NDONESIA’S MINIMUM WAGE POLICY AFTER THE OMNIBUS LAW A COMPARATIVE ANALYSIS FROM ISLAMIC PRINCIPLES

by Mirza Satria Buana

Submission date: 22-Jul-2022 10:42AM (UTC+0700)
Submission ID: 1873637944
File name: 52357_1.pdf (439.05K)
Word count: 9719
Character count: 56134

UUM JOURNAL OF LEGAL STUDIES
http://e-journal.uum.edu.my/index.php/uumjls

How to cite this article:
Buana, M. S., & Budiman, R. (2022). Indonesia's minimum wage policy after the omnibus law: A comparative analysis from Islamic principles. *UUM Journal of Legal Studies*, *13*(2), 187-214. https://doi.org/10.32890/uumjls2022.13.2.8

INDONESIA'S MINIMUM WAGE POLICY AFTER THE OMNIBUS LAW: A COMPARATIVE ANALYSIS FROM ISLAMIC PRINCIPLES

[1]Mirza Satria Buana & [2]Rahmat Budiman
Faculty of Law, Lambung Mangkurat University,
South Kalimantan, Indonesia

[1]*Corresponding author: mirza.buana@ulm.ac.id*

Received: 3/1/2021 Revised: 2/8/2021 Accepted: 2/11/2021 Published: 21/7/2022

ABSTRACT

The labour sector and industrial relations are pivotal for Indonesia's development, especially in the current neo-capitalist setting. Therefore, this article examined the current Indonesian labour law and its industrial relations through a comparative analysis with Islamic principles, particularly after revision with the 2020 Omnibus Law. Using a socio-legal methodology, it analysed the historical and political contexts of the Acts on labour to determine their tendency to enhance or undermine labourers' rights. Moreover, this article explored the government's utilisation of the Acts for suppression and compared the ways of Islamic principles' regulation of justice in industrial affairs, especially in the minimum wage policy. The study revealed that the 2003 Manpower Law, the 2020 Omnibus Law on Work Creation, and the 2021 Regulation on Wages, which are claimed to protect labourer' rights, erode them instead. The labour laws are

firm in stressing workers' duties and obligations, yet are indecisive in regulating their rights, leading to the reduction and abolishment of several work benefits. In addition, government authorities are weak and accommodate to the interests of companies and investors. Therefore, this article concluded that the labour law provision, specifically the legal issue of minimum wage policy, does not correspond to Islamic principles and the practices of *maslahah* and *maqosid al-shari'ah*.

Keywords: (Rep. of) Indonesia, wage policy, industrial relations, labour laws, Islamic principles.

INTRODUCTION

This paper aims to examine Indonesian labour law through a comparative analysis with Islamic principles. It also explores the accommodation of justice and equality in the law's industrial relations regarding workers' minimum wage policy. The word 'accommodation' implies a unilateral change for the state, which causes transformation through the incorporation of compatible Islamic values to the secular law system (Farrar & Krayem, 2016). The aim is not to jeopardise state secularity by formally adopting Shariah norms, but rather to accommodate and assimilate the transformative values of social justice.

Although Indonesia has the largest Muslim population in the world, its public law is more secular than Islamic, as the secular Dutch civil law strongly influenced Indonesian laws through a long period of colonialisation. Consequently, almost all public interactions are governed by civil law, though Islamic traditions and law are privately prominent for Indonesian Muslims (Hosen, 2005). In the classical legal dichotomy, labour law is classified as purely private and emerges during agreement between employer and employee. Nevertheless, governmental interference with industrial relations is required due to the dynamics of welfare state and the need for dispute settlement (Klare, 1982), causing the separation wall between public and private laws to become unsustainable.

This study on labour law and policy is important because Indonesia is an emerging economic powerhouse in Asia and one of the biggest

democratic countries in the south-eastern part of this continent. Moreover, examining the methods used by the government to balance between ‘economics’ and ‘rule of law’ is intriguing. The possession of the largest Muslim population also showcases the government’s tendency to either capitalise on eradicating injustice in industrial relations using Islam as a ‘normative force’ or merely recognise the ‘symbols’ of religion while disregarding the social significance.

Generally, the labour sector and industrial relations are important to Indonesia’s interests, especially in the current neo-capitalist setting (Tjandra, 2016). Subsequently, the 2020 Omnibus Law on Work Creation was passed to revise some provisions in the 2003 Manpower Law. These revisions have created significant changes in industrial relations and wage policy, in which the most impacted subjects are labourers and daily wage-earners. The Omnibus Law is investment-driven, emphasising only labour-intensive industries that encourage low wages, less innovation, and lack of creativity. This is the middle-income trap, where foreign investment may seem to propel economic growth but gradually leads the country to global uncompetitiveness due to rising wages (Felipe et al., 2012). Although the government should focus on human capital and knowledge-intensive projects to prevent drawbacks of rapid industrialisation and maintain harmonious industrial relations to elevate productivity (Jamaluddin et al., 2019), such policies are unfamiliar in Indonesia’s politics. Meanwhile, the 2021 Regulation on Wages was also revised to correspond with the legislation implying the government’s role as a regulator and facilitator and the determination of wages by external economic factors. The government attributes worker prosperity to market mechanism. Furthermore, supervision of labour management implementation is insufficient, and workers are marginalised by the absence of legal protection.

Therefore, this paper extensively analyses and argues that the legal problem of these industrial relations is in the conceptual and normative issues, due to the failure of existing laws to create an equal position between workers, labour unions, and companies, particularly in the minimum wage policy. One of the aspects that significantly affects wage policy is collective bargaining through labour unions. This article also examines regulations on labour unions and their dynamic. Furthermore, this article highlights the lack of ‘real legal certainty,’

and in this case, the absence of consistent and accessible legal rules for marginalised people (Otto, 2002). Explicitly, government authorities are weak and accommodate to the interest of companies and investors. This research affirms that legislation is both a legal product and political, and thus, is to be understood in its historical and political contexts (Hutchinson & Monahan, 1984).

This article is divided into five sections, including the introduction and conclusion. Section Two explores the normative side of Islamic teachings in industrial relations by stressing the social justice perspective and the significance of *maslahan* practices. Then, Section Three examines the historical and political legislative contexts of industrial relations in Indonesia. The next section analyses legal loopholes in the current Acts by revealing their unfairness in wage policy and the government's reluctance to protect labourers' interests. Finally, the last section highlights the discriminatory industrial relations, where the government has kept silent and proposed some necessary reforms in the existing labour law in Indonesia.

