THE ESSENCE OF REMUNERATION FEASIBILITY 
IN AN EFFORT FOR THE WELFARE OF THE WORKER

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Abstract

The Remuneration feasibility is one of workers' fundamental principle, must be implemented in national development program on employment by setting policy of composing planning labor, employment information, and job training. Professional workers will increase the productivity and company profit. Positive impact to workers, will receive their right for reasonable wages, so that reached welfare for them and their family, and live honorably and dignified in society.

Keywords: law, workers, reasonable wages

Abstrak

Asas kelayakan pengupahan merupakan salah satu asas fundamental pekerja, harus dilaksanakan dalam program pembangunan nasional di bidang ketenagakerjaan dengan menetapkan kebijakan menyusun Perencanaan Tenaga Kerja, Informasi Ketenagakerjaan, dan Pelatihan Kerja. Pekerja yang profesional, akan meningkatkan produktivitas dan keuntungan perusahaan. Dampak positif bagi pekerja, akan menerima haknya atas upah layak, sehingga tercapai kesejahteraan diri dan keluarganya serta hidup terhormat dan bermartabat dalam masyarakat.

Kata kunci: hukum, pekerja, upah layak

Introduction

Unemployment and poverty became the driving force for most of citizens to work anywhere, including abroad. According to Connie de la Vega and Conchita Lazaar-Batista, the number of migrant workers around the world will increase rapidly as long as the home country can not providing jobs and a decent wage. Besides, in other countries provide a variety of jobs with higher wages than their home country. It means that labor mobility will give an impact on the quantity, quality and the range of wages in a country.

Low quality of labor will affect to the low of bargaining position between the workers and entrepreneurs in labor relations system, including in terms of wages. Low quality labor can be known when we will compare the readiness of Indonesian workers to compete with foreign workers that seeking employment in Indonesia. The comparison types such as: first, the level of education; second, skills; third restrictions on employment opportunities; fourth, the view that foreign workers have a higher quality than local workers; and fifth, Scarcity of Workers with the appropriate quality needs. This comparisons become a reference condition for Indonesia with other countries in terms of wages.

Normatively, Article 27 paragraph (2) of the 1945 Constitution states that: "Every citizen has the right to work and a decent living for humanity". As for Article 88 paragraph (1) of Law 1


Number 13 of 2003 on Manpower (Manpower Law) states that "every worker has a right to earn to fulfill a decent life for humanity". On the basis of these rules, the worker conditions should be better.

Nowadays, the conditions of employment in Indonesia tend to only impose a wage policy that is just procedural not substantive justice. The procedural justice is caused by the policy of Provincial Minimum Wage (Upah Minimum Provinsi, UMP) from the government. UMP is intended only as a safety net for the weak company in terms of profit, not for strong companies or the great taxpayers (income tax).

Problems of employers to pay decent wages is not matched by a professionality and high productivity of Indonesian workers. Data from Avillani about unskilled labor can be seen in the table below.

Table 1. Low Skill

<table>
<thead>
<tr>
<th>Skills problems</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>not take a course</td>
<td>1.17%</td>
</tr>
<tr>
<td>various vocational</td>
<td>0.05%</td>
</tr>
<tr>
<td>commerce</td>
<td>0.04%</td>
</tr>
<tr>
<td>automotive</td>
<td>0.03%</td>
</tr>
<tr>
<td>mechanical engineering</td>
<td>0.12%</td>
</tr>
</tbody>
</table>

Source: Avillani, Biaya Tenaga Kerja di Indonesia, presented at Forum Konsolidasi Dewan Pengupahan se Indonesia, Jakarta, 3-5 September 2013.

The explanation of that table about skilled labor only reached 5.67 percent, while the unskilled labor because they do not follow the courses of skills reached 94.33 percent. According to the writer, the amount of unskilled labor, because: first, live in rural areas, they are not covered by skills course; second, skills course is expensive; third, Training Center (BLK) is in the provincial capital; and fourth, high school graduates students more choose bachelor programs than the vocational diploma program.

For workers, decent wages problem is a sensitive issue and implicating to the dispute. The emergence of the dispute caused by the indication of a violation to the legal principles of wage which include appropriateness wage principles, the principle of no work no pay, the principle of social risk and the principle of equal pay equal job. In this paper, the object discussion of wage is a key point that must be given a solution in order to get substantive justice through the principle of appropriateness wage as set in a Labor Law.

