



## Implementation and Constraints of Minimum Wage Regulations for Informal Sector Workers in Semarang Regency

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### **Abstract**

Minimum wage rules were created as a safety net for employers to provide a living wage for their workers. However, in reality this rule is difficult to implement in the informal sector. Based on the research location in Semarang Regency, the purpose of this study is to determine and examine the implementation of minimum wages, determine and examine the obstacles in implementing regulations regarding minimum wages, and explain the form of legal protection provided by the government to guarantee adequate wages for informal sector workers in Semarang Regency. The research approach method used is socio-legal and applies analytical descriptive research specifications. The results of the study show that the rules regarding minimum wages have not been enforced in the informal sector. This obstacle is caused by 3 aspects. For example, from the aspect of workers, there are informal sector workers whose competence is below that of formal sector workers. From the aspect of employers, the provision of wages is highly dependent on business income. From the government's side, there is a distinction in the imposition of rules regarding minimum wages where minimum wage rules only apply in the formal sector. So that the form of legal protection for informal sector workers is non-existent. The only effort is to provide assistance and law enforcement if there has been a case of violation of the rights of informal sector workers.

**Keywords:** *Minimum Wage; Informal Sector Workers; Legal Protection*

### **Introduction**

National development is an effort to improve the standard of living of the people and the progress of the country's economy. One of the driving sectors of national development in Indonesia is the employment sector. This cannot be denied because the employment sector plays an important role in absorbing the number of workers in Indonesia and makes a major contribution in providing income for the country's economy. The level of welfare of a country can be seen from its workforce factor.

The number of workers based on the National Labor Force Survey (Sakernas) in February 2023 was 146.62 million people, an increase of 2.61 million people compared to February 2022. The Labor Force Participation Rate (TPAK) increased by 0.24 percentage points. The working population was 138.63 million people, an increase of 3.02 million people from February 2022. The fields of employment that experienced the largest increase were Accommodation Provision and Food and Beverage Provision and Other Service Activities, each by 0.51 million people. A total of 83.34 million people (60.12 percent) worked in informal activities, an increase of 0.15 percentage points compared to February 2022. Meanwhile, formal sector workers were 55.29 million people.<sup>1</sup> From these data, the number of workers in Indonesia until February 2023 was still dominated by informal workers. One of the causes of the spread of the informal sector in urban areas is none other than uneven development.<sup>2</sup>

Informal workers are workers who work in the freelance sector. The definition of informal workers is not clearly stated in the Manpower Law or other laws. Article 1 paragraph 3 of Law No. 13 of 2003 concerning Manpower only states that "workers/laborers are anyone who works for wages or other forms of compensation." This means that the definition already includes both formal and informal workers. The informal sector is a sector of economic activity that is not standardized through government regulations which do not have aspects of licensing, registration, quality standards, employment and taxes.<sup>3</sup>

The increasing number of informal workers in the industrial sector can certainly be a problem. This cannot be denied because in general the position of informal sector workers is very weak compared to the position of formal workers. This happens because informal sector workers generally get less education, less training and work relationships with employers/companies are only based on trust, so that in the end informal sector workers become very dependent on employers/companies. One example of a problem related to informal sector workers is the fact that informal workers' wages are still below the minimum wage regulations, for example, there are still small-scale or home-based companies that pay workers' wages below the minimum wage provisions or below the District Minimum Wage.<sup>4</sup> This cannot be denied because the failure to meet the eligibility of informal workers' wages can be caused by many factors, both from the employer or the workers themselves, such as the type of business/company where they work is indeed unable to provide decent wages, the quality of workers is lower when compared to workers in the formal sector.

Wages are a very basic right for workers/laborers.<sup>5</sup> The definition of wages based on Article 1 number 30 of Law No. 13 of 2003 concerning Manpower is the right of workers/laborers received and stated in the form of money as compensation from employers or employers to workers/laborers which is determined and paid according to a work agreement, agreement, or statutory regulations, including allowances for workers/laborers and their families for a job and/or service that has been or will be performed. It is very important to ensure that workers receive a decent wage because by getting a decent wage, workers/laborers can meet their needs, especially basic needs and daily needs. The issue of decent wage is important because the main purpose of workers/laborers working is to get wages.

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<sup>1</sup> Badan Pusat Statistik, *Keadaan Ketenagakerjaan Indonesia Februari 2023*, Retrieved from Berita Resmi Statistik No. 35/05/Th. XXVI, 5 Mei 2023 pada 28 November 2023.