RESEARCH METHOD

This paper used a socio-legal methodology to examine the 'text' and 'sub-text' of the legislation and critically approach legal issues with an interdisciplinary perspective (Banakar & Travers, 2005). The core was legal scholarship, enriched by historical, political, and comparative analyses of the legislation employed to achieve the main study objective. Meanwhile, the dynamics of Indonesian labour laws were analysed by examining relevant legislations of industrial relations and minimum wage policy. It compared the labour law and policies applied in Indonesia with Islamic principles. The main Islamic law materials for this study were from the Quran, Sunnah, and Islamic jurisprudence (*Fiqh*). According to Farrar and Krayem (2016), both 'laws' are 'open-textured' and interpretative. They also shared the basic methodological principle of comparative laws and functionality, which stems from other rules determining the choice of laws to compare, alongside the scope of the undertaking and the creation of a system of comparative law (Zweigert & Kötz, 1998). Therefore, they are compatible and allow for ground rules crucial to reaching a mutual outcome.

CONCEPTUAL FRAMEWORK

Islamic Principles on Relations between Workers and Employers

This study explored a pro-justice perspective of the Islamic labour law by Al-Faruqi and Al-Banna (1985). The perspective admits that industrial relations occur in the private sphere between employees and the employer, but permits state interventions in labour affairs, thereby resulting in a firm structural dimension of the public.

In industrial relations, Islam considers the equal rights of employers, whose duties are crucial because they provide labour and need to protect the dignity of their employees, as the Prophet's saying reported by Al-Tirmidhi, "… the duty of employers to take only such work from their labourers which they can do with ease" (Hasan, 2001: 108). The Hadith reported by Muwatta added that, "do not (overly) burden your labourers with work that he or she cannot cope with" (Hasan, 2001: 54). Employers also need to seriously consider the employees' right to rest and leisure.

This article, using a pro-justice perspective, considered the fact that these egalitarian arguments are normative, meaning that they are only effective in an ideal condition, and the good intentions of employers to concede to employees' rights are rather naïve. A previous study by Razak and Mahmod (2021) stressed that the aim of social justice in Islam is not absolute equality but to ensure fair distribution among society through realistic yet progressive assimilation and implementation. This article acknowledged that there is a certain degree of transparency in the industrial relations of the private sector. However, in the case of unbalanced bargaining positions between parties, there is a need for the government to interfere, particularly in two areas, namely wage policy and empowerment of labour unions.

Islamic Pro-Justice Perspectives – The State's Intervention in Labour Affairs

Islam does not permit the intervention of the government in private or bilateral affairs between employees and employers, particularly in issues concerning the policy of minimum wage. Nevertheless, the Western tradition protects the welfare and rights of employees,

and state intervention is also permitted in Islam, particularly when there are market imperfections due to the unjust payment of wages, unbalanced and discriminatory industrial relations (Tahir, 1997).

As reported by Numani (1962: 103), the second Caliph, Umar bin Khattab, stated that the visions of the welfare state need to be protected. According to Umar, everyone has equal rights and societal privileges. The fourth Caliph Ali also reported to have stressed that, "God has made it mandatory for the rich to provide for the poor and assuming they are hungry, naked or troubled, it is because they have been deprived (of their right), and it is only proper for God to hold the rich accountable for this as well as punish them" (Sallam, 2009: 595).

In the context of industrial relations, the noble purpose of a welfare state is the duty of the government. However, employers, in particular, have to take care of the basic needs of employees. Assuming the employers do not fulfil this duty irrespective of their ability to do so, then the government is expected to compel them to perform their obligation. This social-oriented policy corresponds to the values of the Prophet Muhammad as reported by Al-Bukhari, which stated that, "individuals who eat to their satisfaction when their neighbour is hungry are not true Muslims" (Baqi, 2011: 12).

The philosophical discourse concerning Islamic ruling is mostly centred on public interests (*al-masalih al-ammah*) and includes the preservation of faith, soul, wealth, mind, and offspring. These five purposes overlap with the principal purpose to protect human dignity (Auda, 2007: 3). This corresponds with the Prophet's saying, as reported by Al-Bukhari that, "blood, money, and the dignity of every Muslim is a sanctuary that does not have to be breached" (Hasan, 2001: 65). Consequently, the mission is to protect those noble aims of Islamic law defined as *maslahah*, which means welfare and its realisation (Laluddin, 2015). This doctrine was first developed by Imam Malik, the founder of the Maliki sect, further enhanced by supporters of Imam Syafi'i, and contextualised by Imam al-Ghazali and al-Tufi from the Hanbali sect (Akbar, 2012). Generally, by aiming for the realisation of *maqosid al-shari'ah* through *maslahah,* the government, which obeys the Shariah way of life, ought to interfere in industrial relations to avoid legitimate problems and create a conducive relationship between employers and employees.

Mashalah, in this regard, links the normative and doctrinal aspects of law to the practical life of industrial relations. It deals with the preservation of the contextual and sociological purposes of law, and because this mission cannot be realised in vacuum, human activities and interactions in industrial relations are the context (Aibak, 2008). Evidently, the essence of Islamic teaching is to protect human dignity, exercised through the empowerment of the poor, the have-nots, and less privileged people, including labourers and daily wage-earners. *Maslahah* in industrial relations is manifested in the protection of workers, aiming to create a balanced and harmonised relationship between the employer and employees. One of the mechanisms to reach the purpose of the law (*maslahah*) through industrial relations is to empower employees by determining the minimum wage policy. The next section elaborates on the inter-linked areas of interest, which require state intervention.

Maintaining Just Wages and Protecting Labour Unions and Their Ability to Collectively Bargain

In the case of unbalanced market equilibrium and employee suppression through vested interests in Islamic civilisation, the government compels employers to provide a prevailing wage or *ujra mithl* (Islam et al., 2018: 372). The government implements a minimum wage for industries to avoid the exploitation of employees by the free-market mechanism. These considerations correspond with *maqasid*, which relates to public matters and utilities. Therefore, as a duty bearer, the government should review and change the minimum wage rate for labourers to prevent employee oppression.

Abu Ya'la and Al-Farra (1966: 91) stated that one of the government's duties is to be protective of both humans, with a similar concept of honour as reported by *maqasid*, and animals. Assuming the animals such as camels or buffalos are being maltreated, it is paramount for the government to stop their owners. Based on analogical deduction or *qiyas*, human employees have a higher level of dignity than animals. Therefore, there is a need for the government to protect them from unbalanced working conditions. The government's interference in the minimum wage policy is discussed between parties because it is their rights. According to Islamic principles, wages need to be determined before work, and employees need to be explicitly informed.

