

Islamic Law Thought: The Concept of Wages for Workers According to Syafi'iyah Fiqh and Positive Law

T. Wildan

Institut Agama Islam Negeri Langsa
wildan@iainlangsa.ac.id

Abstract

This article aims to analyze the system of determining workers' wages according to Syafi'iyah fiqh and positive law; the government is looking for an alternative approach to national labour issues, especially in the mechanism of applying wages that are by the efforts of workers as contained in the book of the Syafi'iyah school of thought. This research aims to determine the system for setting workers' wages in Indonesia and to contribute ideas to Islamic economic law. At the same time, it can be applied in the life of Islamic society in the era of globalization and free markets. The method used in this paper is descriptive analysis with a normative juridical approach. The primary sources used in this writing are books by fiqh scholars from the Syafi'iyah school of thought and laws related to workers' wages, namely Government Regulation (PP) Number 36 of 2021 concerning wages. The findings in this study are that workers' salaries in Government Regulation (PP) Number 36 of 2021 obtained by workers are still different from the work performed by workers, and the risks they face are disproportionate. At the same time, the determination of wages, according to Syafi'iyah fiqh, must be based on the principles of justice that workers, employers, and the government feel. The focus of justice is translated as setting a minimum wage based on meeting the most basic needs of a worker. Thus, the most critical wage, according to Syafi'iyah fiqh, is real wages, not nominal wages (money).

Keyword: *fiqh syafi'iyah, wage, workers*

Abstrak

Artikel ini bertujuan menganalisa sistem penetapan pengupahan pekerja menurut fiqh Syafi'iyah dan hukum positif, Pemerintah mencari sistem alternatif dalam masalah perburuhan nasional, khususnya dalam mekanisme penerapan upah yang sesuai dengan jerih payah buruh sebagaimana yang terdapat dalam kitab mazhab Syafi'iyah. Yang menjadi tujuan dalam penelitian adalah untuk mengetahui sistem penetapan pengupahan pekerja di Indonesia dan untuk memberi kontribusi pemikiran dalam hukum ekonomi Islam dan sekaligus dapat diterapkan dalam kehidupan masyarakat Islam dalam era globalisasi dan pasar bebas. Metode yang digunakan dalam penulisan ini adalah deskriptif analitis dengan pendekatan yuridis normatif. Sumber primer yang digunakan dalam penulisan ini ialah kitab karya ulama fiqh yang bermazhab syafi'iyah dan UU yang terkait dengan pengupahan pekerja yaitu Peraturan Pemerintah (PP) Nomor 36 Tahun 2021 tentang pengupahan. Temuan dalam penelitian ini upah pekerja dalam Peraturan Pemerintah (PP) Nomor 36 Tahun 2021 yang diperoleh oleh pekerja masih belum sebanding dengan pekerjaan yang dilakukan oleh pekerja dan tidak sebanding resiko yang mereka hadapi. Sedangkan penetapan upah menurut fiqh Syafi'iyah harus

didasarkan atas prinsip-prinsip keadilan yang dirasakan oleh pekerja, majikan dan pemerintah. Prinsip keadilan tersebut diterjemahkan dalam bentuk penetapan upah minimum berdasarkan atas pemenuhan kebutuhan paling pokok bagi seorang pekerja. Dengan demikian upah yang paling penting menurut fiqh Syafi'iyah adalah upah real bukan upah nominal (uang).

Kata Kunci: *Fiqh Syafi'iyah, Pekerja, Upah*

INTRODUCTION

Humans, as caliphs on the surface of this earth, are obliged to maintain their survival and all family members as a mandate from Allah (Mardiyah et al., 2018) Therefore, he must work as well as possible because working in Islam is an obligation for able people; it is not justified to stand idly by for reasons of worship or trust in Allah. What is meant by work is all the maximum effort made by humans through their bodies and minds to increase personal and other people's income by receiving wages or salaries.(Sirajulhuda, 2018)

According to economic theory, wages are payments for physical and mental services provided by labour to employers. Because of this wage, injustice sometimes occurs in charge; in reality, considering that workers are a vulnerable group from an economic aspect, even according to Azira, workers are essentially the same as enslaved people who need a decent wage from their employers.(Azizudin & Mokhtar, 2019)

For this reason, the problem of wages is very urgent to discuss, and the impact is vast. Suppose workers need to receive fair and proper wages. In that case, this will not only affect the purchasing power of the workers, which will ultimately affect the standard of living of workers and their families but will directly affect the whole of society because they consume a large amount of the country's production.(Rochadi, 2016)

The wages of workers or labour it has been implicitly formulated in the preamble of the 1945 Constitution, and this is reflected in the 1945 Constitution, article 27 paragraph (2), namely: "Every citizen has the right to work and a life worthy of humanity". Thus, every citizen, including workers, has the right to get a decent job and a fair wage for the services he sells.

However, in the Republic of Indonesia, the standard of wages refers to the minimum means of life required by a worker, which will result in the ownership of these workers being limited according to the minimum standard they need to meet their needs.(Pratiwi, 2017) So, the ownership of workers is limited by the minimum standard of living according to the size of their community. Even though society's high and low status is different from one another, this thinking still follows the minimum cost of living required by these workers. That's capitalism.(Khoiri, 2017)

If we want to refer to the labour regulations that apply in our country, the provisions regarding workers are regulated in Government Regulation (PP) Number 36 of 2021 concerning wages; it states that wages are the right of workers/labourers who are received and expressed in the form of money as compensation from employers. Or the employer to the Worker/Labourer who is determined and paid according to a work

agreement, agreement, or laws and regulations, including allowances for the Worker/Labourer and his family for a job and service that has been or will be performed. Meanwhile, a Worker/Labourer is any person who works by receiving wages or other forms of remuneration. If we want to examine the contents of Article 1, paragraph 2, it can be concluded that almost all Indonesian people are workers. The reason is that nearly all our people work by receiving wages/remuneration in other forms. (Peraturan Pemerintah Nomor 36 Tahun 2021 Tentang Pengupahan., 2021)

