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Legal Consequences for Companies that Enforce Wages Below Government Policy

Suhendri Zikri Destiana[1]✉, Endeh Suhartini[2], Sudiman Sihotang[3]
[1,2,3]Universitas Djuanda, Bogor
Correspondence Author: hendri.zikry@gmail.com✉

Abstract:

Wages are a fundamental right of workers regulated by laws, including policies issued by the government regarding minimum wage. Non-compliance by companies with these policies can lead to various legal consequences, including administrative, civil, and criminal sanctions. This research discusses the legal consequences faced by companies that pay workers' wages, not by government policies, and the legal remedies available to workers when they receive wages that do not align with these policies. The research employs a normative juridical method to deeply analyse the legal consequences for companies that pay wages violating government policies. The findings indicate that companies paying wages below government standards face criminal and civil sanctions, including breaches of minimum wage laws, unlawful wage deductions, or delayed payments. Workers receiving wages that do not comply with government policies can also report to investigators or file civil lawsuits through bipartite negotiations, mediation, and the Industrial Relations Court.

Keywords: **Legal Consequences; Wages; Workers**

Introduction

According to Article 1, paragraph (3) of the 1945 Constitution, Indonesia is a country of law that requires every government action to be based on applicable law as a form of legal supremacy. The law has the highest position in regulating the rights and obligations of society, including human rights (Suhartini et al., 2020). Human rights cover various fields, including employment, where workers have the right to a decent wage (Harahap, 2020). Appropriate wages should not be arbitrarily seized because this is important to meet the needs of a decent life, increase welfare, reduce poverty, and realize justice. Legally, as regulated in Article 1 paragraph (30) of Law Number 13 of 2003 concerning Manpower, wages are defined as workers' rights received in the form of money as compensation from employers, based on work agreements, agreements, or

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statutory regulations, including allowances for workers and their families for work that has been or will be done. Issues related to wages to date have often been in the public spotlight, including worker protests complaining about unilateral wage cuts, payment of wages below the minimum, late payment of wages, and other violations (Rahmania et al., 2022). These problems often occur due to the company's negligence in complying with the law and the lack of government supervision (Suhartini et al., 2019).

Workers' wage rights in Indonesia have been regulated in Article 27 paragraph (2), Article 28D paragraph (2), and Article 28E paragraph (1) of the 1945 Constitution, which guarantees workers the right to fair wages to meet their living needs and the right to fight for it if the company does not comply. Wage policies in Indonesia are further regulated in Law Number 13 of 2003 concerning Manpower, Law Number 6 of 2023 concerning Job Creation, and PP Number 36 of 2021 concerning Wages. This policy includes provisions regarding minimum wages, where a decent salary is the obligation of employers and the right of workers with a limit that must not be less than the minimum wage set by the government (Iskanda & Edhi, 2023). Compared to other countries, Indonesia has a minimum wage policy similar to Malaysia's (Pramono et al., 2016). This differs from Singapore, which does not set a minimum wage because it adopts a market-based approach that provides flexibility in setting wages based on supply and demand. The Singaporean government focuses more on programs such as the Workfare Income Supplement and SkillsFuture to help low-income workers (Dharmalinga, 2024).

The determination of minimum wages in Indonesia, Sonhaji Shafira Khairunnisa, Agus Pramono, and both UMP and UMK are based on evaluating economic and employment conditions in each region.

Table 1.1
Data on the Development of the West Java Provincial Minimum Wage (UMP) 2020-2024

Year	Amount of Salary
2020	IDR 1.810.351,36
2021	IDR 1.810.351,36
2022	IDR 1.841.487,31
2023	IDR 1.986.670,17
2024	IDR. 2.057.495,00

Based on Table 1.1 above, the West Java UMP has increased, except in 2021, which did not change due to the impact of the COVID-19 pandemic. The increase was influenced by inflation and economic growth. Inflation in West Java has increased yearly, while economic growth has recovered after contracting in 2020 due to the pandemic, supported by the industrial, trade, and construction sectors. The unemployment rate, which had increased in 2020, began to decline in West Java in 2023, driven by increased labor absorption (Nugraheni & Hartato, 2024). Of course, the increase in UMP in West Java affected the rise in UMK in various regions in West Java Province, one of which was the UMK in Bogor City, where the increase was adjusted to local conditions (Bank Indonesia, 2024).