Employees need to be paid immediately after their wages are due. The Prophet's saying as reported by Ibn Majah stated, "give the worker his wages before his sweat dries" (Baqi, 2011: 10). Workers need to be reasonably compensated to afford the basic necessities of life. Islam is concerned on the minimum and 'living wage'. A servant of Prophet Muhammad, known as Anas, reported by Al-Bukhari specifically stated that, "The Prophet never paid any person a low income" (Baqi, 2011). The payments must enable employees to take care of their families as well as satisfy all their needs or basic necessities in a humane manner.

The Quran and Hadith relate (and their interpretation) both to the minimum and living wages. They further specified that the minimum wage aims to elevate the employees' right to welfare (to meet basic needs) by offering an evolving capacity (Auda, 2007: 4). These provisions are in line with the Human Rights Principles for "just and favourable remuneration," as well as the criterion implemented by the International Labour Organisation (ILO). ILO in General Comment No. 23 of 2016 defines basic needs to include "the minimum requirements of a family, notably food, shelter, clothing, and essential services provided by and for the community at large, such as safe drinking water, sanitation, public transportation, and health and educational facilities". In this case, Islamic principles serve as an ethical and self-reflective tool that reconstructs key building blocks or secular modernity ideologies. Islamic principles have universal tones that correspond to international standards used to remedy structural injustice.

The principles are manifested through the government's conduct in surveying market prices to fairly determine labourers' minimum wage. This is an act of Islamic civilisation, derived from the teaching: "enjoying what is good and forbidding what is bad" (Cook, 2003). Generally, this principle is manifested in *hisbah*, a government institution acting as an administrative control that encourages people to commit good deeds (*ma'ruf*) and forbids evil activities (*munkar*). Concerning industrial relations, Prophet Muhammad used this principle to inspect markets and check the price, conditions, and quality of products. The government's inspection activity aims to determine the fixation of wages used to establish regional price differences and needs. The second Caliph, Umar bin Khattab, was reported to determine minimum wage discussion concerning governance within a city and the labourers' personal needs (Ahmad, 2011: 594).

Ya'ala (1966: 91) reported that *hisbah* is historically assigned to put standards in weights and measures used in markets and ensure their use. Ibn Taymiyyah as cited by Abdullah (2000) stated that *hisbah* and its chief *muhtasib* have at least four significant purposes. These are to prevent oppression of the disadvantaged by a strong economic group, control market prices, provide citizens' daily needs, and ensure an appropriate labourer's wage. In 743 A.D, during the time of Umayyad Caliph, Hisham ibn Abd al-Malik, *hisbah*, as a market inspection, had a pivotal role in ensuring that labourers were not exploited by employers through work overload while giving meager wages. In addition, *hisbah* protects employers when labourers demand higher or unrealistic wages (Ibrahim 2015). This institution also plays a role as a mediation forum when both parties lodge a complaint by providing diplomatic justice.

Hisbah is a social justice institution organised by the government, aiming to control market regulation and ethical businesses, alongside mediating between state, businessmen, employees, and society (Feener, 2012). It is a control mechanism to generally guard the public interest by fighting market malpractices and lessening employers' hegemony towards employees. *Hisbah*'s justice mission manifests in protecting disadvantaged and marginalised labourers or daily wage-earners with relatively weaker bargaining positions from the excesses of rich businessmen and employers (Ates, 2017). Therefore, the social responsibilities of the government and religious normative values are interlinked because the main goal of Islamic teaching (*maqosid al-shari'ah*) is to achieve social order and justice for all. The government must penetrate industries to mediate and remedy unbalanced relations.

One of the areas used by the government to protect labourers' rights is through responsive and democratic facilitation of labour unions. This establishment is part of the concept of freedom of association and peaceful assembly, which is guaranteed by the Human Rights Principles. According to Ayubi (1991: 61), labour association plays crucial roles; it is a tool of 'unjust' legitimation of the status quo and a spearhead of reform. Moreover, according to Al-Faruqi and Al-Banna (1986: 67), "labour unions were established to prevent gross violations of labourers and ensure they live a decent life". In this regard, the government's pro-active role relates to the purpose of the Islamic ruling by providing labour unions with an evolving capacity (Auda, 2007: 4).

The empowerment of labour unions by the government is pivotal to improved labour conditions due to its relationship with industrialisation. The more powerful the labour unions, the greater their likeliness to protect their rights. Furthermore, collective bargaining is a crucial component of contracts between parties, which needs to be free from intimidation and fears. The contract needs to be created through popular participation where parties are obligated to have equal consultation prior to writing a working contract. Islam encourages consultation in the following verse: "their affairs (businesses) are conducted through consultation among themselves" (Surah Ash Shura, verse 38). Consultation has a positive effect on labourers and employers as it allows for the increase in mutual cooperation between both parties.

However, the study by Al-Faruqi and Al-Banna (1986) found that there is often an unequal footing, with an overall lack of mutual respect in consultation, because employers and labourers are powerful and inferior. Therefore, in most cases, the working contracts are mere 'submission contracts' that are illegitimate in the Islamic pro-labour perspective. In this unbalanced situation, both workers and unions are not strong enough to protect their rights; therefore, the government needs to act progressively as a guardian to ensure equal footing. This progressive policy corresponds to Islamic principles that request a guardian to help marginalised or vulnerable people in contracts who are pressured due to economic, physical, and political advantages. Efforts implemented by the labour union aims to ensure justice and prevent exploitation from irresponsible businessmen (Razak & Mahmod, 2021). Subsequently, this pro-justice perspective needs to be contextualised in Indonesia's context of labour law and management. Despite the fact that the country has a greater population of Muslims, its labour law and management is not considered 'Islamic'. The next section examines Indonesian development from its legal-political genealogy.

LEGAL-POLITICAL GENEALOGY OF INDONESIAN LABOUR LAW

Early Independence Era – State's Protective Policy

During the early independence era, the first Indonesian President, Soekarno, strongly affiliated with socialist movements, which led to

the creation of the third biggest communist party (Partai Komunis Indonesia [PKI]) in the world. Despite being closely related to socialism, Soekarno denied being a communist and was considered as a pro-labour leader, as evidenced by the stipulation of many protective acts on labourers' rights, dispute settlement, and supervision.

The main legislation on labour administration was Law Number 12 of 1948 on Manpower, which was very friendly to vulnerable groups including women and children. Youngsters and women could work, but only during daytime (Articles 4 and 7), and they were not allowed to work in the mining and natural resources industries (Articles 3, 5, and 8). Both youngsters and women were not allowed to work in areas that could potentially jeopardise their safety and health (Articles 6 and 9). Women were entitled to two days of menstruation leave, a month and half leave prior to childbirth, and a month and half leave after giving birth (Article 13). Furthermore, working mothers enjoyed a freedom to breastfeed in an appropriate work environment (Article 13 point 4).