<sup>2</sup> Alisjahbana, *Marginalisasi Sektor Informal Perkotaan*, (Surabaya: ITS Press, 2006), halaman 1.

<sup>3</sup> Anne Friday Safaria, Dadi Suhandi, dan Selly Riawanti, *Hubungan Perburuhan di Sektor Informal Permasalahan dan Prospek*, (Bandung: Akatiga, 2003), halaman 4.

<sup>4</sup> Solopos Jateng, 2023, *Disnaker Semarang Masih Temukan Perusahaan Bayar Gaji Karyawan di Bawah UMK*, Retrieved from <https://jateng.solopos.com/disnaker-semarang-masih-temukan-perusahaan-bayar-gaji-karyawan-di-bawah-umk-1785364> pada 28 November 2023.

<sup>5</sup> Abdul Khakim, *Pengupahan dalam Perspektif Hukum Ketenagakerjaan Indonesia*, (Bandung: PT Citra Aditya Bakti, 2016), halaman 5

The state is obliged to participate in providing legal protection for the rights of informal workers, especially regarding wage adequacy. This legal protection is very important to enforce in Indonesia because Indonesia is a country based on the rule of law based on Pancasila. This is in line with the theory of "Legal Protection for the People in Indonesia" put forward by Philipus M. Hadjon. Hadjon emphasized that legal protection for the people in Indonesia is the principle of recognition and protection of human dignity and honor based on Pancasila and the principle of a state based on the rule of law based on Pancasila.<sup>6</sup> The state's participation in regulating workers' wages is crucial because wages are used to meet daily needs. In addition, the government must ensure that workers or laborers are not only viewed as a factor of production but also pay attention to their dignity and honor as human beings.<sup>7</sup>

Every worker, both formal and informal workers, has the right to receive justice, one example of which is justice in fulfilling the right to a decent wage. One of the famous philosophers, John Rawls, put forward a theory of justice. In his book entitled *Theory of Justice*, John Rawls views "justice as fairness", namely justice as "fairness". Justice as fairness is the idea that the principles of justice are agreed upon in an ideal situation that is fair.<sup>8</sup> This theory states that a fair situation is when there is a priority of justice for certain parties as a consequence of an unequal or unfair situation.<sup>9</sup> The theory also explains that the principle of fairness cannot be attached to an unfair institution.<sup>10</sup> Based on this, it can be concluded that the state as a formal institution formed to meet the needs of its citizens is obliged to fulfill the rights and interests of its people. The Republic of Indonesia, which carries the concept of a welfare state where the government guarantees the welfare of its people, gives the state an obligation to guarantee the adequacy of wages for workers in the informal sector.

One of the safety nets formed by the government to ensure the adequacy of workers' wages is by setting regulations regarding minimum wages. The fulfillment of the implementation of the minimum wage is in fact only implemented in the formal sector, while informal sector workers have not received the minimum wage as determined. The large number of informal sector workers who receive wages below the minimum wage shows that there is injustice in Indonesia.

Semarang Regency as the research location is one of the cities that absorbs a lot of labor and has many workers in the informal sector. In Semarang Regency, the working population in August 2023 was 619,253 people, an increase of 26 people from August 2022. In August 2023, the population of Semarang Regency mostly worked in the service sector and others, namely around 246.38 thousand people or around 39.23 percent, followed by the manufacturing sector around 238.29 thousand people (38.96 percent) and the agricultural sector around 134.49 thousand (21.81 percent). From these data, it was also found that the number of workers in Semarang Regency until August 2023 was still dominated by informal sector workers, namely 320.5 thousand people (51.76 percent).<sup>11</sup> Based on the description above, it is interesting to study the implementation of the fulfillment of minimum wages in the informal sector. Wages are very important for the ongoing welfare of workers in the informal sector. The issue of minimum wages is a very crucial issue in the employment sector and even if it is not handled professionally, it often becomes a potential dispute and encourages strikes or demonstrations.<sup>12</sup>

<sup>6</sup> Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat di Indonesia*, (Surabaya: PT Bina Ilmu, 1987), halaman 20.

<sup>7</sup> Abdullah Sulaiman, *Politik Hukum Buruh Republik Indonesia*, (Jakarta: YPPSDM, 2010), halaman 17.

<sup>8</sup> John Rawls, *A Theory of Justice*, Terjemahan oleh Uzair Fauzan dan Heru Prasetyo, Harvard University Press, Cambridge, 1995, halaman 14.

