h. 215.

- c. Tertiary data is materials that provide instructions and explanations for primary legal materials and secondary legal materials, such as dictionary (law) and encyclopedia.⁷⁷

E. Data Collecting Technique

In the data collection technique, researcher obtained accurate data because it was done by collecting data sources in primary, secondary, and tertiary ways that are adapted to the research approach. Data collection methods was used by researcher are:

1. Interview

According to Estherberg interview is a meeting of two people to exchange information and ideas through question and answer, so that meaning can be constructed in a particular topic.⁷⁸

Interviews are ways to obtain information/data by asking directly to the interviewer. The interview is a means of *rechecking* or proving information or information obtained previously.⁷⁹

The interview conducted by the researcher is a *standardized interview*, that is an interview accompanied by a list of questions prepared in advance.⁸⁰ The researcher compiles a list of questions systematically and questions are centered on one particular issue, namely the wages.

⁷⁷ Amiruddin dan Asikin, *Pengantar Metode Penelitian Hukum...*, h. 32.

⁷⁸ Sugiyono, *Metode Penelitian Kuantitatif Kualitatif dan R & D* sebagaimana dikutip dari Suteki dan Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori dan Praktik)*, (Depok: Rajawali Pers, 2018), 226.

⁷⁹ Suteki dan Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori dan Praktik)* (Depok: Rajawali Pers, 2018), 226.

⁸⁰ Amiruddin dan Asikin, *Pengantar Metode Penelitian Hukum...*, h. 84.

The interview technique was used in this reserach was in-depth interviews. *Depth interview* is a process of obtaining information for research purposes by way of question and answer while face-to-face between interviewer and informant. In this case the researcher used the *guide (guide)* interview that has been prepared previously.⁸¹

The researcher interviewed Fiky as Manager of UD Bengkel Las Barakah Malang and several workers namely Mr. Didik, Mr. Saiful, Firja and Mr. Arif.

2. Observation

The method of observation is a method of collecting data by observing directly the object of research. Observation is one of the data collection techniques that not only measures the attitudes of respondents (interviews and questionnaires) but can also be used to record various phenomena that occur.⁸²

The researcher observed about the phenomena that occur in worker in the wage circle. Based on whether the wage is given and how the wage impacts the laborer's life.

3. Documentation

Documentation method is a collection of files or data that is the search for information that is true and real, and which is obtained from

⁸¹HB Sutopo, *Metode Penelitian Kualitatif* sebagaimana dikutip dari Suteki dan Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori dan Praktik)*, (Depok: Rajawali Pers, 2018), 226.

⁸²Suteki dan Taufani, *Metodologi Penelitian Hukum*..., h. 223-224.

the results of data collection of several books, transcripts, notes, magazines, and so on.⁸³

According to Sugiyono the document is a record of past events. Documents can be in the form of writing, pictures, or monumental works from someone. Documents in the form of writing, for example diaries and policy regulations. Documents in the form of images such as photos, live images, etc. Document study is a complement to the use of observation and interview methods in qualitative research⁸⁴

In this research, researcher looked at notes or documents regarding labour in UD Bengkel Las Barakah Malang and also documented when doing observation and interview.

F. Data Analysis Technique

After processing data, then the next step is analyzing of data. The data processing method used in this research is analytical descriptive, which is to express legislation relating to legal theories that are the object of research. Also the implementation of law in the community related to the object of research. The purpose of this descriptive is to include the content and structure of positive law that is an activity carried out by researcher to determine the content or meaning of legal rules that are used as a reference in resolving legal issues that are the object of study.⁸⁵

⁸³Suteki dan Taufani, *Metodologi Penelitian Hukum*..., h. 217.

⁸⁴Sugiyono, *Metode Penelitian Kuantitatif Kualitatif dan R & D* sebagaimana dikutip dari Suteki dan Galang Taufani, *Metodologi Penelitian Hukum (Filsafat, Teori dan Praktik)*, (Depok: Rajawali Pers, 2018), 217.

⁸⁵Zainuddin Ali, *Metodologi Penelitian Hukum* (Jakarta: Sinar Grafika, 2011), 105-107.

In this study researcher used processing methods that included examining editing, classifying, verifying, analyzing, and conclusion

1. Editing

Editing is the process of re-examining records, files, information collected by data seekers. Through editing, it is expected to be able to improve the quality of reliability of the data to be analyzed.⁸⁶ In this case the researcher checks/re-check the completeness and accuracy of the data obtained from the respondent i.e, manager and labours of UD Bengkel Las Barakah Malang.

2. Classifying

After researcher got the data from various sources then the data was classified. Classification was done to sort out important and unimportant data which is then adjusted to the research needs.

3. Verifying

Verification is checking/re-checking data that had been obtained by previous researcher. This verification was carried out so that the data obtained by the researcher proved valid.

4. Analysing

Data analysis is *first, the* activity of classifying/categorizing data based on themes that emerge from the field notes and research findings. *Second, the* activity of confirming between theory and data.

⁸⁶ Amiruddin dan Asikin, *Pengantar Metode Penelitian Hukum...*, h. 168-169.

Here there is a dialectic between theory and data.⁸⁷ In this case the researcher confirmed between the theory and the data obtained through the source

5. Conclusion

The final stage of the process is the other research conclusion. Conclusion is a brief summary of the answers to the problem statements that have been described previously. At the conclusion, the researcher described in the form of short, solid and clear sentences that make it easier for the reader to understand.

G. Data Validity Technique

Data validity technique in this reserach is the persistence of observation, triangulation and extension of research time. *First*, through persistence observation technique, the characteristic and element relevant to the subject matter of the research are obtained and then detailed and observed in depth. *Second*, through the triangulation technique carried out by methodological triangulation, the researcher used different informants to check the correctnes of the information.⁸⁸ In this case the researcher used several workers to interview so that through various views obtained results that were close to the truth.

Third, the extension of research time. Extension of observation means the writer returns to the field, makes observations, interviews again with data sources that have been encountered as well as new ones. With

⁸⁷Irianto, *Metode Penelitian Hukum...*, h. 310.

⁸⁸Suteki dan Taufani, *Metodologi Penelitian Hukun...*, h. 230.

the extension of observation the relationship of researcher and resource person is closer, trusting each other so that no information is hidden anymore.⁸⁹ In this case the researcher interviewed again the employer of UD. Bengkel Las Barakah Malang to explore data about the labour payment system. The researcher also carried out an extension of the observation of the phenomenon that occurred both for worker and employer.

⁸⁹Sugiono, *Metodologi Penelitian Kuantitatif Kualitatif dan R&D* (Bandung: Alfabeta, 2012), 226.



CHAPTER IV

RESEARCH RESULTS AND DISCUSSION

A. Description of Research Object

Description and condition of the location of the research is to show that there is a match between social reality and existing data. Description of the research profile UD Bengkel Las Barakah Malang located in Sempalwadak Village, Bululawang District, Malang Regency, it is important to explain.

UD Bengkel Las Barakah Malang was established in 1986 by Alm. H Bukhori. UD Bengkel Las Barakah Malang was run by Fiky Fauzi Rozikin and Zainul Arifin. UD Bengkel Las Barakah Malang was located

at Sempalwadak Street, RT.07 RW.02 No.35 Sempalwadak Village, Bululawang District, Malang Regency.

UD Bengkel Las Barakah Malang is a construction service company that works in the field of steel, including construction of steel building structures, steel, canopies, and others. The execution of the construction project was carried out inside and outside of UD Bengkel Las Barakah Malang. One construction project was carried out with a range of 7 (seven) to 120 (one hundred and twenty) calendar days.⁹⁰

UD Bengkel Las Barakah Malang has 16 workers from the age of 19 to 50 years with 8 hours working hours per day starting at 08.00 am-16.00 pm and 1 hour break every day which is 12.00 pm - 13.00 pm and overtime hours come out when the project time is less than two weeks.

The acquisition process of construction projects by UD Bengkel Las Barakah Malang was through subcontractor at big company, for example in Limited Liability Companies (PT) that win tenders through auctions. UD Bengkel Las Barakah Malang usually cooperated with several Limited Liability Companies (PT) such as PT. Rekayakti, PT Perkasa and others.⁹¹

⁹⁰Fiky, *interview* (Bululawang, 15 March 2019).

⁹¹Fiky, *interview* (Bululawang, 15 March 2019).

B. The Labour Payment System of Construction Project in the UD Bengkel Las Barakah Malang

This payment system is a policy of providing wages by employer to labour at UD Bengkel Las Barakah Malang. The payment system was used in this company is based on a unit of time, that is wage was gave per week by employer to labour. Employer provideed wages according to the quality of worker and the ability of the company.⁹²

In this research, researcher interviewed employer and several workers of UD Bengkel Las Barakah Malang.