Labourers' working hours were limited to a maximum of seven hours per day or 40 hours per week (Article 10 point 1). They were entitled to a half an hour rest during four hours of non-stop work (Article 10 point 2). Furthermore, housing for labourers was the company's responsibility, which was strictly written into a work agreement (Article 16 point 1). This Law favoured labourers' interests over the company by stressing more obligations and responsibilities for the company while giving many rights and dispensations for labourers. The study by Nasution (1996: 33) reported that these human rights-driven policies were revolutionary in the context of 1940s.

Soekarno's administration not only regulated industrial relations, but also supervised industrial relations. Law Number 23 of 1948 on Labour Supervisory was a State's preventive policy to hinder industrial dispute. Supervisors were state officials who had strong authority in investigating both labourers and company to follow up with reports and to collect evidence and proof (Articles 2 and 3). The Law stressed that the supervisors in doing their jobs must respect, consult, and coordinate with labour unions (Article 3 point 3). The study by Tedjasukmana (1961) reported that this Law can be considered as a good practice of the State's positive obligation to ensure fulfilment of the Western concept of liberal rights in industrial sectors.

Strong support for labourers and labour unions were strengthened when Indonesia ratified the ILO Convention No. 98 on Rights to Organise and Collective Bargaining through the 1956 Ratification Law. This ratification provided a foundational reasoning for stipulating Law Number 22 of 1957 on Industrial Dispute Settlement Law. The Law regulated both regional and national mechanisms of industrial disputes. The latter was designed as an appeal mechanism. For the first step of dispute resolution, the Law encouraged both parties to settle their interests amicably and if a consensus was reached, agreed clauses were transferred to amended work agreement (Article 2 points 1 and 2).

However, if negotiation failed, state officials who had two main authorities, mediator and investigator, could interfere with the dispute (Article 2 point 3). If mediation failed, state officials could hand over fact finding materials to the Regional Committee for further consideration and settlement (Article 4). The Regional and National Committee consisted of representatives from the Ministry of Manpower, and four other ministries. There were five worker representatives, and five company representatives (Article 5). The Regional Committee would host the conference attended by both parties. Like arbitration, the settlement was binding, and its settlement was authorised by the District Court.

Despite that the mechanism is bureaucratic and mostly driven by executive and administrative officials, the mechanism seems simple and applicable to perform. The executive's full involvement in industrial dispute settlement mechanism implies that the government has good intention to execute its positive obligation to fulfil human rights aspirations, particularly for labourers who have inferior bargaining positions to the company.

The early independence era is considered the closest realisation of Islamic pro-justice values in Indonesia. There were active government interventions by supervising industrial relations, fulfilling wages for labour, and protecting unions. The recognition of Islamic values does not have to adopt shariah law formally, rather it is informally carried out and corresponds to the concept of liberal rights.

Nevertheless, it is true that the legal system is determined by political context. Soekarno's administration sentiment towards labour changed

due to the shifting of the government's political paradigm into 'Guided Democracy'. Soekarno, amidst the harsh conflict between the army and communist groups, protected 23 vital companies from lock-out and restrict labour strikes. Soekarno delegated a strong authority for the military to interfere in a company's internal affairs, a legacy that was capitalised by the next authoritarian regime (Feith, 1964: 979). The 1965 political debacle lessened several of Soekarno's vital authorities. He was replaced by Soeharto, 'the Smiling General', marking the beginning of the authoritarian-developmentalist era.

Soeharto's Authoritarian Era: Investment-Driven Government

The labour affairs radically changed when Soeharto took over the presidential seat in 1966. Soeharto ceased the 1st May Day as a public holiday and even declared it communist propaganda. To diminish the historically revolutionary aim of the labour movement, Soeharto's administration through Law Number 14 of 1969 on Basic Labour Law changed the concept of 'labourer' into 'worker' or 'employee' in several formal documents, events, and regulations (Article 16). The stigmatisation of pro-communism was used to tame resistance labour movements. As a result, labourers barely had rights for negotiation and significantly lost their bargaining position over companies.

Soeharto's administration was economically driven, which made it pro-market and pro-investment. The shifting paradigm created a huge gap between labourers and companies (Ford, 2010: 521). The government stipulated the 1969 Basic Manpower Law. The provisions, however, were overly general, thus opening multiple interpretations from both state officials and companies. For instance, provision on the supervision of labour by state officials was not specific. Labourers and their unions were suppressed. Labourers' right of bargain was interfered by repressive responds from the military. The repressive roles of the military were so massive, it could even surveillance labourers' activities and activists (Crouch, 1988: 47).

In contrast to Soekarno who encouraged labour to participate in the political sphere, Soeharto, on the other hand, abolished the biggest labour union in Indonesia, *Sentral Organisasi Buruh Seluruh Indonesia* (SOBSI), and created a government-based labour union, *Serikat Pekerja Seluruh Indonesia* (SPSI) on 20th February. To

replace 1st May Day, the government appointed 20th February as the National Worker Day. The right of association and peaceful assembly (including a strike) was strongly intimidated by the military.

The World Federation Union (WFTU, 1970) reported the Indonesian government for an allegation violation of human rights to ILO. Based on WFTU's report, approximately 55,000 members of SOBSI were detained without trial. The Chairman and Secretary General of SOBSI were executed without proper investigation and trial. The government, however, refused to provide information or comments regarding the report. The report was closed without further investigation in 1971.

During this era, the government blatantly took the side of industrial development by encouraging capital intensive projects and foreign investment. Accumulation and productivity remained a dominant motive for government policies. For this, a study by Collier (1979) found that foreign investment was too crucial, and a state could attract this only if it could first guarantee political stability. Hadiz (1996) added that to enhance the industrial pace, minimum wages should be fully based on 'negotiation' between the government and companies, while legitimising military's strong involvement in labour dispute and ignoring labour aspirations. The industrial dispute settlement was ineffective because of several reasons: overly bureaucratic and a high frequency of corrupt officials, and a strong bias towards companies and investors (Manning, 1998: 215).

The wage policy was determined without public scrutiny or public knowledge (Fehring & Lindsey, 1995: 6). This policy is known as 'wage repression' aiming to repress wages and cost to escalate economic gains, through the absence of proper minimum wage policy (Tjandra, 2016: 162). The government's formalisation was pursued through promise of prosperity brought by the gross domestic product (GDP) economic development and the stability of political order. Wage policy was an effective instrument to enable the developmentalist-authoritarian government to control labour in the perceived interests of economic development. In this setting, the government was not in a neutral position, but it rather dominated almost all of the process of wage policy.