<sup>9</sup> *Ibid*, page 31.

<sup>10</sup> *Ibid*, page 134.

<sup>11</sup> Badan Pusat Statistik Kabupaten Semarang, *Keadaan Ketenagakerjaan Kabupaten Semarang Agustus 2023*, Retrieved from Berita Resmi Statistik No. 03/11/3322/Th.IV, 30 November 2023 pada 5 Desember 2023.

<sup>12</sup> Dilli Malianawati, *Pemberian Upah Berlandaskan Nilai-Nilai Pancasila*, (Online: Eternity Publishing, 2021), halaman 7.

## Result

Minimum wage is the limit on the smallest amount of wages that can be given by an employer to its employees. The rules regarding minimum wages are stated in Government Regulation No. 36 of 2021 concerning Wages. Article 23 of Government Regulation No. 36 of 2021 concerning Wages states that,

- (1) Minimum wage is the lowest monthly wage, namely:
  - a. Wages without allowances; or
  - b. Basic wage and fixed allowances.
- (2) In the case where the wage components in the Company consist of basic wages and non-fixed allowances, the basic wage is at least the minimum wage.
- (3) Employers are prohibited from paying wages lower than the minimum wage.

Looking at Article 23 paragraph 3 of Government Regulation No. 36 of 2021 concerning Wages above, the minimum wage regulation is the lowest basic value benchmark for employers or entrepreneurs throughout Indonesia in providing wages to their workers, both formal sector workers and informal sector workers. The minimum wage regulation was created as a safety net for employers to provide decent wages for their workers. The minimum wage itself consists of the provincial minimum wage and the district/city minimum wage (Article 25 paragraph 1 of Government Regulation Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages).

The rules regarding the minimum wage in Semarang Regency in 2024 are regulated in the Decree of the Governor of Central Java Number 561/57 of 2023 concerning the Minimum Wage in 35 (Thirty Five) Regencies/Cities in Central Java Province in 2024 which was stipulated by the Acting Governor of Central Java Nana Sudjana on November 30, 2023. Based on the Decree of the Governor of Central Java, it can be seen that the amount of the minimum wage in Semarang Regency in 2024 is IDR 2,582,287.00. This means that every company or employer in Semarang Regency is required to provide the lowest wage of at least the minimum wage, namely IDR 2,582,287.00 for its workers with a work period of less than one year. Meanwhile, for workers with a work period of more than one year, the wage structure and scale are used. The Decree of the Governor of Central Java Number 561/57 of 2023 Concerning Minimum Wages in 35 (Thirty Five) Regencies/Cities in Central Java Province in 2024 is a form of government effort to protect workers' rights, especially the rights of workers to receive wages in Central Java who have a work period of less than 1 (one) year. This is done to prevent and overcome violations of rights or exploitation of workers.

The Minimum Wage of Semarang Regency in 2024 is IDR 2,582,287.00, this implies that every employer in Semarang Regency is required to provide wages to their workers with a work period of less than one year at least the applicable minimum wage provisions. In reality, there are still informal sector workers who receive wages below the minimum wage. Based on the results of research conducted by researchers on informal sector workers in Semarang Regency, it was found that:

- a. The wages/salaries received by two informal sector workers with a work period of 2 years at a place of business that has a catering and frozen food business are uncertain with a range of wages received per month of approximately IDR. 1,300,000.00.<sup>13</sup>
- b. The wage/salary received by an informal sector worker with a 3-year work period at a business that has a culinary and home-cooked food production business is uncertain with a monthly wage range of Rp. 1,000,000.00 to Rp. 2,000,000.00.<sup>14</sup>

<sup>13</sup> Wal and Titin, *Interview*, Informal Sector Workers, (Semarang Regency: May 20, 2024).

- c. The wage/salary received by an informal sector worker who works as a shop employee in the F&B (Food and Beverage) sector with a 1.5-year work period is Rp. 1,200,000.00.<sup>15</sup>
- d. The wage/salary received by an informal sector worker with a 4-year work period who works as a driver is very uncertain. Recently he has received wages below the minimum wage.<sup>16</sup>
- e. The wage/salary received by an informal sector worker who has worked in the informal sector as an ART (Household Assistant). for 40 years is Rp. 800,000.00.<sup>17</sup>

Based on the data above, it was found that there were 5 workers with a work period of more than one year who received wages below the minimum wage. Workers with a work period of more than one year should receive wages above the minimum wage in accordance with the rules regarding the applicable wage structure and scale. The provision of wages to these informal sector workers is also only based on formal agreements and there is no written work agreement that states the nominal wages/salaries received. The absence of a written agreement results in the position of informal sector workers being legally weaker than formal sector workers, because there is no wage benchmark given so that it can pose a risk of abuse and violation of workers' rights.