Table 1.2
Data on the Development of Minimum Wage in Bogor Regency/City (UMK) 2020-2024

Year	Amount of Salary
2020	IDR. 4.083.670,00

2021	IDR 4.217.206,00
2022	IDR 4.217.206,00
2023	IDR 4.330.249,57
2024	IDR 4.579.541,00

Based on Table 1.2 above, the UMK in Bogor increased by 3.27% in 2021, 7.18% in 2023, and 1.31% in 2024. This increase did not occur in 2022 due to the government's policy to maintain economic stability due to the Covid-19 pandemic. The increase in the Bogor UMK reflects the government's efforts to adjust wages to economic conditions and decent living needs in Bogor, which was also influenced by positive economic growth in West Java. The increase in the UMK in Bogor also positively impacts workers' purchasing power and welfare, although it requires increasing production costs for employers. The Bogor City Government needs to consider local economic conditions and input from trade unions and employers to ensure that the minimum wage meets the needs of a decent living for workers and their families.

The government is responsible for ensuring that workers receive decent wages by the constitution's mandate (Suhartini et al., 2024). Therefore, supervision and law enforcement against companies are critical. Companies are required to provide appropriate wages on time, transparently, and not lower than the minimum wage. Companies that do not pay salaries to legal regulations are considered to have violated the law and can harm other parties, especially workers who receive low wages. This negatively impacts workers' ability to meet their living needs and can risk increasing poverty in Indonesia (Jemarut et al., 2023). In addition, the absence of salary is the same as slavery or deprivation of rights. Wages must be based on workers' achievements and meet their living needs. Companies are required to fulfill their obligations by government policies. If not, there will be legal consequences, including sanctions from the government. The law includes orders, prohibitions, and sanctions for violators. Therefore, in this case, the law must be enforced to achieve justice, order, peace, and prosperity (M. Roestamy, 2006).

Based on the above problems, the author, in this case, is interested in conducting a study entitled "Legal Consequences for Companies That Pay Workers Wages Not in Accordance with Government Policy" with the following problem formulation: (1) What are the legal consequences for companies that pay workers wages that are not by government policy? (2) What legal measures can workers take if they receive wages not by government policy?

Methods

This study uses a normative legal method, which involves an analysis of applicable laws and regulations, legal doctrine, and relevant jurisprudence. This analysis aims to understand the legal framework that regulates the problems studied and relates them to the empirical facts found in the study (A. Y. M. Roestamy & Suhartini, 2020). This study was also conducted using a library research approach, qualitative analysis methods, and a focus on field research in the jurisdiction of Bogor Regency/City.

Results

Sub 1 Legal Consequences for Companies If They Pay Workers Wages Not in Accordance with Government Policy

Legal consequences are the consequences arising from an action or deed contrary to applicable legal norms. According to Soedjono Dirdjosisworo, legal consequences occur because of a legal relationship involving the parties' rights and obligations (Marzuki, 2008). In regulating workers' wages, it is essential to regulate legal consequences in policies and implement them accordingly by companies or employers. For companies that violate, legal consequences function as preventive, coaching, and evaluation efforts so as not to repeat acts that harm workers. Meanwhile, for workers who are hurt, legal consequences function to restore conditions that should have occurred, compensate for losses, and as a form of justice (Handayani et al., 2024). Regarding workers' wages, the legal consequences for violating companies have been regulated by labor laws, such as Law Number 13 of 2003 concerning Manpower, Law Number 6 of 2023 concerning Job Creation, and Government Regulation Number 36 of 2021 concerning Wages. Legal consequences can be in the form of sanctions (criminal, civil, or administrative) and other actions, the implementation of which is the government's authority (Wijaya & Lie, 2023). The sanctions cannot be the same for all employer violations that harm workers' rights. Some violations or crimes related to workers' wage rights can be qualified based on the sanctions stipulated in labor laws and regulations.

First, the legal consequences of violations and crimes against workers' wage rights are criminal sanctions, which are the suffering or misery inflicted by the state on individuals or corporations proven to have committed criminal acts (Amin, 2024). In employment laws and regulations, several actions by employers or companies can be categorized as violations or crimes, potentially subject to criminal sanctions. Some of these violations include paying workers wages below the minimum wage. Employers must pay workers no less than the minimum wage determined by the Governor. If employers pay wages below this standard, they can be subject to criminal sanctions in the form of imprisonment for a minimum of 1 year and a maximum of 4 years, as well as a fine of between IDR 100 million and IDR 400 million, by Article 185 paragraph (1) of the Employment Law and Article 88e paragraph (2) in conjunction with Article 23 paragraph (3) of the PP on Wages (Rosalina et al., 2022). In addition, employers not paying wages to workers who do not work due to certain conditions is also a criminal act of labor violation, in which the company, in this case, can be subject to criminal sanctions if it does so. Although the wage policy applies the principle of "no work, no pay," there are exceptions regulated in Article 93, paragraph (2) of the Employment Law. Workers are still entitled to receive wages even though they do not work due to certain conditions such as illness, menstruation, childbirth, or other emergencies (Hermawati & S, 2024)ten occur between companies and workers. In civil law, sanctions given to defendants proven to have violated the law include compensation, fines, revocation of contracts, or orders to act or not to act something (Afiudin et al., 2023). Three company actions can be subject to civil sanctions. The first is the violation of employers who pay wages below the minimum wage, and they can be sued civilly. Although this act can be subject to criminal sanctions, it can also be subject to civil sanctions by filing a lawsuit if a dispute over wage rights occurs. Moreover, suppose the work agreement that binds workers with the company contains a wage determination below the minimum wage. The work agreement is considered null and void because it conflicts with labor laws and regulations (Erniwati & Jhoni, 2024).