- a) According to Fiky Fauzi Rozikin, Head of UD Bengkel Las Barakah Malang said:

("the wage that is given to labour is per week with a range of Rp. 55.000 to Rp. 150.000 per day with 6 working days in one week. The difference in wages among workers is because there are levels in the work that are Fither, Wellder and Helper. Then we also provided money for food, transportation money when doing work outside the company and overtime money and holiday allowance (THR))

*"upah yang diberikan kepada pekerja adalah per minggu dengan kisaran Rp. 55.000 s/d Rp. 150.000 per hari dengan 6 hari kerja dalam satu minggu. Perbedaan upah di antara pekerja dikarenakan ada bagian-bagian dalam pekerjaan yakni Fither, Wellder dan Helper. Kemudian kami juga memberikan uang makan, uang transporatasi pada saat melakukan pekerjaan di luar perusahaan dan uang lembur serta tunjangan hari raya (THR)."*⁹³

That is the opinion of Fiky as Head of UD Bengkel Las Barakah Malang. The difference in wages given by employer to worker is based on the quality of worker that is categorized at the levels of

⁹²Fiky, *interview* (Bululawang, 15 March 2019).

⁹³Fiky, *interview* (Bululawang, 15 March 2019).

workers in the company i.e *fither*, *wellder* and *helper*. *Fither* is the highest level of worker in the company. *Fither* can be called a foreman. Then *Wellder* is the second level of worker after *Fither*. *Wellder* can be called a handyman. Then the last one is *Helper*. *Helper* can be called a coolie.

The employer did not give wage to worker based on labor market conditions. However, the wage is given based on the ability of the company, the proportion of wage costs with other costs and the quality of labour.

Employer also provided food allowance to labour of Rp. 10.000 and transportation money of Rp. 10.000 when the labour works on the outside the company. Furthermore overtime pay as compensation must be given for additional work hours of Rp. 5.000 to Rp. 10.000 per hour. Then the holiday allowance (THR), which includes money, cloth, cakes and groceries.⁹⁴

b) According to Didik, the labour of UD Bengkel Las Barakah Malang said:

I get wage of Rp. 70,000 per day and was paid every Saturday. I worked at Benkel Las for over 2 (two) years with wage starting at Rp. 40.000, Rp. 45.000, Rp. 50.000 to Rp. 70.000. Then I get overtime pay of Rp. 5,000 per hour and erratic overtime payment in one week. If Sunday I entered the wage given is 1.5 or 1 full day's wage plus 1/2 day which is Rp. 70.000 + Rp. 35.000 = 105.000. When I worked on outside the company. I got money for food Rp. 10.000 and transportation money Rp. 10.000 or more, depending on distance. There is no allowance for

⁹⁴Fiky, interview (Bululawang, 15 March 2019).

worker but there is a holiday allowance (THR) consisting of money with Rp. 750.000, clothes, rice and cakes.

("Saya mendapatkan upah Rp. 70.000 per harinya dan dibayarkan setiap hari sabtu. Saya sudah bekerja di Benkel Las 2 (dua) tahun lebih dengan upah mulai Rp. 40.000, Rp. 45.000, Rp. 50.000 hingga Rp. 70.000. Kemudian saya mendapatkan upah lembur Rp. 5.000 per jam dan lembur tidak menentu dalam satu minggu. Jika hari minggu masuk upah yang diberikan adalah 1,5 atau upah 1 hari penuh ditambah 1/2 hari yakni Rp. 70.000 + Rp. 35.000 = 105.000. Ketika mengerjakan proyek di luar Bengkel mendapat uang makan Rp. 10.000 dan uang transportasi Rp. 10.000 atau lebih, tergantung jarak tempuh. Tidak ada tunjangan untuk pekerja tapi ada Tunjangan Hari Raya (THR) yang terdiri dari uang senilai Rp. 750.000, baju, beras, dan kue.)"⁹⁵

Mr. Didik is one of the workers with category of welder at UD Bengkel Las Barakah Malang. Before working at Las Barakah Mr. Didik had experience in construction for 11 (eleven) years while working in another company. The expertise possessed by Mr Didik includes welding seeds, measuring iron to be cut, making iron fences, canopies and others. While he worked at the Bengkel Las Barakah Malang, there was no training provided from the company, but he learn from the experience he had.

c) According to Saiful, the labour of UD Las Barakah Malang said:

"I have been working at the UD Bengkel Las Barakah Malang for 16 years and the current salary I received is Rp. 125.000 per day and was paid every Saturday. Then overtime payment Rp. 10.000/hour. When I worked on the outside of Bengkel Las Barakah Malang, got money for food Rp. 10.000 and transportation money Rp. 10.000 or more, depending on distance. There is no benefit for labour but there is a holiday allowance (THR) consisting of Rp. 750.000, clothes, rice and cakes. Sometimes I also got a bonus from the company."

⁹⁵Didik, interview (Bululawang, 13 March 2019).

(“Saya sudah bekerja di Bengkel Las Barakah selama 16 tahun dan upah yang saya terima saat ini Rp. 125.000 per hari dan dibayarkan setiap hari sabtu. Lalu uang lembur Rp. 10.000/jam. Ketika mengerjakan proyek di luar Bengkel Las Barakah mendapat uang makan Rp. 1.0.000 dan uang transportasi Rp. 10.000 atau lebih, tergantung jarak tempuh. Tidak ada tunjangan untuk pekerja tapi ada Tunjangan Hari Raya (THR) yang terdiri dari uang senilai Rp. 750.000, baju, beras, dan kue. Terkadang saya juga mendapatkan bonus dari hasil Bengkel Las Barakah.”)⁹⁶

Mr. Saiful is one of the labour with category of welder at UD Bengkel Las Barakah Malang. Mr. Saiful had experience in construction since 1995 and has been working in other companies. Mr. Saiful controls all expertise in the construction field. At present Mr. Saiful has a duty as a designer of construction buildings at UD Bengkel Las Barakah Malang.

d) According to Firja, the labour of UD Bengkel Las Barakah Malang said:

"I got wage of Rp. 55.000 per day and was paid every Saturday. I worked at Benkel Las for more than 1 (one) year with an initial wage of Rp. 50.000 and now Rp. 55.000. Then I got overtime payment of Rp. 5.000 per hour and erratic overtime in one week. If Sunday I entered the wage given is 1.5, which is Rp. 55.000 + Rp. 27.500 = Rp. 82.500. When I worked on the outside of company, money for food Rp. 10.000 and transportation money Rp. 10.000 or more, depending on distance. There is no allowance for labour but there is a holiday allowance (THR) which added to the weekly wage and given when approaching holidays and getting clothes, basic necessities and cakes.

(“Saya mendapatkan upah Rp. 55.000 per harinya dan dibayarkan setiap hari sabtu. Saya sudah bekerja di Benkel Las selama 1 (satu) tahun lebih dengan upah awal Rp. 50.000, dan sekarang Rp. 55.000. Kemudian saya mendapatkan upah

⁹⁶Saiful, interview (Bululawang, 15 March 2019).

lembur Rp. 5.000 per jam dan lembur tidak menentu dalam satu minggu. Jika hari minggu masuk upah yang diberikan adalah 1,5 yakni Rp. 55.000 + Rp. 27.500 = Rp. 82.500. Ketika mengerjakan proyek di luar Bengkel mendapat uang makan Rp. 10.000 dan uang transportasi Rp. 10.000 atau lebih, tergantung jarak tempuh. Tidak ada tunjangan untuk pekerja tapi ada Tunjangan Hari Raya (THR) yang ditambahkan ke upah mingguan dan diberikan ketika mendekati hari raya dan mendapatkan baju, sembako dan kue.)⁹⁷

Firja is one of the workers with category of helper at UD Begkel Las Barakah Malang. Firja previously did not have the ability in the field of construction and studied while working at UD Bengkel Las Barakah Malang. Firja's job is to help the welder in completing the task such as painting. While worked at the UD Bengkel Las Barakah Malang, there is no training provided from the company but Firja studied when working there.

e) According to Arif, the labour at UD Bengkel Las Barakah Malang said:

"I got wage of Rp. 100.000 per day and was paid every Saturday. I have been working at UD Bengkel Las Barakah Malang for 10 (ten) years with wages starting at Rp. 24.000 to date Rp. 100.000. Then I got overtime payment of Rp. 10,000 per hour and erratic overtime in one week. When I worked on the outside of company, got meal money Rp. 10.000 and transportation money Rp. 10.000 or more, depending on distance. There is no allowance for worker but there is a holiday allowance (THR) consisting of money, clothes, rice and cakes

("Saya mendapatkan upah Rp. 100.000 per harinya dan dibayarkan setiap hari sabtu. Saya sudah bekerja di Benkel Las selama 10 (sepuluh) tahun dengan upah mulai Rp. 24.000 hingga saat ini Rp. 100.000. Kemudian saya mendapatkan upah lembur Rp. 10.000 per jam dan lembur tidak menentu dalam satu minggu. Ketika mengerjakan proyek di luar

⁹⁷Firja, interview (Bululawang, 17 March 2019).