The Central Bureau of Statistics for Aceh, in the indicator for the level of life of workers issued by BPS Aceh, states that the minimum need for a single worker in one month in 2021 for Aceh Province is 4,000,000 - and a regional minimum wage of Rp. 3,165,000 - things like this are not only in Aceh but throughout Indonesia. (BPS, 2021)

From the above phenomenon, it can be assumed that there is a gap in the regional minimum wage (UMR) setting system by the relevant agencies. Ways of remuneration that give little concern to workers and their economic responsibilities towards their families are capitalist methods which are very contrary to the soul and system of Islam. (Ekonomi et al., 2015)

Yusuf Qaradawi said that individuals feel self-esteem and existence in a capitalist system. The way is open for him to develop his talents, but the capitalist system is a disaster for human beings in many ways. In the capitalist system, we find an ego attitude. The tragedy this attitude brings is the ambition to amass significant sums of wealth without ever being satisfied. Whereas ordinary people, mainly because they are weak and oppressed, are an outcast group, forgotten scum of society and have no meaning in development in the era of globalization. (Husain, 2019) The capitalist system does not appreciate someone's services and works professionally, which is very contrary to the Islamic economic system, which Islam highly values. Islam was brought by the Prophet Muhammad. It is to be a mercy to all nature. (Warren, 2021)

Yusuf Qaradawi explained that the soul of the Islamic order is a fair balance. This is seen in the attitude of Islam towards the rights of individuals and communities. (GHAZALI, 2012) These rights are placed in a proper balance regarding the world and the hereafter, the soul and the body, the mind and the heart, and reality. Islam also acts in the middle (*wasathan*) between faith and power. A moderate economy will not benefit society, incredibly the weak, as happened in a Capitalist Society. (Polka, 2019)

The issue of workers' wages is seen from the contents of existing government regulations when it is linked to Islamic law, especially in Syafi'iyah fiqh; a person is given a salary according to one's efforts and according to his expertise, is the UMR wage in Aceh Province around 3,165,000, by the missile *ujrah* (level of exhaustion and professionalism) someone? Are government regulations able to solve labour problems in Indonesia? The government regulations above still leave a lump in the hearts of employers, workers and a few people who care about the fate of workers in Indonesia.

METHOD

This research is normative juridical; the object of study is statutory regulations and experts' opinions in various kinds of literature. Therefore, a research method is used, a literature review (*library research*) by comparing studies from multiple expert opinions.(Abubakar, 2021) In addition, for the further development of this paper, descriptive-analytical and comparative techniques will be used; that is, the existing ideas will be described and compared, then analyzed so that a conclusion will be obtained, and then a report on the results of the study will be issued.(johnny ibrahim SH., 2006)

Primary data sources in this study are; Raudhat al-Thālibīn, al-Majmū' Syar al-Muhadzdzab, and Minhāj al-Thālibīn by al-Imām al-Nawawī, Syarh al-Kabīr, Fath al-'Azīz, and al-Muharrar by al-Imām al-Rāfi', I'ānat al-Thālibīn by Muhammad Syathā, Bughyat al-Mustarsyidīn by 'Abdurrahman bin Muhammad Husain and al-Maḥallī by Jalāl al-Dīn al-Maḥallī, and other books by Fiqh scholars Syafi'iyah.

FINDINGS AND DISCUSSION

Wage Determination System According to Fiqh Syafi'iyah

Islam, as a universal religion, regulates various aspects of human life related to God and fellow human beings. In this case, it is not limited to the issue of wages. In terms of salary, in fiqh books, it is termed *al-ijarah*,

Al-ijarah, according to etymology, is a reward for a job.(Al-Ghazi, 1996) While *al-Ijarah*, according to the term syara', there are several meanings put forward by several scholars, including the following. According to Imam al-Rafi', *al-Ijarah* is transactions against an intended benefit, certain, is permissible and may be used in return certain.(Al-Rāfi'ī, 2005) According to al-Nawawī, *al-Ijarah* is A contract for a purpose that is understandable and appropriate to be repaid at a reasonable price and is permissible in religion.(Al-Nawawī, 2001) Abi Bakar Syatha stated that having benefit rights for a fee, the conditions are; consent and qabul, costs that are understandable to benefits that can be valued again, which are understandable to the lessee and do not contain elements of removing the rented object directly.(Syatha, 1993) Whereas Zainuddin revealed a contract for a benefit that is permissible and not haram, such as adultery, which is ma'lum, not majhul, in an understandable period, such as one day, or a month, from a particular object or its characteristics are mentioned in zimmah or work which is understandable.(al-Malibari, 2001)

Al-Mahalli, Ijarah is giving an object or thing to another person to take advantage of it with an agreement that has been mutually agreed upon by the person who rents it and by the person who receives it that the person who receives the item must provide compensation as payment for the use of the benefits of the thing that has been used with several conditions. And certain pillars.(Al-Mahalli, 1994)

From the several definitions mentioned above, it can be concluded that in the ijarah contract, there are three main things, namely: first, the parties making the transaction, namely the employer and the employee; secondly, the agreement, namely

consent and qabul, and thirdly, the material agreed upon, in the form of work and ujah or wages, and ujah or wages are given according to the degree of need. And it can also be understood that wages are a part of the ijarah contract that must be explained to eliminate ambiguity. Opinion of scholars regarding the determination of wages (*ujrah*) in the number of fees that must be paid to the employer. (Al-Nawawī, 2006)

Implementation of Government Regulation No. 36 of 2021 in the Legal System in Indonesia

In general, wages are payments received by workers/labourers as long as workers/workers do work or are seen as doing work. (Wisnuwardhani, 2018) Wages are rights of workers or employees received and expressed in the form of money or benefits as compensation from employers or employers to workers determined and paid according to a work agreement, agreement or statutory regulations, including gifts for workers and their families for a job and or services that have been or will be performed. (Hidayati, 2017)

Government Regulation Number 36 of 2021 concerning Wages was stipulated by President Joko Widodo in Jakarta on February 2, 2021. Government Regulation Number 36 of 2021 regarding Wages was promulgated by the Minister of Law and Human Rights, Yasonna, on February 2, 2021, in Jakarta.