Discussion

Sudikno Mertokusumo stated that the rights and obligations is not a set of rules or norms, but the balance of power in the form of individual rights on the one hand reflected in the obligation on the opposing side. Rights and obligations is an authority that given to a person by law. However, in implementing its rights and obligations should provide protection and justice for all parties.

Workers protection, is one of the goals of substantive justice, in addition to farmers, fishermen and small traders. Justice for the poor people reflect the understanding about the lack approach that oriented to people needs. Government urged to reform the labor law enforcement, for social justice and the welfare of workers.

Essentially, the protection of labour laws should be represented by the country against the weak side. State must provide legal assistance to the citizens in an effort and as the implement-

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5 Ibid., page. 661.

6 Ibid.


tation of state laws that recognize, protect and guarantee the human rights of its citizens access for justice and equality in the law. In the implementation, workers must also comply with the economic law that based on supply and demand balance. The meeting between demand and supply is creating the implications as the agreement for the existence of rights and obligations between employment and wages.

It has been set in the rules regarding the protection of the workers rights to prevent an unlawful act. Right to work and the rights in the work not only as a social and economic rights, but also a fundamental human rights in the system of labor relations.

The fundamental human rights should be in line with the principle of appropriateness of wage in order to make workers have prosperous life with their family. The principle of appropriateness of wage in the 1945 constitution and Labour Legislation must be implemented in national development programs to be done at the company level.

Legal protection for workers is a manifestation of the effort to promote the general welfare, educating the nation. However, the basic philosophy set by the makers of Labour Law did not provide extensive and comprehensive meaning as set in the 1945 Constitution. This is evident in the consideration of letter D Labor Law that "The protection of labor is intended to guarantee the basic rights of workers/laborers and ensure the equality of opportunity and treatment without discrimination on any ground for the welfare of workers/laborers and their families regard to the progress of the business world." As according to Article 4 of the Labour Law states that labor development aims to: first, empower and utilize manpower optimally and humane; second, realize equal employment opportunities and providing manpower according to the needs of national and regional development; third, provide protection to workers for welfare; and fourth, improve the welfare of workers and their families.

Basically, the efforts for equal employment opportunities must be done in all parts of Indonesia, therefore, the Local Governments should strive to invite national and foreign investors to invest in those area. As the attraction for investors, certainly the regional government set up the ease of licensing and infrastructure, such as roads, electricity, telecommunications, water, ports and so on. When compared with the best practices in Japan, before 2006, there is so many companies in Japan established the company's location closer to the market. But after 2006, the company was set up in rural areas. In this case, the company strives to provide better benefits to workers and facilitate rural labor to get the job. Company standing policy in the rural area give an impact such as: first, cost of living is cheaper than the big cities in Japan; second, minimize urban workers from the rural; third, equally welfare level; and fourth, transfer the technology from the city to the rural area.

In the United States, the policy taken is perform the empowerment and workforce optimally through surveillance systems. Supervision for workers productivity can be done by using the technology that can monitoring the workers activities. Throughout the United States and most industrialized countries, businessmen buy and implement great and new technologies that can improve security and monitoring worker productivity. The result is, the productivity of workers increase than before using the

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surveillance technology. The increased of productivity also resulted an increase in wages for workers. Technology not only have a negative impact on the environment, but also to the social environment can be reduce the communication between the employers and workers.

Ultimately, policy changes in Japan and the United States aimed to improving the welfare of workers. While, in Indonesia through the effort to implement the principle appropriateness of wage, can modelled the good things from the other country by policies that favor to the welfare of workers.

Institutionally, the efforts to improve the welfare of workers can be done when the employers give priority to the welfare of the company, workers and the community around. Entrepreneurs efforts to improve the welfare of workers including such as: first, Improving the quality and quantity of companies with modern management. This leads companies to use modern management work professionally and minimize the various action as "bad parties" that led to the ballooning expenses (high cost) of companies that are not productive.

Expenses or costs "stealth" which ranges 20-30% of the total cost of the company can be used to advance the company and pay the workers with decent wages. Workers wage that range about 8% of the total cost, will be increased to 16% or 24% of the total cost. It means that the wages can be increased to 200% or 300%.

For example, the application of the applicable UMP in 2013 amounted to Rp. 1,400,000.- for South Sumatra, with the application of modern management can be increased to 200% or 300%, then the wage for the workers could be Rp. 2,800,000. - or Rp. 4,200,000. -. This last wages can be a wage for fulfill the minimum needs for a decent life.