Bengkel mendapat uang makan RP. 10.000 dan uang transportasi Rp. 10.000 atau lebih, tergantung jarak tempuh. Tidak ada tunjangan untuk pekerja tapi ada Tunjangan Hari Raya (THR) yang terdiri dari uang, baju, beras, dan kue.)⁹⁸

Mr. Arif is one of the workers with category of welder at UD Begkel Las Barakah Malang. The ability of Mr. Arif in the field of construction was obtained through learning and work experience for 10 (ten) years at UD Las Barakah Workshop Malang. The expertise of Mr Arif is welding, building warehouses, canopies and also drawing building structures. While he worked at UD Bengkel Las Barakah Malang there is no training provided from the company, but Mr. Arif learned from his experience.

⁹⁸Arif, *interview* (Bululawang, 17 March 2019).

Table 3**The Labours Data of UD Bengkel Las Barakah Malang⁹⁹**

NO	NAME	ADDRESS
1	Junet	Sempalwadak
2	Didik	Sempalwadak
3	Andik	Sempalwadak
4	Rio	Sempalwadak
5	Saiful	Tambakasri
6	Arif	Sempalwadak
7	Aris	Tambakasri
8	Siaful Arifin	Bululawang
9	Wahyu	Krebet
10	Wari	Tlogowaru
11	Asari	Tlogowaru
12	Jono	Tlogowaru
13	Yudi	Kendalpayak
14	Firza	Sempalwadak
15	Parno	Tlogowaru
16	Jemi	Kasembon

⁹⁹Fiky, *interview* (Bululawang, 15 March 2019).

C. The Labour Payment of Construction Project Under Perspective of Regulation of the Minister of Employment No.15/2018 Concerning Minimum Wage in the UD. Bengkel Las Barakah Malang

The issue of wage is something which never stops to discuss. Wage is the rights of worker/labour as a form of compensation for having done work and wage must be able to fulfill the needs of himself and his family. On the other hand, employer is required to provide wage in accordance with the Minimum Wage which continues to increase every year but sometimes employer can not pay the wage appropriate with the applicable minimum wage because of the limited ability of the company and the quality/skill of labour that inadequate. This is a problem for both who have needs.

Below is the data increase of the Minimum Wage of Malang Regency in 2015-2019:

- a) 2015 : Rp. 1.962.000¹⁰⁰
- b) 2016 : Rp. 2.188.000¹⁰¹
- c) 2017 : Rp. 2.368.510¹⁰²
- d) 2018 : Rp. 2.574.807¹⁰³
- e) 2019 : Rp. 2.781.564.24¹⁰⁴

¹⁰⁰Peraturan Gubernur Jawa Timur Nomor 72 Tahun 2014 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2015.

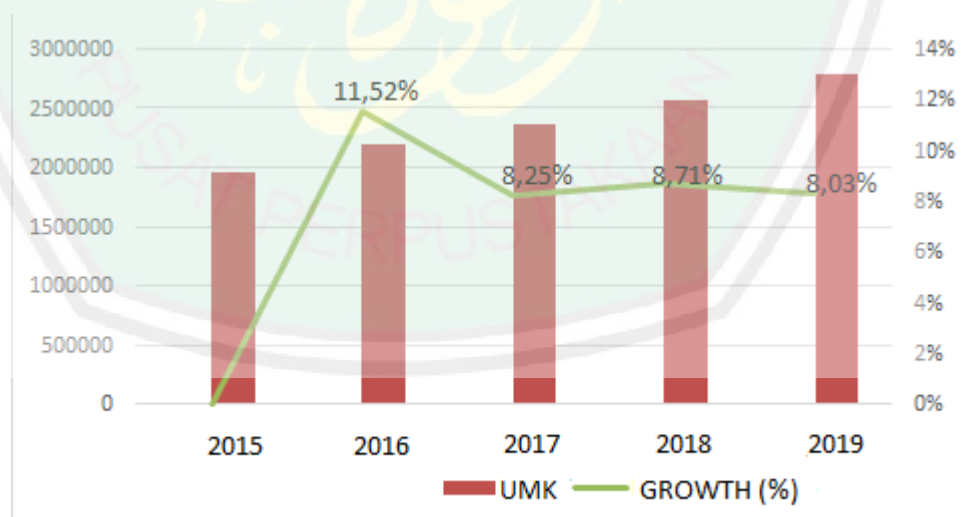
¹⁰¹Peraturan Gubernur Jawa Timur Nomor 68 Tahun 2015 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2016.

¹⁰²Peraturan Gubernur Jawa Timur Nomor 121 Tahun 2016 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2017.

¹⁰³Peraturan Gubernur Jawa Timur Nomor 75 Tahun 2017 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2018.

Based on the data above it shows that the nominal of the minimum wage of Malang Regency has increased from 2015 to 2019. The minimum wage in 2015 amount of Rp. 1.962.000, then in 2016 amount of Rp.2.188.000, an increase of 11.52%, then in 2017 amount of Rp.2.368.510, an increase of 8.25% from 2016. In 2018 amount of Rp.2.574.807, an increase of 8.71% from 2017. Finally, in 2019 amount of Rp. 2.781.564.24, an increase of 8.5% from 2018.¹⁰⁵ So, it can be concluded that in the last 5 (five) years the Malang Regency has experienced an increase in Minimum Wage.

Based on the data of the increase of the Minimum Wage of Malang Regency above the researcher makes a graph of the increase of wage. The following is the graph:



¹⁰⁴ Keputusan Gubernur Jawa Timur Nomor 188/665/KPTS/ O13/2018 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2019.

¹⁰⁵ <https://www.biaya.net/2015/11/tabel-umk-jawa-timur-2016.html>. Accessed on 25 March, 2019.

The principle of determining of minimum wages is an effort to realize decent income for worker/labour, by considering the improvement of labours' welfare without forgetting the increase of productivity and progress of the company and the economy in general.¹⁰⁶ So there must be a balance between both employer and labour.

In this section, researcher analyzed wage practice which is carried out at UD Bengkel Las Barakah Malang with Articles contained in Regulation of the Minister of Employment No.15/2018 concerning Minimum Wage.

The wage system is implemented at UD Bengkel Las Barakah Malang, the wage was provided per week. Wage was calculated per day and was paid every Saturday. The nominal wage which is paid by UD Bengkel Las Barakah Malang ranges from Rp. 55.000 to 150.000 per day.¹⁰⁷ Based on the wage system which is carried out by the company included in the category of wage according to the time the payment is weekly wage. Weekly wage is wage which is paid by employer to worker/labour every week.¹⁰⁸

The wage component provided by UD Bengkel Las Barakah Malang consists of basic wages are different based on the classification of worker or labour, meal money of Rp. 10.000, transport money of Rp. 10.000 or depending on the distance given when worked on the outside of company, overtime pay of Rp. 5.000 to Rp. 10.000 per hour, then THR

¹⁰⁶Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 129.

¹⁰⁷Fiky, *wawancara* (Bululawang, 15 Maret 2019).

¹⁰⁸Eko Wahyudi, dkk, *Hukum Ketenagakerjaan...*, h. 126.

consisting of money, clothes, cakes, and basic necessities.¹⁰⁹ If viewed based on the Circular Letter of Minister of Employment Number 07/MEN/1990 concerning Grouping of Wage Components and Non-Wage Income in the UD Bengkel Las Barakah Malang in terms of wages, the wage component comprises basic wage which is basic benefits paid to labour according to level or type of work that the amount which is determined by agreement. There are no fixed and non-permanent allowance. Then the non-wage income is THR and the bonus is from the company's profit.¹¹⁰

Based on interview conducted with 4 (four) workers; Mr. Didik, Mr. Saiful, Firja and Mr Arif, UD Bengkel Las Barakah Malang gave wage to the four workers with a different nominal. Mr. Didik has amount of Rp. 70.000/day, Mr. Saiful has amount of Rp 125.000/day, Firja has amount of Rp. 55.000 and Mr. Arif has amount of Rp.100.000. If multiplied in one month Mr. Didik got Rp. 1.680.000, Mr. Saiful got Rp. 3.000.000, Firja got Rp.1.320.000, and Mr. Arif got Rp. 2.400.000. The salary obtained by Mr. Didik, Firja and Mr Arif is under the Minimum Wage of Malang Regency in 2019 which is Rp. 2.781.564.24.¹¹¹ Providing wages under the minimum basically contrary to the labor law, employer is prohibited from paying wages under the minimum wage.¹¹²

¹⁰⁹Fiky, *interview* (Bululawang, March 15 2019).

¹¹⁰Surat Edaran Menteri Tenaga Kerja Nomor 07/MEN/1990 tentang Pengelompokan Kompoen Upah dan Pendapatan Non Upah.

¹¹¹Keputusan Gubernur Jawa Timur Nomor 188/665/KPTS/ O13/2018 tentang Upah Minimum Kabupaten/Kota di Jawa Timur Tahun 2019.