Government Regulation No. 36 of 2021 concerning Wages is a government policy to regulate strategic issues regarding wages, wages for workers, minimum wages and wages for workers in micro and small businesses. Wages are the rights of workers who are received and expressed in the form of money as compensation from employers or employers to workers who are determined and paid according to a work agreement, agreement, or laws and regulations, including allowances for workers and their families for a job or service that has been done. Or will do. (Peraturan Pemerintah Nomor 36 Tahun 2021 Tentang Pengupahan., 2021)

Government Regulation No. 36 of 2021 concerning Wages discusses policies in wage policies; determination of Wages based on the unit of time or unit of output; Wage structure and scale; Minimum wage; The lowest wages on micro and small businesses; Wage protection; form and method of payment of Wages; things that can be calculated with Wages; Wages as the basis for calculation or payment of other rights and obligations; wage board; and administrative sanctions.

Wages are one of the essential elements in an employment relationship, bearing in mind that wages are always associated with a source of income for workers to achieve a decent standard of living for themselves and their families. (Gunadi, 2021) Government Regulation No. 36 of 2021 concerning Wages as a regulation in the field of wages is required to respond to the challenges of the dynamics of globalization and the transformation of information technology which has an impact on changes in the social and economic order, including changes in patterns of Employment Relations in the field of employment. (Suryadi et al., 2021) The worker is any person who works by receiving wages or other forms of compensation. Workers' rights to wages arise when an

employment relationship occurs between workers and employers and ends when the employment relationship is terminated. The Rights of Every Worker in Government Regulation No. 36 of 2021 concerning Wages is the right to a decent living for humanity, equal treatment in the wage system without discrimination, and equal pay for similar value work. (Yasyfa & Deddy Effendy, 2022)

Wages are given as a form of fair and proper remuneration provided to workers for their services in achieving organizational goals. Wages are paid to workers based on hours worked, the number of goods produced or services provided. (Kurnianingsih, 2022) In addition to the above opinion, there are several other meanings for wages; according to Leora Klapper, wages are payments for physical services workers offer to employers. (Klapper & Singer, 2017) Paying wages from employers to workers must pay attention to three aspects: *first*, technical aspects, is an element that is not only limited to how wages are calculated and paid but also concerns how the wage process is determined; *second*, the economic aspect, an aspect that looks more at macro and micro economic conditions. Then, operationally consider the company's ability when the wage value will be determined and implemented in the field; *third*, the legal aspect, covering the process and authority for setting wages, implementing wages, calculating and paying wages, and supervising the implementation of wage provisions. (Jongwutiwes et al., 2012)

Thus, wages are a component that is needed by workers/employees to meet their life needs. Employers give this wage to workers bound by a working relationship and based on a work agreement. Wages offered by employers or employers must pay attention to legal aspects related to the applicable minimum wage by central and regional government regulations. Then a policy and arrangement regarding the distribution of wages must be carried out fairly and by applicable laws.

Wage Determination System According to *Fiqh Syafi'iyah*

One of the links of Islamic Sharia that most people may have forgotten is the duty of the government, which according to Islamic Shari'a, is not limited to the field of security defence from external attacks. However, the government is obligated to maintain stability in the country, both educational, political and socioeconomic. (Cahyo Arsetyo, 2021)

In the book of *fiqh*, if the wage rate is not mentioned during the *ijarah* contract, the rate is returned to the cost set by *'uruf*, namely *ujrah mitsil*. (Al-Nawawī, 2001) To determine the *ujrah mitsil* that can be formulated by the *fiqh* scholars, that is, the wage/wages that can provide for himself and his family (Syatha, 1993), opinion about the wages of workers in *fiqh Syafi'iyah*, According to Zakariya, the cost (wage) determined by an Imam to a worker; if it is not enough to support the family, then it is increased according to the level of need (rate of desire) when a guardian who takes care of shabi property (children who have not reached puberty /under age) cannot take wages when they are rich. As for a poor person, when his efforts are hindered by managing the

child's property, he is allowed to take *ujrah* (wage) at the subsistence level.(Al-Anshari, 1984)

According to Ibn Hajar al-Haitami, it is permissible for a wealthy guardian to take the wages of his efforts on the property of a minor.(Al-Haitami, 1994) In economic problems, the Islamic government does not only regulate monetary and fiscal problems but issues that are applicative and directly felt by many people. Most people are weak and are always played by people with significant capital who need serious attention to get legal protection because, in the eyes of the law, all people are equal.(Al-Syarwānī, 2012)

Islam obligates the government to regulate all legal regulations, also including the issue of hiring. Islam does not restrict this problem in detail. However, it is held globally so that the rulers can make the rules widely and easily by referring to the rules and general arguments in the Qur'an and the Prophet's Sunnah.(Husain, 1998)

In terms of wage responsibility, it is stated in the Qur'an

وَمَا مِنْ دَابَّةٍ فِي الْأَرْضِ إِلَّا عَلَى اللَّهِ رِزْقُهَا وَيَعْلَمُ مُسْتَقَرَّهَا وَمُسْتَوْدَعَهَا كُلٌّ فِي كِتَابٍ مُبِينٍ

There is no moving creature on earth but its sustenance dependeth on Allah. He knoweth the time and place of its definite abode and its temporary deposit: All is in a clear Record (QS. Hud: 6).(Kementerian Agama, 2007)

The verse above shows that an Islamic State as Allah representative on earth, is expected to be able to distribute wealth equally to all members of society. Thus, the responsibility of the Islamic State government is weighty in terms of distribution. Eliminate tyranny among humans, eliminate harm and danger and tightly seal the causes of conflict and hostility.(Al-Mahalli & Al-Suyuti, 1994)