Second, company should obey Labor Law, so it can: a) implementing its obligation to the labors by giving them decent wages, guarantee the work safety, following BPJS Labor(BPJS Ketenagakerjaan) and work situations which is compatible with its labor; and b) running the company quietly, without worrying at some point will be examined by The Department of Manpower and Transmigration or Ministry of Manpower and Transmigration for violating Labor Laws.

In the future, efforts should be done by The Government to implement the eligibility principle of wage towards a decent wage, such as: Department of Manpower and Transmigration or Ministry of Manpower and Transmigration implement the Laws in the field of employments by: first, determine a policy and arrange labor planning; second, labor information; third; implement the job training.

Determination of policies and arrange labor planning is based on Article 7 of The Labor Law that government in setting policy and arranging labor planning; and labor information; includes: first, macro labor planning; and second, micro labor planning. In arranging the policies, stragies, and the implementation of sustainable labor development program, government should be guided on labor planning. Article 8 of The Labor Law stated that labor planning is arranged based on labor information, such as: 1) job training including job competence; and 2) labor productivity.

Job training regulated in Article 9; 10, 11, 12, and 13 of The Labor Law that: 1) work training organized and directed to supply, improve, and develop job competence to increase the capability, pro-ductivity, and prosperity; 2) work training carried out with the regard to labor market needs and business world, both inside and outside the work relationship. The implementation, based on the training program which refers to work competency standards and carried out in stages. 3) every worker has a right to get/or increase and/or develop job competence in accordance with their talents,


The Labor Law regarding wages is supposed to reformulate Article 88 of The Law to meet the decent life for humanity, Article 88 of The Labor Law reformed for wages to reach the standards of decent wage, with the new term 'The Labor Law'. Every worker has a right to get income that is proportionate to the principles of appropriateness of wages and occupational skills, and the principle of justice. The Labor Law also has the right to set a wage policy that protects the workers.

Factually, in order to reach fairness in wages, there should be adequate social benefits and welfare in the form of the (a) professionalism of Civilian State Apparatus (ASN) is not optimal; (b) limited budget; (c) the law enforcement is still weak, especially in the supervision field; (d) the supervision of the company is not perfect; (e) the level of obedience with The Labor Law is still weak; (f) due to ASN supervision which is still weak, most of the company has not managed professionally; (g) the commitment of the management of the company; (h) the cost or company expenses that are not clear.

It should be understood that the relationship between workers and entrepreneurs, but also social relationship. Both are one family in wide meaning of the family. However, in the context of the employment relationship, they can be different. The family relationship is built on attachment and bonding, while the employment relationship is built on mutual dependence and exchange of services. The family relationship is characterized by emotional bonds and personal connections, while the employment relationship is characterized by contractual agreements and professional relationships.
ing, in the sense of brothers on the basis of nationality and homeland Indonesia. Life choice and way of life make workers and entrep-reneurs realize the different professions, so that one is a worker and the other is a entrepreneur. But both in doing the professions obey with the norms of labor law. Because of that, the principles of decent wages can guarantee the aim of law in general, they are legal certainty, justice and expediency.

Conclusion

The principle of decent wages is one of the fundamental principle for workers, with the goal for workers so they can have prosper life with their family. The principle of decent wages in 1945 Constitution and The Labor Law have to be implemented in national development in the field of labor by setting and arrange Labor Planning, Labor Information, and Job Training that held in BLK or Dinsakertrans in every Province or Regency/City. Trained labor and graduete BLK, with the policy of Menakertrans have to get first priority to work in company according to their expertise.

Profesional labor as the result of job training will increase the productivity and profit of company. Positive impact for the labors, they will receive decent wages to make welfare life for themselves and their families and they can life with dignity and respect in society. Thus the principle of decent wage can be im-plemented to reach the aim of labor law, they are: legal certainty, justice and expediency.

References

Aviliani. *Siaya Tenaga Kerja di Indonesia, Makalah Seminar Nasional “Forum Konsolidasi Dewan Pengupahan se Indonesia”. Jakarta: 3-5 September 2013;*


-------- "Hukum Pengupahan yang Berkeadilan Substantif (Kajian Teoritis Terhadap Teori Upah Teladan)". *Jurnal Masalah-Masalah Hukum*, Jilid 42 No 2 April 2013. Semarang: Faculty of Law Universitas Diponegoro;


Randang, Frankiano B. "Kesiapan Tenaga Kerja Indonesia dalam Persaingan dengan