The obstacles to implementing the minimum wage regulation are caused by many things, both from the side of informal sector workers, employers and from the government side.

#### 1. From the Side of Informal Sector Workers

Informal sector workers also contribute to the difficulty of implementing the minimum wage regulation in Semarang Regency. Some of the reasons are as follows:

- a. From the aspect of worker competence. Worker competence greatly influences the performance of the business run by the employer, with good worker competence it will increase the quality and quantity of products. Informal sector workers generally have competence below formal sector workers. Based on the data obtained, the competence of informal sector workers is seen from age, last level of education, mastery of skills and mastery of technology. For example, informal sector workers were found who had the last education of elementary and junior high school<sup>18</sup>, workers who were elderly<sup>19</sup>, as well as workers who lacked in mastery of skills so that they sought work experience in the informal sector<sup>20</sup> and workers who found it difficult to master technology<sup>21</sup>. Seeing the aspects above, it is difficult for employers to provide wages that are equivalent to formal sector workers or wages above the applicable minimum wage regulations, because worker competence is not comparable to the results obtained by employers.
- b. From the aspect of employment relations. Based on Article 1 number 15 of Law No. 13 of 2003 concerning Manpower, "Employment relations are relations between employers and workers/laborers based on an employment agreement, which has elements of work, wages, and orders." The employment relationship in principle regulates how a job will be given by the employer and how the job will be carried out by the worker. In the employment relationship between informal sector workers and workers, in general the employment relationship is only based on verbal agreements, there are no written standards that explain wages, work done and the rights and obligations of informal sector workers. And usually this employment relationship is based on a non-permanent employment relationship, such as based on family, personal or social.

<sup>14</sup> Adrian, *Interview*, Informal Sector Workers, (Semarang Regency: May 21, 2024).

<sup>15</sup> Benedictus, *Interview*, Informal Sector Workers, (Semarang Regency: May 23, 2024).

<sup>16</sup> Teguh, *Interview*, Informal Sector Workers, (Semarang Regency: June 7, 2024).

<sup>17</sup> Runti, *Interview*, Informal Sector Workers, (Semarang Regency: August 20, 2024).

<sup>18</sup> Wal dan Runti, *Loc.cit*

<sup>19</sup> Wal, Titin dan Runti, *Loc.cit*

<sup>20</sup> Benediktus, *Loc.cit*

<sup>21</sup> Wal, Titin dan Runti, *Loc.cit*



This is directly proportional to the data found in the field where all informal sector workers interviewed did not have a written employment relationship,<sup>22</sup> and several informal sector workers were found who worked in the informal sector based on family relationships.<sup>23</sup>

- c. From the aspect of informal sector workers' ignorance of minimum wage regulations. Based on the principle of legal fiction, all people are assumed to know about a legal provision that has been enacted where the legal provision is binding. However, based on data in the field, informal sector workers are still found who do not know the minimum wage regulations.<sup>24</sup> So that the wages obtained do not comply with the wage standards set by the government.

## 2. From the Employer's Side

Employers are required to pay wages to their workers at the lowest wage as stipulated in the minimum wage as stated in the fifth and sixth dictums of the Decree of the Governor of Central Java Number 561/57 of 2023 concerning Minimum Wages in 35 (Thirty Five) Regencies/Cities in Central Java Province in 2024, which reads:

- a. The Fifth Dictum, namely that employers are prohibited from paying wages lower than the Minimum Wage as referred to in the FIRST dictum.
- b. The Sixth Dictum, namely that in the event that employers do not comply with the provisions as referred to in the FIRST dictum, they will be subject to sanctions in accordance with the provisions of laws and regulations.

The same thing has also been stated in Article 88E paragraph (2) of Law No. 13 of 2003 concerning Manpower in conjunction with Perppu Number 2 of 2022 concerning Job Creation which reads, "Employers are prohibited from paying wages lower than the minimum wage".