To find out the level of responsibility of a State, some of the following arguments will be explained here: first, the responsibility of the Government, as illustrated by the duty of the *Imam* (Leader) in a State, is an absolute responsibility. This is based on a hadith narrated by Ibn Umar; the Messenger of Allah said: Each of you is a leader, and each of you will be questioned and asked to be responsible for leadership. The Government is the leader and will be held accountable for its administration.(A. A. M. ibn I. Al-Bukhari, 2003)

Because of the Government's sense of responsibility even for animal sustenance, Umar bin Khattab once said: If there is a young goat that perishes on the banks of the Euphrates, I feel held accountable before Allah on the Day of Judgment. So, if that's the way Islam pays attention to animals, then it's even better to pay attention to humans. From that, we can understand that the responsibility of the Government of the Islamic State is not only to the legislature but also the responsibility to Allah, which is not found in a secular government and capitalist mindset.(A. A. M. I. I. Al-Bukhari, 2002)

Second, upholding justice in human life is one of the noble goals of Islam because the fairness of the heavens and the earth is maintained, and justice is Allah. He sent His Apostles and sent down the holy book. Allah says in the Qur'an:

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ النَّاسُ بِالْقِسْطِ وَأَنْزَلْنَا الْحَدِيدَ فِيهِ بَأْسٌ شَدِيدٌ وَمَنَافِعُ لِلنَّاسِ وَلِيَعْلَمَ اللَّهُ مَن يَنْصُرُهُ وَرُسُلَهُ بِالْغَيْبِ إِنَّ اللَّهَ قَوِيٌّ عَزِيزٌ

We sent aforetime our apostles with Clear Signs and sent down with them the Book and the Balance (of Right and Wrong), that men may stand forth in justice; and We sent down Iron, in which is (material for) mighty war, as well as many benefits for mankind, that Allah may test who it is that will help, Unseen, Him and His apostles: For Allah is Full of Strength, Exalted in Might (and able to enforce His Will) (QS. Al-Hadid: 25).(Kementerian Agama, 2007)

Therefore, Islam pays excellent attention to upholding a balance between rulers and society, producers and consumers and employers and workers by preventing and forbidding some of them from harming others. Allah ordered the *ulil amri* (ruler) to make laws and regulations and implement them by upholding the principles of justice.(Muslimin et al., 2020)

Third, Syari'ah not only always prevents harm from happening, it even tries to eliminate it. Ibn Majah has narrated this principle from Malik; Rasulullah saw said:

لا ضرر ولا ضرار

There is no injury nor return of injury.(Al-Muslim, 1918)

So, all laws and regulations or actions intended to prevent the occurrence of *dharar* committed by some people will be tolerated by Islam and considered a school based on the principles and rules of Shari'ah. Therefore, scholars agree that state regulation in determining wages prevents harm that may arise from employers who are naughty and only selfish.(Rochmah, 2020)

Fourth, siyasa syar'iyah in Islamic Fiqh is a broad door for the Islamic Government to realize the public benefit deemed appropriate and proper; it can even be an obligation, as long as it is not contradictory with *qath'i texts* explicitly. So, it is not worth saying that *siyasa* is just *the shari'ah*; it is part of *the shari'ah*.(Budiarti, 2017) From the above bases, we can draw several conclusions, including Islamic Shari'ah has preceded all understandings and regulations worldwide which oblige to act pretty.

Rulers, as God's representatives in the world, are obliged to tactically regulate every regulation in the nation and state, including the issue of determining wages. Action is preventive from acts of tyranny and creates a sense of justice. All these steps are carried out on conditions through the consideration of experts and religious experts who can set a reasonable standard of wages without harming workers and employers.

In discussing wages in the provisions of *Fiqh Syafi'iyah*, it cannot be separated from the basis and theoretical foundation of the discussion. It will also be accompanied by the arguments from the Qur'an, Sunnah and *Ijma'* of the Ulama. Interpretation of experts and analysis of the author himself.(Widyanto, 2011)

Islamic law regarding work agreements (employment contracts) is discussed in the matter of leasing, called *al-ijarah*, which comes from the Arabic word *ajara*, which means wages or reward. When one party sells its services to other people who move other than animals and ships to get compensation, it is called "*al-ijarah*".(al-Malibari, 2001)

The compensation given by an employer must be proportional to the services of a worker. Syafi'iyah scholar famous al-Rafi' said that the word *ijarah* is synonymous with *ajr*. (Al-Rāfi', 2005) The issue of *Ijarah* is addressed to the Qur'an in several verses (Al-Nawawī, 2006): *first*, in the verse *al-Qashash* regarding the leasing service or labour contract of Prophet Musa as by Prophet Syu'ib on the recommendation of his daughter after Prophet Musa AS helped them find water:

قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَأْجِرْهُ إِنَّ خَيْرَ مَنِ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ قَالَ إِنِّي أُرِيدُ أَنْ أَكْثِكَ إِحْدَى ابْنَتَيَّ هَاتَيْنِ عَلَى أَنْ تَأْجُرَنِي ثَمَانِي حَجَاجٍ فَإِنْ أَتَمَمْتَ عَشْرًا فَمِنْ عِنْدِكَ وَمَا أُرِيدُ أَنْ أَشُقَّ عَلَيْكَ سَتَجِدُنِي إِنْ شَاءَ اللَّهُ مِنَ الصَّالِحِينَ

Said one of the (damsels): "O my (dear) father! engage him on wages: truly the best of men for thee to employ is the (man) who is strong and trusty" He said: "I intend to wed one of these my daughters to thee, on condition that thou serve me for eight years; but if thou complete ten years, it will be (grace) from thee. But I intend not to place thee under a difficulty: thou wilt find me, indeed, if Allah wills, one of the righteous. (QS. al-Qashash: 26-27). (Kementerian Agama, 2007)

From the verse above, several central points can be analyzed, namely that a worker must have a muscular physique and skills so that any work agreed upon can be carried out correctly. But what is more important is having the trustworthiness of the workers so that when doing work, they can produce a marginal product commensurate with the production costs incurred by the employer. (Al-Mahalli & Al-Suyuti, 1994)