Post-Authoritarian: Towards Neo-Developmentalism

Despite Soeharto's rule ending in 1998, the remnants of authoritarian-developmentalist policies are still manifested today. The rootedness of capitalism makes brokering industrial relations difficult. Nevertheless, there was significant progress: the third president of Indonesia, B. J. Habibie ratified the ILO Convention No. 87 Year 1945 into national law through a Presidential Decree and then changed to Law Number 83 of 1998, which bypassed the legislative procedure through the legislature. In addition, the government issued Law Number 21 of 2000 on Labour Union Act, which guaranteed freedom of association for labour unions. Despite labourers having the right to establish their independent union, the prosperity of labourers was still undermined through an unequal deliberation process in the Wage Council. As a post-authoritarian state, Indonesia was pressured by 'twin pressures': democratisation and neo-liberal economic reform (Tjandra, 2016: 73). The strongest effect of these pressures was the neutrality of state in labour policy, which led to 'flexibilisation' or 'deregulation' of labour law by implementing a low minimum wage policy.

Industrial relations were improved under the fourth president, Abdurrahman Wahid (colloquially known as Gus Dur). He established a strong fundamental of democratisation processes, particularly in labour issues. The government through the Ministry of Manpower issued the Regulation of Ministry of Manpower Number 1 of 1999 on Minimum Wages, which stressed an obligation to companies to uphold the minimum standard and wages for labour. The government also re-established the spirit of labourer activism by stipulating Law Number 21 of 2000 on Labour Union. Nevertheless, the Gus Dur administration was short-lived. Megawati Soekarnoputri replaced his position as the fifth president of Indonesia.

Megawati significantly contributed to labour policy. The current positive laws of labour were stipulated in her era. Law Number 13 of 2003 Manpower Law and Law Number 2 of 2004 on Industrial Dispute Settlement Law provided norms for labour affairs. Despite the reform, according to the study by Tjandra (2016: 74), it was found that Megawati's Labour Law initiatives were strongly imposed by ILO, which had a market liberalisation agenda.

In the Susilo Bambang Yudoyono (SBY) administration, particularly in his first presidential period (2004–2009), there were insignificant efforts for labourers' prosperity. The government even strengthened the policy of outsourcing workers. Only in 2013, a year prior to his retirement as a president, SBY re-established the 1st May Day as a public holiday nationally, a rather symbolic policy from the Executive.

The current president, Joko Widodo (colloquially known as Jokowi), is relatively responsive to workers' demands. However, the characteristics of labour laws are still pragmatic and reluctant to support labour aspirations. Unlike the Old Order regime of Soekarno who strongly supported labourers' rights, the current Acts set down the government policy in a 'neutral' setting, mediating between labourers and companies. This 'neutrality' policy is pragmatic, as justice or equilibrium between the two cannot be reached when the condition is unbalanced. The neutrality policy is intertwined with the minimum wage policy, which benefit companies while discriminating labourers.

Legal provisions on the 2003 Manpower Law are insufficient, thus fail to provide justice and legal protection for the disadvantaged and marginalised group: labourers. Such insufficiency is evidenced when the industrial dispute arises as a result of rights disputes (*rechtsgeschillen*), including breaches of contract or legislation, or dispute arising from different interests (*belangen geschillen*), meaning that both parties (labourers and employers) disagree in several aspects of work environment or facilities (Soepomo, 2003). According to the study by Tjandra (2016: 226), workers and labour unions rarely win the disputes as a result of ineffective dispute settlement and company advantages in resources and bargaining power (politically and economically). Manning (1998: 215) added that the disputes may be formally settled by law, but nuances of injustice create social unrest in disputing factories and companies. In Indonesia's current setting, legislation on labour is merely used to manipulate human forces to achieve an industrial economy, while disregarding other non-marker values as the goal of development.

As the Labour Law mechanism failed to answer industrial disputes, the ILO stipulated Recommendation No. 3124 regarding the arbitrary dismissal of Panarub Dwikarya Benoa Company's workers (Kumparan, 2019). The ILO stated that the dismissal was a violation of

freedom of association and collective bargaining rights. Nonetheless, the Indonesian Government has given no response regarding the Recommendation, let alone provided remedies for workers' rights.

Due to its failure to effectively resolve industrial disputes (despite the legislation regulating it), Indonesia is one of the worst countries in terms of legally protecting its workers. Based on the International Trade Union Confederation (ITUC, 2018) in Global Rights Index, Indonesia is ranked 139. On a scale of 1 to 5, Indonesia's index was classified as 4 (bad) in 2014 and 2015, and the country earned 5 (very bad) in 2016 and 2017.

Jokowi, while delivering a victory speech on successfully winning the 2019 Presidential Election, stressed the government's development focus on investment by soothing the mechanism of permits in Indonesia (The Jakarta Post, 2019). This strongly indicated that companies would remain superior in industrial relations while labour rights would be more suppressed. Eventually, the 2020 Omnibus Law on Work Creation was passed and enforced, undeniably proving that the government extols investment while undermining labourers' welfare.

THE CURRENT LEGAL TEXT ISSUE - UNFAIRNESS IN WAGE POLICY

As a result of transplanting international norms on domestic practices of labour management, the spirit of market liberalisation and investment-based development have both strongly influenced Indonesia's labour laws. Those international norms require the state to limit its interference on economic affairs, including industrial relations between labourers and companies.

Meanwhile, the labour sector and industrial relations are pivotal for a country's development, especially in the current neo-capitalist setting (Tjandra, 2016). According to BPS (2019), Indonesian workers increased to 132 million from 2017 to 2018, with 39.68 million people in the agricultural sector as the largest sector (32 %). The remaining sectors included 29. 11 million people in trading and 20. 95 million in services, at 29.11 percent and 16.82 percent, respectively.

Unfortunately, Kis-Katos and Sparrow (2019) reported that several of these workers are still in poverty. This socioeconomic issue originates from legal and political problems in labour law, particularly minimum wage policy.

In a narrow sense, minimum wage policy has been determined by tripartite discussions in the Wage Councils, which include a diverse range of social, economic, political, and ideological factors. Evidently, minimum wage policy is the product of economic, political, and ideological conflict and compromise, which emerge between diverse interest groups in Indonesia's pluralistic society (Tjandra, 2016: 162). The National Wage Council consists of 23 constituent members, including ten government officials, five labour unions representatives, five company representatives, and three academics and economic experts. According to the Regulation of Ministry of Manpower and Transmigration Number 3 of 2015 on the Requirements for the Establishment, Operation, and Membership of the National Wage Council, the ration of the Council is of 2: 1: 1 respectively. In practice, however, labour aspirations on minimum wages, have often been suppressed by company and investment interests.