Then, the company's actions that cut workers' wages can also be sued civilly so that workers whose wage rights are harmed can get compensation from the company. Initially, Article 63 of the Manpower Law had regulated the existence of a wage cut policy that the company could carry out (Hauzan, 2023) If the company makes wage cuts not by the policy, then the company can be subject to sanctions. However, the enactment of the Job Creation Law has eliminated this policy even though there are still many wage cuts in the field. Therefore, if we refer to the PPHI Law, if wage cuts occur to the point of causing disputes between workers and companies, primarily if the wage cuts result in the wages received by workers being less than the minimum wage or wage cuts are made due to certain conditions such as illness (Desrina, 2024). Then, workers have the right to make a settlement due to civil sanctions for companies violating workers' wages (Ekarista et al., 2023).

Then, finally, the company's actions are late in paying workers' wages. This can also be subject to civil sanctions in the form of restoration of wage rights or compensation by the company if the action causes a dispute between workers and the company. Originally, Article 95 of the Manpower Law stipulated that there would be a fine for companies that make late wage payments. However, once again, the Job Creation Law that is currently in effect removes the provisions on these fines and only regulates wages, which are debts that must be paid if the company is declared bankrupt (Faisal & Qamariyanti, 2023). Although employers or companies cannot be fined, workers can still civilly claim their wage rights by settling industrial relations disputes (Virgiawan et al., 2023).

An example of a case of late wages that can be subject to civil sanctions is in the Industrial Relations Court Decision at the Bandung District Court (Number 16/Pdt.Sus/PHI/2023/PN.Bdg) which was upheld by the Supreme Court (Number 1014 K/Pdt. Sus-PHI/2023). This case involved 39 PUDT PKB workers who sued the company for termination of employment and late payment of wages for four months (January-April 2017), amounting to IDR 298,660,972.49. The plaintiff filed the lawsuit after previous settlement efforts failed. The court rejected the company's cassation application and granted part of the workers' lawsuit, ordering PUDT PKB to pay workers' rights. In addition to unpaid wages, the panel of judges also considered the company's losses for three years, which caused the delay in the payment of salaries. The reason for the company's financial loss does not eliminate the obligation to pay wages and late fines (Pardjer et al., 2024). However, in the above case, the panel of judges removed the late fine based on two considerations, including the absence of an official inspection note from the labor inspector that could prove the company's violations and the company's financial condition, which had suffered significant losses for three consecutive years. The judge has the authority to consider these factors, and imposing a burdensome sanction can be regarded as unfair because it can worsen the company's condition and hurt workers who are still active. The panel of judges also emphasized the importance of justice by the PPHI Law in their decision. Even though workers experience termination of employment, the right to unpaid wages must still be restored. Therefore, even though the PUDT PKB is not subject to a fine, they are required to immediately pay off the remaining salaries of the workers according to the Supreme Court Decision Number 1014 K/Pdt.Sus-PHI/2023. In the author's opinion, the judge's decision in the Supreme Court Decision Number 1014 K/Pdt.Sus-PHI/2023 is considered fair for both parties, considering the workers' rights to receive wages even though the employment relationship has been terminated. In this case, even though the company is experiencing losses, the obligation to pay wages must still be fulfilled. The panel of judges tried not to disadvantage the struggling company by eliminating the burden of fines for late salaries. Still, it emphasized that the company must fulfill its obligations to workers.

Settlement of industrial relations or civil disputes, such as the above case, is always the main priority in workers' wage rights. The settlement process is often carried out peacefully or through litigation by civil procedural law (Santoso & Tahir, 2023). For companies, resolving legal cases through civil channels is considered faster, and the cost of losses for the opposing party is not a big problem. Sometimes, legal cases benefit the company more than the workers. However, it should be noted that the execution of the results of the settlement of industrial relations disputes is still relatively weak compared to criminal sanctions (Arsalan & Putri, 2020). Many companies do not implement the agreements or decisions that have been reached, even filing cassation if they disagree with the results of the court's decision. In addition to criminal and civil sanctions, employment regulations also regulate administrative sanctions . According to Article 190 paragraph (2) of the Manpower Law, administrative sanctions can be in the form of reprimands, written warnings, restrictions or freezing of business activities, or revocation of permits (Dalimunthe & Bintang, 2024) . The government imposes administrative sanctions based on reports or results of supervision. However, not all actions related to wage issues that do not follow government policy can be subject to administrative sanctions. Therefore, the author thinks that administrative sanctions are not concrete legal consequences that can be imposed on companies that do not pay wages by government policy.