Al-Bukhari interprets *al-Khazin al-Amin* as a reliable worker. According to the author, this principle must be used as a guide by employers or workers. Thus, and workers must have both physical morals. Likewise, the matter of wages may be in any form of value by the agreement so that Prophet Musa was given wages by being married to his son Prophet Syu'ib As. (A. A. M. ibn I. Al-Bukhari, 2003)

This was exemplified by the Prophet Muhammad, who worked as a goat breeder belonging to the Meccans by earning wages (*ujrah*), (Syatha, 1993) which is part of the dinar currency. In verse *al-Talaq*:6,

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وَجْدِكُمْ وَلَا تُضَارُّوهُنَّ لِضَعْفِهِنَّ وَلَئِنْ كُنَّ أُؤْلَيتِ حَمْلًا فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَتَمُّوا رِزْقَهُنَّ بِمَعْرُوفٍ وَإِنْ تَعَاَسَرْتُمْ فِى الضَّرْعِ فَلَهُ أَخْرَىٰ

Let the women live (in 'iddat) in the same style as ye live, according to your means: Annoy them not, so as to restrict them. And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties, let another woman suckle (the child) on the (father's) behalf. (QS. al-Talaq: 6) (Kementerian Agama, 2007)

And varse al-Zukhruf: 32;

أَلَمْ يَقْسِمُوا رَبِّكَ ۚ نَحْنُ قَسَمْنَا بَيْنَهُمْ مَعِيشَتَهُمْ فِي الْحَيَاةِ الدُّنْيَا ۚ وَرَفَعْنَا بَعْضَهُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ لِّيَتَّخِذَ بَعْضُهُمْ بَعْضًا سُخْرِيًّا ۗ وَرَحْمَتُ رَبِّكَ خَيْرٌ مِّمَّا يَجْمَعُونَ

Is it they who would portion out the Mercy of thy Lord? It is We Who portion out between them their livelihood in the life of this world: and We raise some of them above others in ranks, so that some may command work from others. But the Mercy of thy Lord is better than the (wealth) which they amass. (QS. al-Zukhruf: 32)(Kementeriaan Agama, 2007)

Do they divide the mercy of your Lord? We have determined between them in the life of this world, and We have exalted some of them above others by degrees so that some of them may take advantage of others. And the mercy of your Lord is better than what they have collected.(Al-Sa'labi, n.d.)

The evidence from the Sunnah is as follows: in the history of Aisha that the Prophet Muhammad saw once hired a man to guide the Bani Dail, his name was Abdullah bin Uraiqith, and he was a proficient person. In another narration from Abi Hurairah, the Prophet once contracted a worker, then the worker fulfilled the transaction, while the wages were not paid.(Al-Muslim, 1918)

From the above arguments, it can be concluded that *ijarah* is the ownership of the services of an *ajir* (a person who contracts labour) and the ownership of property from the *musta'jir* by an *ajir*. Where *ijarah* is a transaction for certain services accompanied by compensation (wages).(Al-Ramlī, 2003)

In utilizing the services of something contracted, in the system of workers in *Syafi'iyah fiqh*, it must be clear both the time, energy and wages that will be given. Regarding the clarity of this wage, the words of the Messenger of Allah stated that I once hired several workers and then gave them their wages. In this way, the shape of the work has been determined, as the time, wages, and energy that must be devoted to carrying it out. So, it is on this *syara'* also determines the type of work, time, energy and wages.(Al-Haitami, 1994)

As for jobs that can be held, work contracts, according to Islam, are halal jobs, for example, trade, agriculture, industry, lawyers and others. If *ijarah* is carried out for a specific job or an *ajir* certain *ajir* does the work himself and may not be replaced by another person because *ajir* has been appointed. For example, Ahmad contracts Ali to sew clothes, so Ali has to do it himself. If the clothes specified in the contract are lost, then it is optional to do anything other than what was agreed upon because the form of work has already been determined.(Al-Rāfi'ī, 2005)

Meanwhile, if *ijarah* occurs on a substance that is described in an agreement or on a *driver* that has been told to do a specific job, or the job that is defined, then a different law applies at that time. Under these conditions, an *ajir* may do the work, or someone else may replace his position. The scholars stated that *ijarah* could not be replaced with *ijarah 'ain*, and *ijarah* could be replaced by *ijarah dzimmah*.(Syatha, 1993)

About the wages given by employers to *ijarah dzimmah* workers, they must also be in cash, in the form of property or services, as long as the wages are clear. Islam emphasizes that wages are measured based on workers' benefits, not their efforts (energy). This means that wages are compensation for a service, not for labour, because the work of a bricklayer is not the same as that of an engineer and so on. (al-Malibari, 2001)

In the problem of setting wages for workers, Islam offers a perfect solution and can save both parties, employers and workers, without violating their legal rights. Each party gets their share of the results of its cooperation without any injustice to the other party. An employer is not justified in acting cruelly against groups of workers by obliterating the rights of their share. Wages are determined most fixedly, without having to oppress any party. This principle is contained in Al-Qur'an Surah al-Baqarah; it is stated that a person may not be persecuted and not (also) be persecuted.

In the agreement (wages), both parties are warned to be honest and fair so that no acts of abuse occur against other people. The definition of abuse against workers is that wages are not paid fairly from the results of the services of workers, while abuse against employers is that employers are forced by the power of workers' organizations to pay wages to workers beyond their capabilities and abilities. However, suppose the majakan does not want to follow the Qur'an. In that case, they will be considered oppressors/imperialists and punished worldwide by Islamic countries and later by Allah. Likewise, workers will be regarded as oppressors if they force their employers to pay more than they can afford. (Al-Ramlī, 2003)

The same principle is contained in the al-Jasiyah: 22;

وَخَلَقَ اللَّهُ السَّمَاوَاتِ وَالْأَرْضَ بِالْحَقِّ وَلِيُجْزَىٰ كُلُّ نَفْسٍ بِمَا كَسَبَتْ وَهُمْ لَا يُظْلَمُونَ

Allah created the heavens and the earth for just ends, and in order that each soul may find the recompense of what it has earned, and none of them be wronged. (QS. Al-Jasiyah: 22) (Kementerian Agama, 2007)

This principle governs human activities because they will be awarded in this world and the hereafter. So, this paragraph guarantees a decent wage for each worker by what has been contributed to the production process. This verse makes it clear that the salaries of each person must be determined based on his work in production cooperation, and for this, he must be paid no less, nor more, than what has been done.