The post-authoritarian government has created legal improvements in empowering labour unions to be involved in strategic discussions on the minimum wage policy through Regional Wage Councils. However, the bargaining position of labour unions remains weak due to the government's policy to shrink labourers in industrial relations and disputes.

These authoritarian heritage legal issues are worsened by provisions in the 2020 Omnibus Law concerning Work Creation, which revised several crucial articles in the 2003 Law on Manpower and are detrimental for contract workers. The Omnibus Law erased the three years maximum duration of a work contract, and thus there is an uncertain work duration for contractual workers (Article 81). Regarding wages, the Omnibus Law erased several benefits from the severance package (including appreciation payments, etc.) and limited the severance package only to compensation payment (Article 61). As a consequence, when a company terminates the contract, workers only receive a plain severance payment, without benefits. The Law reduced the wage policy from eleven to only seven wages. It erased

three crucial wages: payment for exercising right of breaks; payment for severance; and payment for income tax (Article 81 point 24).

Generally, provisions on minimum severance payment are uncertain; this leads to the company's good faith and interpretation on law (Article 156). Conversely, the Omnibus Law increased overtime work hours to a maximum of four hours per day, and eithteen hours per week. Neverthless, the legislation left workers' right to weekly rest breaks uncertain. It also abolished annual leave for workers who have worked for six years (Article 81). This article argues that the Omnibus Law is assertive in stressing workers' duties and obligations, yet equivocal in regulating workers' rights, which leads to reduction and abolishment of several work benefits. These provisions clearly contradict the Islamic values to uphold the principle of justice and equality between employers and employees, as Islam obligates people to keep their commitment after they agree and sign an agreement. Preferably, the contract needs to be documented to secure legal certainty for both parties as well as reduce doubt. This is as Allah says in Surah Al-Baqarah, verse 282:

> "When you deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing … whether it is small or big; it is more just in the sight of God, more suitable as evidence, and more convenient to prevent doubts among yourselves".

The enactment of the Omnibus Law was subsequently followed by the 2021 Regulation on Wages, a delegation that changed the previous 2015 Regulation, which was neither accommodative nor protective of labour rights. It restricted involvement in labour union activities, including strikes, by stating that employers or companies have no obligation to pay wages in such cases (Article 24). This provision violated of labourers' right to freedom of association and peaceful assembly by negating the role of unions in expressing their opinions through collective strikes. It also conflicted with the 2003 Labour Law, which guarantees labourers' right to strike and be legally entitled to their wages.

Although the 2021 Regulation has not strictly prohibited strike and demonstration, it subtly suppresses labourers' activities through a revised wage. Article 48 states that "labourers' wages can be reviewed

periodically based on their productivity and the company's financial ability". This provision is ambiguous and only benefits the company while suppressing labourers. Therefore, this study argues that wage can be altered unilaterally by denying the Regional Wage Council's deliberation. The word 'productivity' is also highly subjective and has no clear parameters. Consequently, companies can broadly interpret labour union's activities, including strikes, as an element of unproductivity, which could lead to wage review. This unsupportive policy towards strikes by demanding productivity is an outdated capitalist policy, as the United Kingdom (UK), including the Labour and Conservative governments in 1968–1972, had imitated West Germany, the United States of America (USA), and Sweden. By making strikes more difficult, pressing for wage claims and demands would be harder for labourers (Crouch, 1979).

These wage policies contradict the Islamic values on just wages, aiming to elevate labourers' right to welfare to meet basic needs by providing them with a capacity to evolve and bargain through a union (Auda, 2007: 4). Moreover, according to a Hadith recorded by Ibn Majah, wages need to be immediately paid after the work is finished (Baqi, 2011: 10). This Islamic teaching suggests that payment needs to be made immediately once the work has been completed and not delayed.

Furthermore, the 2021 and 2015 Regulations on Wage have the same perspective on company sanctions. The 2021 Regulation stipulates administrative sanctions to companies that have not fulfilled their financial obligations towards employees, thereby contradicting the 2003 Labour Law, which regulates criminal sanctions for such companies (Article 89 point 3). This provision is a blatant discrimination towards workers and shows that the government provides privilege for companies. This practice is against the welfare state idealism that has been epitomised by the practice of Islamic government. According to the fourth Caliph Ali recorded by Sallam (2009: 595), the government needs to help marginalised groups, including labourers from deprivation and oppression.

Consequently, the 2021 Regulation abolished the 2015 provisions on *Kehidupan Hidup Layak* (KHL figure) or Decent Living Needs figures to increase labourers' wages by the Regional Wage Council (Article

43 point 5). The most damaging provision in the 2021 Regulation on Wage is that the government increased the labour wage by only considering the trend of inflation and national economic growth (Articles 25 and 26). Consequently, a labourer's minimum wage would only be increased by 8 percent –10 percent per year. It is clearly insufficient to sustain labourers' daily needs and basic costs of living. This low wage is insufficient in providing effective protection for labourers. The study by Merk (2019) found that the labourers' wages remain at a level of 40 percent –50 percent of average salaries, which hardly cover the minimum food requirements.

This government regulation not only disregards and fails to fulfil basic labourers' needs, but also contradicts the Labour Law. The 2003 Labour Law states that the sole parameter to increase labourers' wage is the KHL figure, which is based on a survey conducted by the Regional Wage Council. The trend of inflation and national economic growth are macro-economic variables that could not be easily implemented in several regionals.

The previous regulation was more logical, wherein the KHL figure was reviewed monthly through market surveys for a period of ten months. These provisions contradict the Islamic principles, because wages need to be decided prior to work with the awareness of workers. The government needs to set a minimum wage for industries and compel employers to provide *ujra mithl* or a prevailing wage (Islam et al., 2018: 372). The government has an obligation to review a minimum rate of wage for workers.

Moreover, the inactivity of the government's supervision in industrial relations has deteriorated workers' rights. The supervisors are state officials and they have the authority to mediate and settle disputes among labourers and the companies. Nevertheless, their roles are in a preventive mode, making supervision ineffective. Government officials are reluctant to respond and investigate reports of violation from labour unions, because they fear a withdrawal of investment (Interview, 16th September 2020). A lack of compliance by companies and a lack of assertive enforcement by the government have diminished the positive impact of tripartite discussions in the Wage Councils. As a result, the labourers and their unions fight alone, while the government remains 'neutral' in a discriminatory condition and

fails to provide a social security scheme for vulnerable groups. Based on these findings, this article argues that Indonesia's minimum wage policies do not correspond with the Islamic principles and practices of *maslahah*.