¹¹²Pasal 90 ayat (1) Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

The work period of the 4 (four) workers as follows Mr. Didik has worked for more than 2 (two) years, Mr. Saiful has work for periods of 16 (sixteen years), Firja has worked for more than 1 (one) year and Mr. Arif has worked for 10 (ten) years.¹¹³ When viewed from Mr Didik's, Firja and Mr. Arif who has work period more than 1 (one) year, the wages should be above the Minimum Wage of Rp. 2.781.564.24. This is based on Article 17 paragraph (2) of the Regulation of the Minister of Employment No.15/2018 concerning Minimum Wage that "the wage of worker/labour with a work period of 1 (one) year or more must be above the Minimum Wage." Then the work period of Mr. Saiful is 16 (sixteen) years with a wage of Rp. 3,000,000 is in accordance with Article 17 paragraph (2) Regulation of the Minister of Employment No.15/2018 concerning Minimum Wage

Employer who provided wage to labour has a calculation formula consisting of several components. The formula is:¹¹⁴

1. Material + Worker Cost + Profit = 70%
2. Operational Cost = 30%

The formula of calculating wage above included in one of the factors that influence of payment at the company level, that is proportion of wage costs with other cost.¹¹⁵ Proportion of wage cost with other cost consists of material, profit and operational cost.

¹¹³Didik, Saiful, Firja, dan Arif, *interview* (Bululawang, 13-17 March 2019).

¹¹⁴Fiky, *interview* (Bululawang, 15 March 2019).

¹¹⁵Widodo Suryandono, *Asas-Asas Hukum Perburuhan...*, h. 102-103.

When the company gets profit or loss, the wage given to the workers remain stable. If the wage exceeds the specified limit, the company will loss. Because there are several factors that influence the construction of a building or construction project, there are the incident in the field that cannot be predicted such as rain, the price of materials in the market is greater than expected as the price of iron rises suddenly and the volume of buildings swells for example 50m² to 100m².¹¹⁶ These things are one of the factors that influence wages at the company level, that is the ability of the company.¹¹⁷ The company afforded to provide wage to labour under the minimum wage and did not see the work period of labour because of the factors above.

As it is known that wage is reward received by worker/labour for the services they provide in the process of producing goods or services in the company. Therefore, worker and employer have a direct interest in the system and conditions of payment in the company. Worker/labour needed wage that recieved to fulfill his needs. Therefore, the worker/labour always expect greater wages to improve their standard of living. On the other hand, employer often saw the wage as part of the cost, so employer is very careful to increase the wage.

Labour who has low income will not fulfill their nutritional and health needs adequately. Worker/labur who lacks protein will suffer from lethargic blood and not able to work optimally. Therefore, the wages of

¹¹⁶Fiky, *interview* (Bululawang, 15 March 2019).

¹¹⁷Widodo Suryandono, *Asas-Asas Hukum Perburuhan...*, h. 102-103.

worker/labour must be appropriate in order to improve the quality of life for themselves and their families. The increase in wages must certainly be balanced with an increase in the productivity of labour so that the company did not lose money.

The increase of wages that are not followed by increases in labor productivity will create difficulties for employer. Increasing productivity must not only be enough to compensate for the increase in wages, but must also be able to open up greater opportunities for companies to continue to grow and develop.¹¹⁸

So labour or employer have an interest in wages that should be felt fair to both. Worker can fulfill their needs and their families without neglecting their productivity, but on the other hand employer do not suffer losses.

Based on the explanation above where the company does not pay wage accordance based on the provision, that matter should not be separated from the supervision of employment. Supervision of employment is important that must be done by the government to provide a legal protection for labour and enforce of employment law. The supervision of employment aim to ensure the implementation of Employment Law and reduce the number of violation.¹¹⁹

Supervision of Employment is do by employment supervisor that is Government Employees who appointed and assigned in the functional

¹¹⁸ Adrian Sutedi, *Hukum Perburuhan...*, 146-147.

¹¹⁹ Khoirul Hidayah, "Optimalisasi Pengawasan Ketenagakerjaan di Kota Malang," *de Jure*, 2 (Desember, 2015), 103.

position of employment supervision accordance with the provision of the legislation. The supervision of employment consists of: 1) Supervise the enactment of law and regulation of labour in particular; collect information material about the work relation and labour condition; 3) Do other work that submitted to him with the other law and regulation.¹²⁰

Supervision in the employment to supervise company both legal entity or not legal entity actually must do to avoid violation. But it's back to Disnakertrans in the supervision. That supervision prioritized on legal entity company because basically small companies like in this study not able to pay wage accordance the provision; then the provision is only limited providing an inspection note (written warning) where there is no authority to stoping business activity; lack of number of employment supervisor, supervisory culture who always prioritize non-judicial efforts in the form of guidance if happen the violation; in the some provincial governments and district/city governments there are no work unit of employment supervision that available and limited facilities and infrastructure.¹²¹

As an example of a case that occurred in the Malang City that the efforts of the Malang City Disnakertrans in the optimizing of employment supervision are only education, training and technical guidance. This happened because of the lack of employment supervisor, so the number of finding of violation did not change significantly; administrative sanction

¹²⁰Pasal 1 Undang-Undang Nomor 23 Tahun 1948 tentang Pengawasan Perburuhan.

¹²¹Khoirul Hidayah, "Optimalisasi Pengawasan Ketenagakerjaan di Kota Malang," *de Jure*, 2 (Desember, 2015), 106-108.

has mentioned in the Article 190 (2) of Employment Law, supervisory staff does not has authority in limiting and stoping business activities, temporary suspension of production equipment and revocation of permit and culture problem, that is the supervisor in resolving employment violation case often carry out non-judicial efforts.¹²²



¹²²Khoirul Hidayah, "Optimalisasi Pengawasan Ketenagakerjaan di Kota Malang," *de Jure*, 2 (Desember, 2015), 113-114.

D. The Labour Payment of Construction Project Under Perspective of *Maqashid Syari'ah* in the UD Bengkel Las Barakah Malang

Maqashid Sharia is purpose of the intent of law by *Syari'*(lawmakers) to a Muslim. The purpose of Allah SWT to reduce his law is to preserve the benefit of humanity and also to avoid damage, both in the world and in the hereafter. There is no one *shari'ah* of Allah which revealed to man which has no purpose. *Shari'ah* that has no purpose is the same as imposing something that can not be implemented.¹²³

In order to realize human benefit in the world and the hereafter, there are 5 (five) elements that must be maintained and realized. The five points are religion, soul, mind, generation, and treasure. Someone will get benefit if he can maintain these five elements. Instead he will get mafsadat if he does not maintain the five elements.¹²⁴

So, it is very important for every human to realize and maintain these five elements. In order to maintain or fulfill that five elements, there are levels ranging from primary to tertiary. Those levels are *dharuriyat* or maintain the primary needs, *hajiyyat* or maintain the secondary needs and *tahsiniyat* or maintain the tertiary needs.

a) Religion

Based on the interview conducted by researcher at UD Bengkel Las Barakah Malang there is time to break at 12.00-13.00 pm. This

¹²³ Al-Syatibi, *al-Mufaqqat fi Ushul al-Syari'ah* (Kairo: Mustafa, t.th.), 150..

¹²⁴ Suyatno, *Dasar-Dasar Ilmu Fiqh...*, h. 159.

time was provided so that labour can rest and pray.¹²⁵ In this case the labour can still maintain the religion which is the main goal of Islamic law, because religion is the guideline of human life.¹²⁶ Fulfillment of the need of pray times for labour is given by UD Bengkel Las Barakah Malang including the level of *dharuriyyat*.

b) Soul

The company does not register the labour in the program of Employment BPJS.¹²⁷ Actually, it is very important that company register the labour in the program of Employment BPJS because the risk of accident workers in the construction sector is very high. Protecting life is a human right and a human obligation. Human dignity lies in a culture of mutual protection of the soul.¹²⁸ In this case UD Bengkel Las Barakah Malang does not fulfillment the need of soul aspect.

c) Mind

There is no training which providing at UD Las Barakah Malang Workshop to improve the competency of labour in the construction sector. But labour dominated the construction field from the experiences that have been gained while working in other companies before working at UD Bengkel Las Barakah Malang for years.

¹²⁵Fiky, *interview* (Bululawang, March 15, 2019).

¹²⁶Fiky, *interview* (Bululawang, 15 March 2019).

¹²⁷Fiky, *wawancara* (Bululawang, 15 Maret 2019).

¹²⁸Hamka Haq, *Al-Syathibi (Aspek Teologis, Konsep Mashlahah dalam Kitab al-Muwafaqat)* (Jakarta: Erlangga, 2007), 98.

Furthermore, there is no *refreshing* or roads that are held by the company to the labour in order to refresh the brain. This is because there is no time because the labour work from Monday to Saturday and often work outside the company which is spent a lot of energy because of working on construction buildings. So on Sunday it is an opportunity for them to rest at home.¹²⁹ In this case UD Bengkel Las Barakah Malang does not fulfill the need of mind aspect..

d) Generation

The company gives furlough time for labours who get married.¹³⁰ Marriage is a human way to get offspring.¹³¹ Worldly and ukhrawi benefits are intended to ensure human survival from generation to generation. Shari'a, which only implemented for one generation, has not meaning because of the extinction of the human generation. Therefore, the Shari'a also views the importance of human instincts for descent.¹³² Giving furlough time for labours who get married by UD Bengkel Las Barakah Malang including the level of *dharuriyyat*.

e) Treasure

Labours did not receive allowance from UD Bengkel Las Barakah Malang, but they get THR every year. Labour sometimes

¹²⁹Didik, Saiful, Firja dan Arif, *wawancara* (Bululawang, 13-17 Maret 2019).