Sub 2 Legal Actions That Workers Can take If They Receive Wages That Do Not Comply with Government Policy

Workers work for wages and have a legal relationship with employers, regulated by an employment agreement. This relationship is often unbalanced due to differences in economic background, which employers can exploit to act arbitrarily toward workers (Shubhan, 2020). Therefore, the government plays an essential role in balancing this inequality through employment regulations, such as the Employment Law and the Job Creation Law, which provide protection and rights for workers to take legal action. Legal action is essential to protect workers' rights, create fair working conditions, and resolve disputes (Jahari & Artita, 2023). Every worker has the right to fair compensation and proper treatment. Companies should not pay wages below applicable provisions, be late, or deduct wages illegally. If workers experience unfair treatment, they have the right to take legal action so that legal provisions can punish employers who violate it.

Employment laws and regulations have regulated various legal efforts that workers can take to obtain compensation for wage rights violations. First, workers can take criminal legal action if the company pays wages below the minimum wage and/or does not pay wages to workers who should still be paid even though they do not work (Isaura et al., 2023). The initial step is to report the employer's actions to investigators, either the Police or Civil Servant Investigators (Cantiqa et al., 2023), who can examine the report and collect evidence. After the report is received and the examination shows sufficient evidence, the prosecutor and the court can continue the case to further legal stages. This process can take more than 30 working days, and the result can be criminal sanctions in the form of imprisonment and fines, but it does not guarantee the restoration of workers' wage rights in full (Tetehuka, 2019).

Second, the PPHI Law regulates various disputes between workers and employers, ranging from disputes related to workers' rights and termination of employment to conflicts between trade unions. To resolve these disputes, workers can file a civil lawsuit (Putri, 2024). There are several Industrial Relations Dispute Resolution (PPHI) mechanisms that can be implemented, including (Oktaviani et al., 2023):

1. A bipartite mechanism involving direct negotiations between workers or trade unions and employers to resolve disputes within a maximum of 30 days from the start of the talks.
2. A tripartite mechanism involving workers, employers, and the government (Manpower Office) as a third party can take the form of mediation, conciliation, or arbitration.
3. The litigation mechanism in industrial relations involves resolving disputes between workers and employers through the courts.

In this case, workers can file a lawsuit with the Industrial Relations Court located in the local district court to obtain a fair and legally binding decision (Oktaviani et al., 2023).

Not all PPHI mechanisms can be applied to wage issues. Rights disputes, including wage disputes, usually arise when one party fails to fulfil the contents of the work agreement or violates legal regulations. In this case, the aggrieved worker can start the process with bipartite deliberation (Kusbianto & Silalahi, 2020). Workers must register the dispute with the employment agency if these efforts fail. Furthermore, workers can mediate within 30 days before filing a lawsuit with the Industrial Relations Court. If an agreement is reached in mediation, the results must be written in a Joint Agreement and registered in court. Without agreement, the mediator will provide written recommendations to the parties involved. The court process must include evidence of settlement through mediation. The Industrial Relations Court trial is carried out per civil procedure law with a maximum time of 50 working days from the first trial (Yunus et al., 2023). In this trial, the panel consists of a chief judge and two ad-hoc judges. The judge can order payment if the employer is proven not to have paid wages. Interim decisions cannot be challenged as in ordinary civil disputes. In the final stage of the trial, the judges will consider the law, existing agreements, customs, and justice before making a decision. This decision has legal force if, within 14 days, no party files an appeal. Suppose any party does not accept the decision by applicable legal provisions. In that case, the parties have the right to file a cassation application to the Supreme Court within 14 days after the decision of the appellate court is declared, and the cassation legal effort can be made within a maximum of 30 days after the application is received (Salim & Saputra, 2024).

Conclusion

Based on the analysis and discussion of the research, it was concluded that companies that pay workers' wages not by government policy could be subject to legal sanctions in the form of criminal and civil sanctions. As a form of protection for workers' rights, the law has regulated criminal sanctions for companies that violate wage payment provisions. Criminal sanctions can be applied to companies that pay wages lower than the minimum wage set, as well as companies that do not pay wages to workers absent due to illness, menstrual leave, or other legitimate reasons. On the other hand, civil sanctions apply to companies that pay wages below the minimum wage, make illegal wage deductions, or pay wages late. Workers who receive wages not by government policy have several legal remedies, including reporting to investigators (police or PPNS) for criminal acts and labour violations. They can also take civil legal action by conducting bipartite, mediation, or filing a lawsuit with the Industrial Relations Court against companies that commit violations related to wage payments.

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