Islamic principles are not effectively transmitted by Indonesian Muslims. Rather, they are more inclined to express their religious activities towards God than social solidarity. Corruptive attitudes are more salient than religious work ethics due to the existence of Islamic revival groups (Fearly, 2016). This contemporary situation validates Bruinessen's work (2013) stating that the mutiny of radical Islam and 'the conservative turn' have penetrated post-authoritarian governments. Unfortunately, the current religious revival only covers political interest and sphere, while abandoning good work ethics for Muslims and disregarding injustice and discriminatory practices in labour issues. The Indonesian government ignored Islam's social significance and often used it as political fuel. This is rather different from Christianity in China, where believers are allowed to transform faith into productivity to strengthen capitalist production (Cao, 2010).

Despite those deficiencies, there are rooms for reform due to the emergence of the decentralisation regime from 1998, which led to the creation of an affirmative policy by the regional governments, particularly the Governors in industrial relations. For instance, Jakarta's previous Governor, Ahok, opened a discussion with labour unions and agreed to conduct an ongoing survey for KHL figures. The survey, which was conducted from January to October, had a two-month gap around November to December. According to Dedi Hartono, a Labour Representative of the Jakarta Wage Council (Interview, 17th September 2020), the Jakarta regional government agreed to include the two-month gap to determine the Provincial's minimum wage. Nevertheless, on paper, consultation with labour unions on the KHL survey remained voluntarily, because not all regional governments in Indonesia opened their bargaining door. Moreover, the 2015 Government Regulation considered wage as a mere 'clean wage' without considering the economic aspects (Elucidation of Article 5). Economically, when the wage is increased, all living expenses follow. Therefore, 'clean wage' is insufficient to empower labourers' income.

To overcome the issue, the regional government needs to actively take sides with labourers by subsidising seven crucial components of KHL:

food, proper clothes, housing, education (especially for workers' chilren), health, transportation, and savings. According to Ilhamsyah, Chairman of *Konfederasi Persatuan Buruh Indonesia* (KPBI) or Indonesian Labour Union Confederation (Interview, 17th September 2020), some regional governments, including the current Governor of Jakarta, have stipulated some affirmative policies, including free tuition fees for workers' children, free and subsidised health insurance, and 0 percent down payment for housing. Nevertheless, those policies are not explicitly encouraged by regulations due to discretions. Conversely, according to Anonymous, a Member of Business Association (Interview, 16th September 2020), business associations use productivity and national growth factors to determine wage hikes.

This article shows that the national and regional governments cannot act in a neutral position and need to create affirmative policies that reflect the balance for both labourers and businesses. This discussion demonstrates that the minimum wage policy is aggrandised by a neo-liberal economic paradigm, which eulogises rapid development and allures foreign investment whilst obtruding strong restrictions on the state's role in industrial relations. To put it mildly, the government is reluctant to empower labour unions as well as small and medium enterprises and is unwilling to fully include wage setting in the procedure of collective bargaining.

CONCLUSION

Generally, the current Indonesian government slightly differs from previous administrations, particularly that of Soeharto. The recent regulatory design is developmental and pro-investment, while the government stays silent about discriminatory industrial relations. The current provisions of labour laws can be concluded to not correspond with Islamic principles and practices, particularly *maslahah* and *maqosid al-shari'ah*. The government has no orientation in *maslahan* because it only covers one party in industrial relations, which is business and investment interests. Therefore, these Islamic principles can contribute to the area of just wages by determining *ujra mithl*, surveying market prices for minimum labourers' wages, promoting workers' bargaining positions through free and autonomous labour

unions, and actively supervising industrial relations. Nevertheless, Islamic principles are hard to implement in the Indonesian neo-liberal context, as they are often only used as a political tool to gain support while social significances are negated.

The Islamic principles of social justice should be assimilated in the labour politics and the law by establishing a supervisory council and market inspector to survey a proper KHL figure used to determine wages for workers. The council has the ability to push the regional government to subsidise in KHL's crucial components, which is the main reference in deciding the minimum wage policy. In addition, the government needs to stimulate the dynamic of labour unions to be a device for labourers to elevate labourers' bargaining position. The labour unions also need to be active in influencing the regional government for collective bargaining. Furthermore, with the inspiration of Islamic values and practices, the state administration needs to desert the neutrality approach in wage deliberation and consultation with the labour union. Therefore, it needs to be pro-active in safeguarding marginalised people and workers' rights, because this is the state's constitutional obligation.

REFERENCES

Abdulah, A. B. H. (2000). *Hisbah dan pentadbirin negara*. IKDAS.

Act Number 12 of 1948 concerning Manpower.

Act Number 13 of 2003 concerning Manpower.

Act Number 14 of 1969 concerning Basic Labour Law.

Act Number 18 of 1956 concerning Ratification of the ILO Convention No 98 concerning Rights to Organize and Collective Bargaining.

Act Number 2 of 2004 concerning Industrial Dispute Settlement.

Act Number 21 of 2000 concerning Labour Union.

Act Number 22 of 1957 concerning Industrial Dispute Settlement.

Act Number 23 of 1948 concerning Labour Supervisory.

Act of the Highest Commander Chief Number 4 of 1960 concerning Preventing Labour Strikes and Lock-Out in Vital Companies.

Ahmad, I. (2011). Religion and labour: Perspective in Islam. *The Journal of Labour and Society*, 14, 589–620. https://doi.org/10.1111/j.1743-4580.2011.00363.x

Aibak, K. (2008). *Metodologi pembaharuan hukum Islam*. Pustaka Pelajar.

Akbar, S. (2012). *Analisis perbandingan konsep maslahah dan mafsadah antara Imam al-Ghazali dan Imam al-Shatibi*. [Master's thesis, Universiti Malaya]. University of Malaya. http://studentsrepo.um.edu.my/5030/

Al-Faruqi, I., & Al-Banna, G. (1985). *Toward Islamic labour and unionism*. The International Islamic Confederation of Labour.

Al-Qarafi, S. D. (1994). *Al-dhakhirah (vol. 5)*. Dar al-Arab.

Ates, H. A. (2017). A pioneering institution for Ombudsman: Hisbah. *Ombudsman Akademik, 3*, 21–48. https://doi.org/10.32002/ombudsmanakademik.440042

Attia, G. (2001). *Nahwa taf'il Maqasid al-Shariah*. al-Ma'had al-Alami li al-Fikr al-Islami.

Ayubi, N. N. (1991). *Political Islam, religion and politics in the Arab world*. Routledge.