¹³⁰Fiky, *interview* (Bululawang, March 15, 2019).

¹³¹Fiky, *interview* (Bululawang, March 15, 2019).

¹³²Haq, *Al-Syathibi (Aspek Teologis...)*, h. 99.

also got bonus from employers if the company gets a profit.¹³³ With the addition of bonus from the company, the motivation to work for labour is higher and the quality of production will increase. Humans are motivated to look for property to maintain their existence and increase the enjoyment of material and religion.

All the motivations for obtaining treasures are limited to three conditions, which are collected by lawful method, used for lawful matters, and this property must be issued by the right of God in the community where he lives. After that he can enjoy the treasure without waste, because waste for the enjoyment of material will result in bodily pain.¹³⁴ Fulfillment of need in the aspect of treasure, by obtaining a bonus and THR in the level of *tahsiniyyat*.

¹³³ Didik, Saiful, Firja dan Arif, *interview* (Bululawang, 13-17 March 2019).

¹³⁴ Ahmad Al-Mursi Husain Jauhar, *Maqashid Syariah...*, h. 167-168.



CHAPTER V

CLOSING

A. Conclusions

Based on the description and analysis above there are three conclusions stated:

1. Labour payment of construction project under perspective of Regulation of the Minister of Employment No.15/2018 concerning Minimum Wage does not appropriate with Article 17 paragraph (2) of the regulation, that is the workers have worked for more than 1 (one) year, but the wages which are provided are still under the minimum wage. Wages that should be given to workers with a work period of 1 (one) year or more

are above the minimum wage. But the provision of wages was motivated by several factors, there were the ability of the company, the proportion of wage cost with other cost and the quality of worker. If wage was given more than which has been set, the company will suffer losses.

2. Labour payment of construction project under perspective of *maqashid syari'ah* in the UD Bengkel Las Barakah Malang is still in the level of *dharuriyyat* on the religion and generation aspect. *Tahsiniyyat* on the treasure aspect. The aspect of soul and mind are not fulfilled. Religion aspect, the employer provided time to pray for labour on the sidelines of work. Generation aspect, the company gives furlough time for labours who get married. Property aspect, labour got THR from the company every year and also a bonus when the company get a profit.

B. Suggestions

1. For next researcher, research on labour payment system of construction project can be perfected with different analytical methods and if there are new regulations regarding wage it is recommended to use as analytical material.
2. The company should provide certified training to improve the worker/labour competence. The training will have an impact on the project obtained by the company, because the

workers/labours owned are competent. Obviously the project results obtained will be better which use certified worker/labour than non-certified labour. Then the project results obtained by the company will have an impact on the wage which obtained by worker/labour and certainly will increase.

3. Workers/labours should also get legal education in the company. So that they know the rights and obligations during work in the company and workers/labour can voice their rights when there is a discrepancy with the rules or their right as labour.

BIBLIOGRAPHY

Al-Qur'an al Karim.

BOOK

Ali, Zainuddin. *Metodologi Penelitian Hukum*. Jakarta: Sinar Grafika, 2011.

Amiruddin dan Asikin, Zainal. *Pengantar Metode Penelitian Hukum*. Jakarta: PT Raja Grafindo Persada, 2006.

Asikin, Zainal. *Dasar-dasar Hukum Perburuhan*. Jakarta: PT Raja Grafindo Persada, 2002.

Al-Syatibi. *al-Mufaqqat fi Ushul al-Syari'ah*. Kairo: Mustafa, t.th.

Budiono, Abdul R. *Hukum Perburuhan*. Jakarta: PT. Indeks, 2009.

Djazuli, A. *Fiqh Siyasah*. Bandung: Prenada Media, 2003.

Haq, Hamka. *Al-Syathibi (Aspek Teologis, Konsep Mashlahah dalam Kitab al-Muwafaqqat)*. Jakarta: Erlangga, 2007.

Husni, Lalu. *Pengantar Hukum Ketenagakerjaan Indonesia*. Jakarta: PT RajaGrafindo Persada, 2005.

Irianto, Sulistyowati. *Metode Penelitian Hukum Konstelasi dan Refleksi*. Jakarta: Yayasan Pustaka Obor Indonesia, 2017.

Jauhar, Ahmad Al-Mursi Husain. *Maqashid Syariah*. Jakarta: AMZAH, 2009.

- Mahfudh, Sahal. *Nuansa Fiqih Sosial*. Yogyakarta: LKIS, 1994.
- Rusli, Hardijan. *Hukum Ketenagakerjaan*. Bogor: Ghalia Indonesia, 2011.
- Shihab, M Quraish. *Tafsir Al-Mishbah*, Volume 5. Jakarta: Lentera Hati, 2002.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI- Press, 1986.
- Sugiono, *Metodologi Penelitian Kuantitatif Kualitatif dan R&D*. Bandung: Alfabeta, 2012.
- Suryandono, Widodo. *Asas-Asas Hukum Perburuhan*. Jakarta: PT. RajaGrafindo Persada, 2014.
- Sutedi, Adrian. *Hukum Perburuhan*. Jakarta: Sinar Grafika, 2009.
- Suteki dan Taufani, Galang. *Metodologi Penelitian Hukum (Filsafat, Teori dan Praktik)*. Depok: Rajawali Pers, 2018.
- Totok. *Kamus Ushul Fiqh*. Jakarta: Dana Bakti Wakaf, 2005.
- Usman, Husaini dkk. *Metode Penelitian Sosial*. Jakarta: PT. Bumi Aksara, 2006.
- Wahab, Agusfian. *Dasar-Dasar Hukum Perburuhan*. Jakarta: PT. RajaGrafindo Persada, 2012.
- Wijayanti, Asri. *Hukum Ketenagakerjaan Pasca Reformasi*. Jakarta: Sinar Grafika, 2017.
- Yasin, Mohamad Nur. *Politik Hukum Ekonomi Syariah di Indonesia*. Malang: UIN-Maliki Press, 2018.

REGULATION

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Nomor 23 Tahun 1948 tentang Pengawasan Perburuhan.

Surat Edaran Menteri Tenaga Kerja Nomor 07/MEN/1990 tentang
Pengelompokan Kompoen Upah dan Pendapatan Non Upah.

Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.

Peraturan Gubernur Jawa Timur Nomor 72 Tahun 2014 tentang Upah Minimum
Kabupaten/Kota di Jawa Timur Tahun 2015.

Peraturan Gubernur Jawa Timur Nomor 68 Tahun 2015 tentang Upah Minimum
Kabupaten/Kota di Jawa Timur Tahun 2016.

Peraturan Gubernur Jawa Timur Nomor 121 Tahun 2016 tentang Upah Minimum
Kabupaten/Kota di Jawa Timur Tahun 2017.

Peraturan Gubernur Jawa Timur Nomor 75 Tahun 2017 tentang Upah Minimum
Kabupaten/Kota di Jawa Timur Tahun 2018.

Peraturan Menteri Ketenagakerjaan Nomor 15 Tahun 2018 tentang Upah
Minimum.

Keputusan Gubernur Jawa Timur Nomor 188/665/KPTS/ O13/2018 tentang Upah
Minimum Kabupaten/Kota di Jawa Timur Tahun 2019.

THESIS

Achmad Sielmy, *“Penerapan Standar Pemenuhan Kebutuhan Hidup Layak oleh Dewan Pengupahan Kota Malang (Perspektif Peraturan Menteri Tenaga Kerja dan Transmigrasi NO 13 Tahun 2012 dan Maqashid Syari’ah”*, skripsi, Fakultas Syari’ah Jurusan Hukum Bisnis Syari’ah (Malang: Perpustakaan UIN Malang, 2016).

Daimatus Sa’adah, *“Pelaksanaan Upah Jasa Mapak Kapal di Tempat Pelelangan Ikan (TPI) Desa Tasikagung Kecamatan Rembang Kabupaten Rembang”*, skripsi, Fakultas Syari’ah Jurusan Mu’amalah (Semarang: Perpustakaan Fakultas Syari’ah IAIN Walisongo, 2009).

Robiatul Adawiyah, *“Analisis Terhadap Perubahan Ketentuan Pengupahan di Indonesia melalui Teori Masalah Mursalah (Studi Peraturan Pemerintah (PP) Nomor 78 Tahun 2015 tentang Pengupahan)”*, skripsi, Fakultas Syari’ah Jurusan Hukum Bisnis Syari’ah (Malang: Perpustakaan UIN Malang, 2016).