In another verse, Allah also mentions this principle, namely:

وَلِكُلِّ دَرَجَاتٍ مِّمَّا عَمِلُوا وَلِيُؤْتِيَهُمْ أَجْرَهُمْ وَهُمْ لَا يُظْلَمُونَ

And to all are (assigned) degrees according to the deeds which they (have done), and in order that ((Allah)) may recompense their deeds, and no injustice be done to them. (QS. Al-Ahqaf: 19)

From the description of the Qur'an above, it can be concluded that although in this verse it is a reward for humans on the Day of Judgment in the future for human actions in the world, the principles of justice that have been explained can also be presented to humans in obtaining rewards in the world. This world. Because of this,

everyone must be fully compensated according to the results of their work, and no one must be mistreated; workers must receive wages according to their contribution to production; likewise, employers must receive profits by capital against production.

If all parties live this justice, then the act of refusing not to work by workers does not need to occur in the concept of workers in fiqh. So, what is important now is how an Islamic state can socialize values in its society.

Based on the principle of justice, wages in Islamic society will be determined based on the bargaining principle between workers, employers and the state. In terms of setting this wage, it is the Islamic state's responsibility to consider the salary level so that it is not too low so that it does not meet the basic needs of the workers and not too high so that the employer loses his rights as an investor.

Therefore, the Government must determine the minimum wage by taking into account the changing needs of the lowest class of workers, and under no circumstances will this minimum wage level fall. Such as, inflation causes currency fluctuations which significantly affect the actual value of wages. Given the weak position of workers, Islam pays great attention to protecting their rights from possible violations by employers. Employers in the Islamic world must determine the minimum wage that can cover basic (primary) needs, such as food, clothing and shelter so that workers will obtain a decent living.

Allah SWT mentions basic needs in the following verse:

إِنَّ لَكَ أَلَّا تَجُوعَ فِيهَا وَلَا تَعْرَىٰ وَأَنَّكَ لَا تَظْمَأُ فِيهَا وَلَا تَصْحَىٰ

There is therein (enough provision) for thee not to go hungry nor to go naked, nor to suffer from thirst, nor from the sun's heat. (QS. Thaha: 118-119)(Kementerian Agama, 2007)

The word *tajawu'* means thirst, a very urgent desire, longing. It can be concluded that it does not only imply thirst for water but thirst (need) for education and treatment for workers and their families.

Likewise, *Ta'riy* not only takes shelter under the trees, but the workers have a house as a place to live that is appropriate according to their size. Because of this, the Islamic state must make a wage regulation that can meet the basic needs of workers so that they maintain the dignity of workers as human beings. Thus, the workers in the lowest class in an Islamic state will be able to obtain adequate food, clothing and housing. In addition, their children also have the opportunity to get education and health care facilities for their families.(Al-Nawawī, 2001)

Rasulullah saw always advised his friends to treat their servants well and give them a decent wage; Rasulullah revealed; to feed and clothe servants and enslaved people as is your custom and not burden them with work beyond their means. So, from this hadith, it is clear that wages must meet basic needs according to the standard of living at the time the work agreement is made. And this wage should be made the minimum wage.

Islam does not condone wages below the minimum wage stipulated based on the basic needs of workers and does not allow wages to exceed a certain level determined based on workers' contribution to production. Although the minimum wage is to create justice and support the work efficiency of workers, it is also necessary to pay attention so that wages do not exceed reasonable limits, thereby burdening the authorities.

Islamic law illustrates the highest wage limit, as shown in the verse,

وَأَنْ لَّيْسَ لِلْإِنْسَانِ إِلَّا مَا سَعَى . وَأَنْ سَعْيُهُ سَوْفَ يُرَى . ثُمَّ يُجْزَاهُ الْجَزَاءُ الْأَوْفَى . وَأَنْ إِلَى رَبِّكَ الْمُنْتَهَى

That man can have nothing but what he strives for; That (the fruit of) his striving will soon come in sight: Then will he be rewarded with a reward complete; That to thy Lord is the final Goal. (QS. al-Najm: 39-42).(Kementarian Agama, 2007)

This means that the maximum wage in the Islamic economy is according to what has been graded in the balance measure. Therefore, those who believe in Allah and the hereafter will not take other people's rights and will even pay more than the rights that should be accepted sincerely to earn Allah pleasure. It is irrelevant to the will of Islam to force workers to live in poverty. Islam wants wage earners to be given a decent living and guided by Islamic principles and high humanity.(Al-Rāfi'i, 2005)

After Islam has made efforts to regulate both employers and workers, wages will stay below the minimum wage level, and the increase will not soar above the maximum salary. Actual wages will change between the two limits based on labour supply and demand laws which are influenced by the average standard of living of the group of workers, the strength and effectiveness of their organization and the attitude of employers who believe in Allah and the Day of Judgment.(Al-Nawawī, 2006)

The minimum wage in *Syafi'iyah Fiqh* is an amount that can cover the basic needs of a worker and his family in the form of food, clothing, proper housing and education for their children and medical expenses. In addition to the minimum wage, in *Syafi'iyah Fiqh*, there is a maximum wage, namely the highest paid by the contribution of workers in a production process by the marginal product. Workers are prohibited from demanding more than the limits of their rights that must be accepted. Therefore, they will be considered low and receive criminal law rewards and deviations from employers or workers who are accountable to Islam and before Allah in the future.(al-Malibari, 2001)

Even though the regional minimum wage (UMR) is set by the Government of Indonesia based on consideration of the minimum needs of workers and other factors, it has not or relatively fulfilled their primary requirements. This means that the wage-setting system has not been able to accommodate and has the principle of fairness because this system has yet to be able to guarantee adequacy in real terms, even though, in nominal terms, wages continue to increase from time to time. Besides that, there are other weaknesses as legal sanctions in efforts to control wages below the Regional Minimum Wage (UMR) set by the Government. As far as the authors observe, the sanctions given to UMR violators still favour entrepreneurs/employers; that is, violators

are only punished with imprisonment for a maximum of 3 months or a fine of Rp. 100,000 - this is by the law. No. 14/1969.