Many employers have difficulty meeting minimum wage requirements. The inability of employers to provide minimum wages for their workers is not without reason. Based on the results of research conducted on employers in Semarang Regency, it was found that:

- a. Employers who have food sales businesses in Semarang Regency who are unable to pay their workers' wages according to the minimum wage because the amount of income obtained does not allow employers to provide wages/salaries that are in accordance with the applicable minimum wage standards.<sup>25</sup>
- b. Employers who have catering and frozen food businesses cannot pay their workers' wages regularly every month and are still below the minimum wage because the wages given are very dependent on sales volume so that the wages given are not in accordance with the minimum wage because sales turnover is still low. On the other hand, employers also experience obstacles in implementing wage policies due to limited production factors.<sup>26</sup>
- c. Employers who have cake and snack making businesses cannot pay their workers' wages with a fixed amount every week because the business they run is still classified as a small business and the provision of workers' wages is very dependent on the amount of food sold so that they are not yet able to provide wages equivalent to the minimum wage.<sup>27</sup>

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<sup>22</sup> Wal, Titin, Adrian, Benediktus, Teguh dan Runti, *Loc.cit*.

<sup>23</sup> Wal, Titin, dan Adrian, *Loc.cit*.

<sup>24</sup> Wal, Titin, Benediktus, Teguh dan Runti, *Loc.cit*.

<sup>25</sup> Purnomo, *Interview*, Employer, (Semarang Regency: May 20, 2024).

<sup>26</sup> Sri, *Interview*, Employer, (Semarang Regency: May 20, 2024).

<sup>27</sup> Meita, *Interview*, Employer, (Semarang Regency: May 21, 2024).

d. Employers who employ ART (Domestic Assistants) cannot provide wages according to the minimum wage to their workers because the work they are given is classified as light.<sup>28</sup>

### 3. From the Government's Side

The position of informal sector workers is very weak and has received little attention from the government. This can be seen in the differentiation of the meaning of the word "worker" in laws and regulations which emphasizes formal sector workers only. Article 1 paragraph (3) of Law No. 13 of 2003 concerning Manpower explains the definition of a worker, namely "a worker/laborer is anyone who works for wages or other forms of compensation." This means that this definition includes all workers, both formal and informal workers. It can be seen in laws and regulations that there is no distinction between workers, but in reality there is a distinction between formal and informal sector workers. Including the distinction regarding the imposition of minimum wage regulations. Based on interviews with the Manpower Office in Semarang Regency, it was found that the regulation regarding minimum wages cannot be determined and is not related to informal sector workers, because basically informal sector workers receive wages according to agreement.<sup>29</sup> The only government effort to protect workers' rights in the informal sector is to provide assistance and enforce the law if there are cases of violations of workers' rights in the informal sector.

## Conclusion

The minimum wage regulation is used as the basis for the workers' wage system. However, in reality, the implementation of the minimum wage regulation has not been able to run in the informal sector. Because based on the results of research in Semarang Regency, 5 informal sector workers were found who did not receive wages equal to the minimum wage. The obstacles to implementing the minimum wage regulation in the informal sector are caused by many aspects. From the worker aspect, there are still informal sector workers who have competencies below formal workers as seen from age, education level, level of mastery of skills and technology, as well as the employment relationship of informal sector workers which is based on formal and family agreements only and there are still informal sector workers who do not know the minimum wage regulation. From the employer's side, it is difficult for employers to provide regulations according to the minimum wage because in general the provision of wages is based on business income and the work given is relatively easy. From the government's side, there is a difference in the meaning of the word "worker" in the minimum wage regulation. In the minimum wage regulation, only formal sector workers are included as workers, while informal sector workers use the minimum wage regulation but receive wages according to the agreement with the employer.

Seeing the difficulty of implementing the minimum wage regulation in Semarang Regency by looking at the existing obstacles, the parameters used are not norm parameters but value parameters. In the case of minimum wage rules (norms) that cannot be implemented in the informal sector, then to obtain justice (value) for informal sector workers, it must be returned to the ideal order. The ideal order referred to here is a fair and humane agreement between workers and employers. Normative legal rules cannot be directly applied to informal sector workers by looking at the employment relationship between employers and informal sector workers based on non-legal aspects.

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<sup>28</sup> Mega, *Interview*, Employer, (Semarang Regency: August 20, 2024).

<sup>29</sup> Heru Budi Utomo, *Interview*, Industrial Relations Mediator, Semarang Regency Manpower Office, (Semarang Regency: May 16, 2024).

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