Vikha Vardha Aulia, *“Praktik Pengupahan Buruh Gendong di Pasar Blimbing Malang Perspektif Mazhab Syafi’i”*, skripsi, Fakultas Syari’ah Jurusan Hukum Bisnis Syari’ah (Malang: Perpustakaan UIN Malang, 2016).

Vivin Asysyifa’, *“Analisis Hukum Islam Terhadap Penundaan Pembayaran Upah Karyawan Harian (Studi Kasus di Industri Pengecoran Logam “Prima Logam” Desa Ngawonggo, Kecamatan Ceper, Kabupaten Klaten)”*, skripsi,

Fakultas Syari'ah Jurusan Mu'amalah (Semarang: Perpustakaan Fakultas Syari'ah IAIN Walisongo, 2009).

JOURNAL

Enggardini, Rahma Vihana. 2017. Kesejahteraan Karyawan Perspektif Maqahshid Syari'ah Pada Pusat Penelitian Kopi dan Kakao. Surabaya: Jurnal Ekonomi Syariah dan Terapan. Vol. 4, No. 8.

Hidayah, Khoirul. 2015. Optimalisasi Pengawasan Ketenagakerjaan di Kota Malang. Malang: *de Jure*. Vol. 7, No. 2.

DICTIONARY

Kamus Besar Bahasa Indonesia (KBBI). Jakarta: Balai Pustaka, 1990.

Poerwadarminta, W.J.S. *Kamus Umum Bahasa Indonesia*. Jakarta: Balai Pustaka, 1986.

WEBSITE

<https://www.biaya.net/2015/11/tabel-umk-jawa-timur-2016.html>. Accessed on 25 March 2019.



APPENDIXES

DOCUMENTATION



Picture 1. Interview the researcher with Mr. Didik (Labour)



Picture 2. Interview the researcher with Mr. Saiful (Labour)



Picture 3. Interview the researcher with Mr. Saiful (Labour)



Picture 4. Interview the researcher with Firja (Labour)



Picture 5. Interview the researcher with Firja (Labour)



Picture 6. Interview the researcher with Mr. Arif (Labour)



Picture 7. Interview the researcher with Fiky (Employer)



Picture 8. Interview the researcher with Fiky (Employer)



Picture 9. Taking the picture together the researcher with some labour



Picture 10. The process of making construction buildings



Picture 11. The process of making construction buildings



MENTERI KETENAGAKERJAAN
REPUBLIK INDONESIA

SALINAN

PERATURAN MENTERI KETENAGAKERJAAN
REPUBLIK INDONESIA
NOMOR 15 TAHUN 2018
TENTANG
UPAH MINIMUM

DENGAN RAHMAT TUHAN YANG MAHA ESA

MENTERI KETENAGAKERJAAN REPUBLIK INDONESIA,

Menimbang : bahwa untuk melaksanakan ketentuan Pasal 44 ayat (3), Pasal 48, dan Pasal 50 Peraturan Pemerintah Nomor 78 Tahun 2015 tentang Pengupahan, perlu menetapkan Peraturan Menteri Ketenagakerjaan tentang Upah Minimum;

Mengingat : 1. Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan (Lembaran Negara Republik Indonesia Tahun 2003 Nomor 39, Tambahan Lembaran Negara Republik Indonesia Nomor 4279);
2. Undang-Undang Nomor 39 Tahun 2008 tentang Kementerian Negara (Lembaran Negara Republik Indonesia Tahun 2008 Nomor 166, Tambahan Lembaran Negara Republik Indonesia Nomor 4916);

3. Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 244, Tambahan Lembaran Negara Republik Indonesia Nomor 5587) sebagaimana telah diubah dengan Undang-Undang Nomor 2 Tahun 2015 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah Menjadi Undang-Undang (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 24, Tambahan Lembaran Negara Republik Indonesia Nomor 5657);
4. Peraturan Pemerintah Nomor 78 Tahun 2015 tentang Pengupahan (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 237, Tambahan Lembaran Negara Republik Indonesia Nomor 5747);
5. Keputusan Presiden Nomor 107 Tahun 2004 tentang Dewan Pengupahan;
6. Peraturan Presiden Nomor 18 Tahun 2015 tentang Kementerian Ketenagakerjaan (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 19);
7. Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2015 tentang Tata Cara Mempersiapkan Pembentukan Rancangan Undang-Undang, Rancangan Peraturan Pemerintah, dan Rancangan Peraturan Presiden, serta Pembentukan Rancangan Peraturan Menteri di Kementerian Ketenagakerjaan (Berita Negara Tahun 2015 Nomor 411);
8. Peraturan Menteri Ketenagakerjaan Nomor 13 Tahun 2015 tentang Organisasi dan Tata Kerja Kementerian Ketenagakerjaan (Berita Negara Republik Indonesia Tahun 2015 Nomor 622) sebagaimana telah diubah dengan Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2018 tentang Perubahan atas Peraturan Menteri Ketenagakerjaan Nomor 13 Tahun 2015 tentang Organisasi dan Tata Kerja Kementerian

Ketenagakerjaan (Berita Negara Republik Indonesia
Tahun 2018 Nomor 750);

MEMUTUSKAN:

Menetapkan : PERATURAN MENTERI KETENAGAKERJAAN TENTANG
UPAH MINIMUM.

BAB I
KETENTUAN UMUM

Pasal 1

Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Upah Minimum adalah upah bulanan terendah berupa upah tanpa tunjangan atau upah pokok termasuk tunjangan tetap yang ditetapkan oleh gubernur sebagai jaring pengaman.
2. Kebutuhan Hidup Layak yang selanjutnya disingkat KHL adalah standar kebutuhan seorang pekerja/buruh lajang untuk dapat hidup layak secara fisik dalam 1 (satu) bulan.
3. Upah Minimum Provinsi yang selanjutnya disingkat UMP adalah Upah Minimum yang berlaku untuk seluruh kabupaten/kota di dalam wilayah 1 (satu) provinsi.
4. Upah Minimum Kabupaten/Kota yang selanjutnya disingkat UMK adalah Upah Minimum yang berlaku di dalam wilayah 1 (satu) kabupaten/kota.
5. Upah Minimum Sektoral Provinsi yang selanjutnya disingkat UMSP adalah Upah Minimum yang berlaku untuk sektor tertentu di dalam wilayah 1 (satu) provinsi.
6. Upah Minimum Sektoral Kabupaten/Kota yang selanjutnya disingkat UMSK adalah Upah Minimum yang berlaku untuk sektor tertentu di dalam wilayah 1 (satu) kabupaten/kota.

7. Sektoral adalah kategori lapangan usaha beserta pembagiannya menurut Klasifikasi Baku Lapangan usaha Indonesia (KBLI).
8. Sektor Unggulan adalah sekumpulan perusahaan dalam 1 (satu) sektor yang memenuhi kriteria mampu membayar Upah Minimum yang lebih tinggi dari UMP atau UMK.
9. Pekerja/Buruh adalah setiap orang yang bekerja dengan menerima upah atau imbalan dalam bentuk lain.
10. Pengusaha adalah:
 - a. orang perseorangan, persekutuan, atau badan hukum yang menjalankan suatu perusahaan milik sendiri;
 - b. orang perseorangan, persekutuan, atau badan hukum yang secara berdiri sendiri menjalankan perusahaan bukan miliknya;
 - c. orang perseorangan, persekutuan, atau badan hukum yang berada di Indonesia mewakili perusahaan sebagaimana dimaksud dalam huruf a dan b yang berkedudukan di luar wilayah Indonesia.
11. Perusahaan adalah:
 - a. setiap bentuk usaha yang berbadan hukum atau tidak, milik orang perseorangan, milik persekutuan, atau milik badan hukum, baik milik swasta maupun milik negara yang mempekerjakan Pekerja/Buruh dengan membayar upah atau imbalan dalam bentuk lain;
 - b. usaha-usaha sosial dan usaha-usaha lain yang mempunyai pengurus dan mempekerjakan orang lain dengan membayar upah atau imbalan dalam bentuk lain.

12. Serikat Pekerja/Serikat Buruh pada Sektor adalah organisasi yang dibentuk dari, oleh, dan untuk Pekerja/Buruh pada 1 (satu) sektor tertentu sesuai KBLI yang bersifat bebas, terbuka, mandiri, demokratis, dan bertanggung jawab guna memperjuangkan, membela serta melindungi hak dan kepentingan Pekerja/Buruh serta meningkatkan kesejahteraan Pekerja/Buruh dan keluarganya.
13. Asosiasi Pengusaha pada Sektor adalah organisasi pengusaha yang anggotanya terdiri atas para Pengusaha pada 1 (satu) sektor tertentu sesuai KBLI.
14. Dinas Provinsi adalah dinas yang menyelenggarakan urusan pemerintahan bidang ketenagakerjaan di provinsi.
15. Menteri adalah menteri yang menyelenggarakan urusan pemerintahan bidang ketenagakerjaan.