In addition, they cannot guarantee education for their children. Thus, the determination of the UMR, which is by the concept of workers in government regulations, has yet to be realized; even in the Indonesian wage-setting system, it still smells of oppression which still needs to be by Islamic wages. In *Syafi'iyah Fiqh* remuneration, there should be no oppression, and the principle of justice is a critical issue. Not should be even the slightest harm to anyone, whether workers or employers, who will receive severe legal consequences in this world and the hereafter.

In essence, the lowest wage in *Syafi'iyah Fiqh* does not exist when compared to the understanding of the minimum wage in Indonesia because the minimum wage, from an Islamic perspective, is several wages that can meet the basic needs of workers and all members of their families. So, the minimum wage is a fair wage from an Islamic perspective. In determining wages, *Fiqh Syafi'iyah* fulfils a sense of justice towards workers. The main principle in determining wages in *Fiqh Syafi'iyah* is that the wage policy must be a blessing for all. The Government is responsible for the injustice inflicted by some members of society against other communities, even by the state itself. (Husain, 1998)

CONCLUSION

Regional Minimum Wage (UMR) is a wage standard used as a guideline by employers/employers in making agreements with workers regarding the actual wages that must be paid to workers. And this minimum wage is also set by the government taking into account the minimum living needs of working people.

According to *Syafi'iyah*, setting wages must be based on the principles of justice felt by workers, employers and the government. The focus of justice is translated as setting a minimum salary based on meeting the most basic needs of a worker. Thus, the most critical wage, according to *Syafi'iyah*, is real wages, not nominal wages (money).

The law, which is the basis for consideration in setting the regional minimum wage (UMR), still has weaknesses, especially in imposing sanctions on violations committed by employers who pay salaries below the minimum wage standard. This is contained in Government Regulation (PP) Number 36 of 2021, Concerning Wages. The minimum wage rate set by the government is relatively sufficient to meet the needs of workers, especially for workers under one year of age in the category of workers at a low level, because the determination for the coming year is carried out based on the calculation of the consumer price index for this year. Therefore, the rate of change in actual value prices is difficult to determine with certainty.

REFERENCE

- Abubakar, R. (2021). Pengantar Metodologi Penelitian. In *Antasari Press*.
- Al-Anshari, M. Z. (1984). *Asy-Syarkawi 'Ala Tahrir* (Juz II). Al-Haramain.
- Al-Bukhari, A. A. M. I. I. (2002). Sahih Al-Bukhari. In *al jami' al musnad as shahih* (pp. 150–151). Dar at-ta'shil.
- Al-Bukhari, A. A. M. ibn I. (2003). *Shahih Al-Bukhari*. Daar al-Fikr.
- Al-Ghazi, M. ibnu Q. (1996). *Fathul Qarib*. Mansyurat al-Maktab al-Islami.
- Al-Haitami, I. H. (1994). *Tuhfatul Muhtaj Bi Syarh al-Minhaj* (Juz VI). Maktabah At-Tijariyah Al-Kubra.
- Al-Mahalli, J. (1994). *Kanzur Raghibin Syarah Minhaj al-Thalibin*. Daar al-Fikr.
- al-Malibari, Z. bin A. A. (2001). *Fathul-Mu'in Bi Syarhi Quratul- 'Aini*. Daar al-Ma'arif.
- Al-Muslim, A. H. M. bin A. H. (1918). *Shahih Muslim*. Daar al-Fikr.
- Al-Nawawī, M. al-D. (2001). *Al-Majmū' Syarah al-Muhadzdzab*. Daar al-Ma'arif.
- Al-Nawawī, M. al-D. (2006). *Raudhat al-Thālibīn wa 'Umdat al-Muftīn* (Jld. V). Dar al-Kutub al-Miyah.
- Al-Rāfi'ī, 'Abd al-Karīm bin Muhammad. (2005). *Al-Muḥarrar*. Daar al-Fikr.
- Al-Ramlī, M. bin A. 'Abbās. (2003). *Nihāyat al-Muḥtāj ilā Syarḥ al-Minhāj* (Jld. I). Darul Kutub Ilmiyah.
- Al-Sa'labi. (n.d.). *Tafsir al-Sa'labi al-Mausum bi Jawahar al-Hisan fi Tafsir al-Quran*.
- Al-Syarwānī, A. al-H. (2012). *Hawāsyī al-Syarwānī wa Ibn Qāsim al-'Ubādī 'alā Tuhfat al-Muhtāj*. Darul Kutub Ilmiyah.
- Azizudin, N. A. A. B. M., & Mokhtar, W. K. A. W. (2019). Concept of Wages from Islamic Scholars Perspectives. *International Journal of Academic Research in Business and Social Sciences*, 9(11). <https://doi.org/10.6007/ijarbss/v9-i11/6584>
- BPS. (2021). Aceh Province in Figure 2021. In *Aceh Province in Figure 2021*.
- Budiarti. (2017). Studi Siyasah Syar'Iyah Terhadap Konsep Legislatif Dalam Ketatanegaraan Islam. *Zawiyah: Jurnal Pemikiran Islam*, 3(2).
- Cahyo Arsetyo, Y. I. (2021). Corporate Social Responsibility In Islamic Business: Case Study Of Indonesia Company. *Prophetic Law Review*, 3(1). <https://doi.org/10.20885/plr.vol3.iss1.art6>
- Ekonomi, J. I., Mayza, M., Masbar, R., Nasir, M., Magister, M., Ekonomi, I., Syiah Kuala, U., Dosen,), Ekonomi, F., & Pascasarjana, D. (2015). ANALISIS FAKTOR-FAKTOR YANG MEMPENGARUHI PENDAPATAN ASLI DAERAH (PAD) PROVINSI ACEH. *Pascasarjana Universitas Syiah Kuala*, 8(1).