BAB II

FORMULA PERHITUNGAN UPAH MINIMUM

Bagian Kesatu

Umum

Pasal 2

- (1) Upah Minimum ditetapkan setiap tahun berdasarkan KHL dan dengan memperhatikan produktivitas dan pertumbuhan ekonomi.
- (2) Penetapan Upah Minimum sebagaimana dimaksud pada ayat (1) dihitung dengan menggunakan formula perhitungan Upah Minimum.

Pasal 3

- (1) Formula perhitungan Upah Minimum sebagaimana dimaksud dalam Pasal 2 ayat (2) adalah Upah Minimum tahun berjalan ditambah dengan hasil perkalian antara Upah Minimum tahun berjalan dengan penjumlahan tingkat inflasi nasional tahun berjalan dan tingkat pertumbuhan produk domestik bruto tahun berjalan.
- (2) Formula perhitungan Upah Minimum sebagaimana dimaksud pada ayat (1) sebagai berikut:
$$UM_n = UM_t + \{UM_t \times (Inflasi_t + \% \Delta PDB_t)\}.$$
- (3) Formula perhitungan Upah Minimum sebagaimana dimaksud pada ayat (2) dengan keterangan sebagai berikut:
 UM_n = Upah Minimum yang akan ditetapkan.
 UM_t = Upah Minimum tahun berjalan.
 $Inflasi_t$ = Inflasi yang dihitung dari periode September tahun yang lalu sampai dengan periode September tahun berjalan.
 Δ = Pertumbuhan produk domestik bruto yang
 PDB_t dihitung dari pertumbuhan produk domestik bruto yang mencakup periode kuartal III dan IV tahun sebelumnya dan periode kuartal I dan II tahun berjalan.
- (4) Inflasi sebagaimana dimaksud pada ayat (3) merupakan inflasi tahun ke tahun (year on year).
- (5) Produk domestik bruto sebagaimana dimaksud pada ayat (3) merupakan produk domestik bruto harga konstan.
- (6) Tingkat inflasi nasional tahun berjalan dan tingkat pertumbuhan produk domestik bruto tahun berjalan sebagaimana dimaksud pada ayat (1) menggunakan data dan informasi yang bersumber dari lembaga yang berwenang di bidang statistik.

Pasal 4

- (1) KHL sebagai dasar penetapan Upah Minimum sebagaimana dimaksud dalam Pasal 2 ayat (1) terdapat dalam formula perhitungan Upah Minimum.
- (2) KHL sebagaimana dimaksud pada ayat (1) yaitu Upah Minimum tahun berjalan ditambah perkalian antara Upah Minimum tahun berjalan dengan tingkat inflasi nasional tahun berjalan.

Bagian Kedua

Perhitungan Upah Minimum

Setelah Peninjauan Komponen dan Jenis Kebutuhan Hidup

Pasal 5

- (1) KHL terdiri atas beberapa komponen.
- (2) Komponen sebagaimana dimaksud pada ayat (1) terdiri atas beberapa jenis kebutuhan hidup.
- (3) Komponen sebagaimana dimaksud pada ayat (1) dan jenis kebutuhan hidup sebagaimana dimaksud pada ayat (2) ditinjau dalam jangka waktu 5 (lima) tahun.
- (4) Komponen dan jenis kebutuhan hidup hasil peninjauan ditetapkan oleh Menteri.

Pasal 6

- (1) Komponen dan jenis kebutuhan hidup hasil peninjauan menjadi dasar perhitungan dan penetapan nilai KHL hasil peninjauan.
- (2) Perhitungan dan penetapan nilai KHL hasil peninjauan dilaksanakan sesuai dengan ketentuan peraturan perundang-undangan.

Pasal 7

- (1) Upah Minimum tahun pertama setelah peninjauan komponen dan jenis kebutuhan hidup, ditetapkan:
 - a. sama dengan nilai KHL hasil peninjauan; dan

- b. tidak dihitung menggunakan formula perhitungan Upah Minimum sebagaimana dimaksud dalam Pasal 3 ayat (2).
- (2) Penetapan Upah Minimum tahun kedua sampai dengan tahun kelima setelah peninjauan komponen dan jenis kebutuhan hidup, dihitung dengan menggunakan formula perhitungan Upah Minimum sebagaimana dimaksud dalam Pasal 3 ayat (2).

BAB III

UPAH MINIMUM PROVINSI DAN/ATAU UPAH MINIMUM KABUPATEN/KOTA

Bagian Kesatu

Upah Minimum Provinsi

Pasal 8

- (1) Gubernur wajib menetapkan UMP.
- (2) Penetapan UMP dihitung dengan menggunakan formula perhitungan Upah Minimum sebagaimana dimaksud dalam Pasal 3 ayat (2).

Pasal 9

- (1) Penghitungan UMP dengan menggunakan formula perhitungan Upah Minimum dilaksanakan oleh dewan pengupahan provinsi.
- (2) Penghitungan UMP dilaksanakan setelah angka inflasi nasional dan pertumbuhan produk domestik bruto dari lembaga yang berwenang di bidang statistik disampaikan kepada Menteri yang selanjutnya Menteri menyampaikan kepada gubernur.
- (3) Hasil penghitungan UMP sebagaimana dimaksud pada ayat (1) disampaikan kepada gubernur melalui Dinas Provinsi.

- (4) UMP ditetapkan dan diumumkan oleh gubernur pada tanggal 1 November dengan keputusan gubernur.
- (5) Dalam hal tanggal 1 November jatuh pada hari minggu atau hari libur nasional atau hari yang diliburkan secara nasional, UMP ditetapkan dan diumumkan oleh gubernur 1 (satu) hari sebelum hari minggu atau hari libur nasional atau hari yang diliburkan secara nasional.
- (6) UMP sebagaimana dimaksud pada ayat (4) dan ayat (5) berlaku terhitung mulai tanggal 1 Januari tahun berikutnya.

Bagian Kedua

Upah Minimum Kabupaten/Kota

Pasal 10

- (1) Gubernur dapat menetapkan UMK.
- (2) UMK ditetapkan setelah penetapan UMP.
- (3) UMK sebagaimana dimaksud pada ayat (2) ditetapkan harus lebih besar dari UMP.
- (4) Penetapan UMK dihitung dengan menggunakan formula perhitungan Upah Minimum sebagaimana dimaksud dalam Pasal 3 ayat (2).

Pasal 11

- (1) Penghitungan UMK dengan menggunakan formula perhitungan Upah Minimum dilaksanakan oleh dewan pengupahan kabupaten/kota.
- (2) Penghitungan UMK dilaksanakan setelah angka inflasi nasional dan pertumbuhan produk domestik bruto dari lembaga yang berwenang di bidang statistik disampaikan kepada Menteri yang selanjutnya Menteri menyampaikan kepada gubernur.
- (3) Hasil penghitungan UMK sebagaimana dimaksud pada ayat (1) disampaikan kepada bupati/walikota untuk direkomendasikan kepada gubernur melalui Dinas Provinsi.

- (4) Gubernur dapat meminta saran dan pertimbangan dewan pengupahan provinsi mengenai hasil penghitungan UMK sebagaimana dimaksud pada ayat (3).
- (5) UMK ditetapkan dan diumumkan oleh gubernur paling lambat tanggal 21 November dengan keputusan gubernur.
- (6) UMK sebagaimana dimaksud pada ayat (4) berlaku terhitung mulai tanggal 1 Januari tahun berikutnya.

BAB IV

UPAH MINIMUM SEKTORAL PROVINSI DAN/ATAU UPAH MINIMUM SEKTORAL KABUPATEN/KOTA

Bagian Kesatu

Umum

Pasal 12

- (1) Gubernur dapat menetapkan UMSP dan/atau UMSK.
- (2) UMSP dan/atau UMSK ditetapkan berdasarkan hasil kesepakatan Asosiasi Pengusaha pada Sektor dengan Serikat Pekerja/Serikat Buruh pada Sektor yang bersangkutan.
- (3) Besaran UMSP dan/atau UMSK ditetapkan sebagai berikut:
 - a. UMSP harus lebih besar dari UMP;
 - b. UMSK harus lebih besar dari UMK.
- (4) UMSP dan/atau UMSK berlaku sejak ditetapkan oleh gubernur.

Bagian Kedua

Upah Minimum Sektoral Provinsi

Pasal 13

- (1) Penetapan UMSP diawali dengan pelaksanaan kajian mengenai Sektor Unggulan oleh dewan pengupahan provinsi.
- (2) Penentuan suatu sektor termasuk dalam Sektor Unggulan, dilaksanakan melalui kajian mengenai variabel:
 - a. kategori usaha sesuai KBLI 5 (lima) digit;
 - b. Perusahaan dengan skala usaha besar;
 - c. pertumbuhan nilai tambah; dan
 - d. produktivitas tenaga kerja.
- (3) Ketentuan mengenai Perusahaan dengan skala usaha besar sebagaimana dimaksud pada ayat (2) huruf b sesuai dengan peraturan perundang-undangan di bidang usaha mikro, kecil, dan menengah.
- (4) Berdasarkan hasil kajian sebagaimana dimaksud pada ayat (2), dewan pengupahan provinsi menetapkan ada atau tidak ada Sektor Unggulan.
- (5) Dalam hal terdapat Sektor Unggulan, dewan pengupahan provinsi menyampaikan hasil kajian kepada Asosiasi Pengusaha pada Sektor dan Serikat Pekerja/Serikat Buruh pada Sektor yang bersangkutan untuk merundingkan:
 - a. Perusahaan yang masuk dalam kategori Sektor Unggulan yang bersangkutan; dan
 - b. nominal UMSP.
- (6) Dalam hal tidak ada Sektor Unggulan, gubernur tidak dapat menetapkan UMSP.