GHAZALI, M. R. (2012). YUSUF AL-QARDAWI DAN PENGARUHNYA DALAM MASYARAKAT ISLAM DI MALAYSIA. In *Universiti Sains Islam Malaysia*.

Gunadi, F. (2021). UPAH PROSES DALAM PEMUTUSAN HUBUNGAN KERJA. *Jurnal Hukum & Pembangunan*, 50(4).<https://doi.org/10.21143/jhp.vol50.no4.2856>

Hidayati, I. N. N. (2017). Pengupahan dalam Perspektif Hukum Islam dan Hukum Positif. *Az Zarga*, 9(2).

Husain. (2019). Metode Ijtihad Kontemporer Menurut Yusuf Al-Qaradawi. *Sulesana: Jurnal Wawasan Keislaman*, 13(2).

Husain, A. bin M. (1998). *Bughyat al-Mustarsyidîn*. Daar Nu'man li Ulum.

Johnny Ibrahim SH., M. H. (2006). Teori & Metodologi Penelitian Hukum Normatif. In *Teori Metodologi Penelitian a*.

Jongwutiwes, N., Thiengkamol, N., & Thiengkamol, T. (2012). Development of hospital environmental management model through PAIC process. *Mediterranean Journal of Social Sciences*, 3(11). <https://doi.org/10.5901/mjss.2012.v3n11p303>

Kementerian Agama, R. (2007). Al-Qur'an Terjemahan. *Al-Qur'an Terjemahan*.

Khoiri, S. (2017). PERATURAN HUKUM PERBURUHAN DAN SIKAP PENGADILAN: TARIK-MENARIK ANTARA KEPENTINGAN INVESTOR DAN KEPENTINGAN BURUH. *Jurnal Hukum & Pembangunan*, 39(3).
<https://doi.org/10.21143/jhp.vol39.no3.1514>

Klapper, L., & Singer, D. (2017). The opportunities and challenges of digitizing government-to- person payments. *World Bank Research Observer*, 32(2).
<https://doi.org/10.1093/wbro/lkx003>

Kurnianingsih, R. (2022). Analisis Pajak Penghasilan sebelum dan setelah Undang-Undang Nomor 7 Tahun 2021 bagi WP Orang Pribadi. *Journal Competency of Business*, 5(02). <https://doi.org/10.47200/jcob.v5i02.1097>

Mardiyah, W., Sunardi, S., & Agung, L. (2018). Peran Manusia Sebagai Khalifah Allah di Muka Bumi: Perspektif Ekologis dalam Ajaran Islam. *JURNAL PENELITIAN*, 12(2). <https://doi.org/10.21043/jp.v12i2.3523>

Muslimin, S., Zainab, Z., & Jafar, W. (2020). Konsep Penetapan Harga Dalam Perspektif Islam. *Al-Azhar Journal of Islamic Economics*, 2(1).
<https://doi.org/10.37146/ajie.v2i1.30>

Polka, S. (2019). Shaykh Yusuf al-Qaradawi. In *Shaykh Yusuf al-Qaradawi*.
<https://doi.org/10.2307/j.ctvj7wn91>

Pratiwi, A. (2017). Perspektif Hukum Feminis Terhadap Aturan Fleksibilitas Pasar Tenaga Kerja di Indonesia. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 4(1). <https://doi.org/10.22304/pjih.v4n1.a3>

Peraturan Pemerintah Nomor 36 Tahun 2021 tentang Pengupahan., (2021).

Rochadi, S. (2016). Dualitas dalam Gerakan Buruh di Indonesia. *Jurnal Pendidikan*

Sains Sosial Dan Kemanusiaan, 9(1).

- Rochmah, R. D. (2020). Hak Pekerja Indomaret Dalam Perjanjian Kerja Waktu Tertentu Kajian Perspektif Hukum Islam Dan Hukum Ketenagakerjaan Di Indonesia. *Journal of Islamic Business Law*, 4(3).
- Sirajulhuda, M. H. (2018). Konsep Fikih Ikhtilaf Yusuf al-Qaradhawi. *TSAQAFAH*, 13(2). <https://doi.org/10.21111/tsaqafah.v13i2.1508>
- Suryadi, Nuraeni, Y., Syarif, E., Suwadi, Y. T., Kurniawati, A., Yuliasuti, A., Rahmatika, N., Hennigusnia, Nasution, F. A. P., & Annazah, N. S. (2021). Wage Policy in Indonesia Based on Government Regulation Number 36 of 2021 and its Economic Aspects. *International Journal of Innovation, Creativity and Change*. <https://doi.org/10.53333/ijicc2013/15954>
- Syatha, A. B. (1993). *I'alah at-Thalibin*. Daar al-Fikr.
- Warren, D. H. (2021). Rivals in the gulf: Yusuf al-qaradawi, abdullah bin bayyah, and the qatar-uae contest over the ARAB spring and the gulf crisis. In *Rivals in the Gulf: Yusuf al-Qaradawi, Abdullah Bin Bayyah, and the Qatar-UAE Contest Over the Arab Spring and the Gulf Crisis*. <https://doi.org/10.4324/9780429299490>
- Widyanto, A. (2011). Pengembangan Fiqh di Zaman Modern. *Jurnal Ilmiah Islam Futura*, 10(2).
- Wisnuwardhani, D. A. (2018). IMPLEMENTASI HAK PEKERJA DALAM HAL UPAH DI KANTOR NOTARIS. *Jurnal Cakrawala Hukum*, 8(1). <https://doi.org/10.26905/idjch.v8i1.1728>
- Yasyfa, H., & Deddy Effendy. (2022). Pembayaran Upah Lembur di Pt X Kabupaten Bandung berdasarkan Undang-undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan Jo Peraturan Pemerintah No. 36 Tahun 2021 tentang Pengupahan. *Bandung Conference Series: Law Studies*, 2(1). <https://doi.org/10.29313/bcsls.v2i1.547>