Pasal 14

- (1) Apabila perundingan sebagaimana dimaksud dalam Pasal 13 ayat (4) mencapai kesepakatan, Asosiasi Pengusaha pada Sektor dan Serikat Pekerja/Serikat Buruh pada Sektor yang bersangkutan menyampaikan hasil kesepakatan kepada gubernur melalui Dinas Provinsi untuk dapat ditetapkan UMSP.
- (2) Dalam hal perundingan tidak mencapai kesepakatan, gubernur tidak dapat menetapkan UMSP.
- (3) Dalam hal perundingan tidak mencapai kesepakatan maka:
 - a. bagi daerah yang belum ada penetapan UMSP tahun sebelumnya, berlaku UMP tahun berjalan;
 - b. bagi daerah yang telah ada penetapan UMSP tahun sebelumnya:
 1. berlaku UMSP tahun sebelumnya, jika besarannya lebih tinggi daripada besaran UMP tahun berjalan; atau
 2. berlaku UMP tahun berjalan, jika besaran UMSP tahun sebelumnya lebih rendah daripada besaran UMP tahun berjalan.

Bagian Ketiga

Upah Minimum Sektoral Kabupaten/Kota

Pasal 15

- (1) Penetapan UMSK diawali dengan pelaksanaan kajian mengenai Sektor Unggulan oleh dewan pengupahan kabupaten/kota.
- (2) Penentuan suatu sektor termasuk dalam Sektor Unggulan, dilaksanakan melalui kajian mengenai variabel:
 - a. kategori usaha sesuai KBLI 5 (lima) digit;
 - b. Perusahaan dengan skala usaha besar;
 - c. pertumbuhan nilai tambah; dan
 - d. produktivitas tenaga kerja.

- (3) Ketentuan mengenai Perusahaan dengan skala usaha besar sebagaimana dimaksud pada ayat (2) huruf b sesuai dengan peraturan perundang-undangan di bidang usaha mikro, kecil, dan menengah.
- (4) Berdasarkan hasil kajian sebagaimana dimaksud pada ayat (2), dewan pengupahan kabupaten/kota menetapkan ada atau tidak ada Sektor Unggulan.
- (5) Dalam hal terdapat Sektor Unggulan, dewan pengupahan kabupaten/kota menyampaikan hasil kajian kepada Asosiasi Pengusaha pada Sektor dan Serikat Pekerja/Serikat Buruh pada Sektor yang bersangkutan untuk merundingkan:
 - a. Perusahaan yang masuk dalam kategori Sektor Unggulan yang bersangkutan; dan
 - b. nominal UMSK.
- (6) Dalam hal tidak ada Sektor Unggulan, gubernur tidak dapat menetapkan UMSK.

Pasal 16

- (1) Dalam hal perundingan sebagaimana dimaksud dalam Pasal 15 ayat (4) mencapai kesepakatan, Asosiasi Pengusaha pada Sektor dan Serikat Pekerja/Serikat Buruh pada Sektor yang bersangkutan menyampaikan hasil kesepakatan kepada bupati/walikota untuk direkomendasikan kepada gubernur melalui Dinas Provinsi untuk dapat ditetapkan UMSK.
- (2) Dalam hal perundingan tidak mencapai kesepakatan, gubernur tidak dapat menetapkan UMSK.
- (3) Dalam hal perundingan tidak mencapai kesepakatan maka:
 - a. bagi daerah yang belum ada penetapan UMSK tahun sebelumnya, berlaku UMK tahun berjalan;

- b. bagi daerah yang telah ada penetapan UMSK tahun sebelumnya:
 - 1. berlaku UMSK tahun sebelumnya, jika besarannya lebih tinggi daripada besaran UMK tahun berjalan; atau
 - 2. berlaku UMK tahun berjalan, jika besaran UMSK tahun sebelumnya lebih rendah daripada besaran UMK tahun berjalan.

BAB V PELAKSANAAN UPAH MINIMUM

Pasal 17

- (1) Upah Minimum hanya berlaku bagi Pekerja/Buruh dengan masa kerja kurang dari 1 (satu) tahun pada Perusahaan yang bersangkutan.
- (2) Upah Pekerja/Buruh dengan masa kerja 1 (satu) tahun atau lebih harus di atas Upah Minimum.

Pasal 18

- (1) Upah Minimum dibayar secara bulanan kepada Pekerja/Buruh.
- (2) Berdasarkan kesepakatan antara Pekerja/Buruh dengan Pengusaha, Upah Minimum dapat dibayar secara harian atau mingguan dengan ketentuan perhitungan Upah Minimum didasarkan pada upah bulanan.

Pasal 19

Upah Pekerja/Buruh harian lepas ditetapkan secara bulanan yang dibayarkan berdasarkan jumlah hari kehadiran dengan perhitungan upah sehari:

- a. bagi Perusahaan dengan sistem waktu kerja 6 (enam) hari dalam seminggu, upah bulanan dibagi 25 (dua puluh lima);

- b. bagi Perusahaan dengan sistem waktu kerja 5 (lima) hari dalam seminggu, upah bulanan dibagi 21 (dua puluh satu).

Pasal 20

UMSP dan/atau UMSK hanya berlaku bagi Perusahaan dengan skala usaha besar.

Pasal 21

- (1) Bagi 1 (satu) Perusahaan yang usahanya mencakup lebih dari 1 (satu) sektor, dan telah terdapat UMSP atau UMSK masing-masing sektor, Upah Minimum yang berlaku UMSP atau UMSK masing-masing sektor.
- (2) Bagi 1 (satu) Perusahaan yang usahanya mencakup lebih dari 1 (satu) sektor dan terdapat 1 (satu) sektor atau lebih belum ada penetapan UMSP dan/atau UMSK, sektor yang belum ada penetapan UMSP dan/atau UMSK berlaku UMP atau UMK tahun berjalan.

Pasal 22

- (1) Dalam pelaksanaan UMSP atau UMSK, apabila terdapat indikasi Sektor Unggulan menjadi tidak unggul lagi, dewan pengupahan melakukan kajian untuk membuktikan sektor tersebut tidak unggul lagi atau masih unggul.
- (2) Dalam hal hasil kajian dewan pengupahan menunjukkan bahwa variabel Sektor Unggulan tidak terpenuhi lagi, maka dewan pengupahan menetapkan sektor tersebut bukan Sektor Unggulan.
- (3) Dalam hal suatu sektor tidak lagi menjadi Sektor Unggulan, maka Upah Minimum yang berlaku adalah UMP atau UMK.

BAB VI
KETENTUAN PENUTUP

Pasal 23

Pada saat Peraturan Menteri ini mulai berlaku, Peraturan Menteri Tenaga Kerja dan Transmigrasi Nomor 7 Tahun 2013 tentang Upah Minimum (Berita Negara Republik Indonesia Tahun 2013 Nomor 1239), dicabut dan dinyatakan tidak berlaku.

Pasal 24

Peraturan Menteri ini mulai berlaku pada tanggal diundangkan.

Agar setiap orang mengetahuinya, memerintahkan pengundangan Peraturan Menteri ini dengan penempatannya dalam Berita Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 23 November 2018

MENTERI KETENAGAKERJAAN
REPUBLIK INDONESIA,

ttd.

M. HANIF DHAKIRI

Diundangkan di Jakarta
pada tanggal 23 November 2018

DIREKTUR JENDERAL
PERATURAN PERUNDANG-UNDANGAN
KEMENTERIAN HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,

ttd.

WIDODO EKATJAHJANA

BERITA NEGARA REPUBLIK INDONESIA TAHUN 2018 NOMOR 1549

SALINAN SESUAI DENGAN ASLINYA

KEPALA BIRO HUKUM,



BUDIMAN, SH

NIP. 19600324 198903 1 001

CURRICULUM VITAE



Personal Detail

Name : Putri Langgeng Sari
 Birth Place : Jakarta
 Birth Date : 23rd September 1996
 Gender : Female
 Religion : Islam
 Address : Jalan Raya Sempalwadak RT. 08 RW. 02 Sempalwadak,
 Bululawang, Malang.
 Phone : 082264083210
 E-mail : putrilanggeng1@gmail.com

Formal Education

2001-2003 : TK Antarlina
 2003-2009 : SDN Sempalwadak Bululawang
 2009-2012 : SMPN 10 Malang
 2012-2015 : SMA An-Nur Bululawang