Banakar, R., & Travers, M. (2005). *Theory and method in socio-legal research*. Hart Publishing.

Baqi, M. F. A. (2011). *Al-lu'lu'wal marjan: Hadits-hadist pilihan*. Pustaka Al-Kautsar.

Bayat, A. (1992). Work ethics in Islam: A comparison with Protestantism. *The Islamic Quarterly, 36*, 5–27. https://hdl.handle.net/1887/9773

Bruinessen, M. (2013). Overview of Muslim organizations, associations and movements in Indonesia. In M. Bruinessen (Ed.), *Contemporary development in Indonesian Islam: Explaining "conservative turn"* (pp. 12–24). ISEAS-Yusof Ishak Institute.

Burgerlijke Wetboek (BW) 1884.

Business & Human Rights Resource Centre. (2017). *Indonesia: Report says Coca-Cola amatil violates workers' right to organize; company did not respond*. https://www.business-humanrights.org/en/latest-news/indonesia-report-says-coca-cola-amatil-violates-workers-right-to-organise-company-did-not-respond/

Cao, N. (2010). *Constructing China's Jerussalem: Christians, power, and place in contemporary Wenzhou*. Stanford University Press.

Collier, D. (1979). *The new authoritarianism in Latin America*. Princeton University Press.

Cook, M. (2003). *Commanding right and forbidding wrong in Islamic thought*. Cambridge University Press.

Crouch, C. (1979). *The politics of industrial relations*. Fontana.

Crouch, H. (1988). *The army and politics in Indonesia*. Cornell University Press.

Farrar, S., & Krayem. G. (2016). *Law, religion and the challenge of accommodation* (Legal Studies Research Paper No.16/65). Sydney Law School. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2818112

Fealy, G. (2016). *Bigger than Ahok: Explaining the 2 December mass rally*. http://indonesiaatmelbourne.unimelb.edu.au/bigger-than-ahok-explaining-jakartas-2-december-mass-rally/

Feener, R. M. (2012). Social engineering through Sharia: Islamic law and state-directed da'wa in contemporary Aceh. *Islamic Law and Society*, *19*, 275–311. https://doi.org/10.1163/156851911X612581

Fehring, I., & Lindsey, T. (1995). *Indonesian labour law under the new order: The military and prospects for change* (Working Paper No.7). Melbourne University Centre for Employment and Labour Relations Law. https://catalogue.nla.gov.au/Record/2416067

Feith, H. (1964). President Soekarno, the army and the communists: The triangle changes shape. *Asian Survey*, 969–980. https://doi.org/10.2307/2642634

Felipe, J., Abdon, A., & Kumar, U. (2012). *Tracking the middle-income trap: What is it, who is in it, and why?* (Working Paper Series No. 715). Levy Economic Institute of Bard College. http://www.levyinstitute.org/pubs/wp_715.pdf

Ford, M. (2010). A victor's history: A comparative analysis of the labour historiography of Indonesia's new order. *Labour History*, *51*(4), 523–541. https://doi.org/10.1080/0023656X.2010.528991

General Comment No 23 of 2016 on the Right to just and favorable conditions of work.

Government Regulation Number 78 of 2015 concerning Wage.

Hadiz, V. R. (1996). Buruh dalam penataan politik awal orde baru, *Prisma*, 7, 3–15.

Hasan, M. S. (2001). *Hadis Qudsi*. Amalia.

Hosen, N. (2005). Religion and the Indonesian constitution. *Journal of Southeast Asian Studies*, *36*(3), 419–440. https://doi.org/10.1017/S0022463405000238

Ibrahim, A. (2016). Hisbah and the sustainability of Islamic-based development institutions: An observation. *International Journal of Science Commerce and Humanities*, *4*, 124–150.

Instruction of Deputy the Highest Commander Chief No. 1/D/02/Peperti/1960.

International Trade Union Confederation. (2018). *UTAC global rights index: The world's worst countries for workers*. https://da.se/wp-content/uploads/2018/06/ITUC-Global-Rights-Index-2018-EN.pdf

Islam, J. S., Islam. M. R., Islam. M., & Mughal, M. A. H. (2016). *Economics of sustainable energy: The Islamic track of economical analysis*. John Wiley & Son.

Jamaluddin, S. A., Taher, M. A., & Yi, N. S. (2019). Industrial relations in a high-income nation: Is Malaysia ready? *UUM Journal of Legal Studies*, *10*(1), 91–111. https://doi.org/10.32890/uumjls.10.1.2019.9121

Kipnis, A. (2016). *From village to city: Social transformation in a Chinese country seat*. University of California Press.

Kis-Katos, K., & Sparrow, R. (2013). *Poverty, labour market and trade liberalisation in Indonesia*. https://crawford.anu.edu.au/files/uploads/crawford01_cap_anu_edu_au/2013-09/kiskatos-sparrow_povertytlib.pdf

Klare, K. E. (1982). The public/private distinction in labour law. *University of Pennsylvania Law Review*, *130*, 1358–1422. https://scholarship.law.upenn.edu/penn_law_review/vol130/iss6/5/

Laluddin, H. (2015). Maslahah's role as an instrument for revival of ijtihad. *International Journal of Islamic Thought*, *8*, 27–34. https://doi.org/10.24035/ijit.8.2015.004

Manning, C. (1998). *Indonesian labour in transition: An east Asian success story?* Cambridge University Press.

Merk, J. (2009). *Stitching a decent wage across borders: The Asian floor wage proposal*. Clean Clothes Campaign.

Ministry of Manpower and Transmigration Regulation Number 3/Men/1/2015 concerning the Requirements for the establishment, operation and membership of the National Wage Council.

Nasution, A. B. (1996). *The aspiration for constitutional government in Indonesia: A socio-legal study of the Indonesian Konstituente 1956-1959*. Pustaka Sinar Harapan.

Numani, M. S. (1962). *Omar the Great (The second caliph of Islam)*, translated by Saleem M. Sh. M. Ashraf.

Otto, J. M. (2002). Toward an analytical framework: Real legal certainty and its explanatory factors. In J. Chen & J. M. Otto (Eds.), *Implementation of law in the People's Republic of China* (pp. 1–26). Kluwer Law International.

Razak, A. S. S., & Mahmod, N. A. K. N. (2021). Embracing the Islamic principle of social justice in the Malaysian trade union movement. *UUM Journal of Legal Studies*, *12*(2), 1–21. https://doi.org/10.32890/uumjls2021.12.2.1

Regulation of Ministry of Manpower Number 1 of 1999 concerning Minimum Wages.

Sallam, A. (2009). *Kitab al-amwal.* Dar As-salam.

Soepomo, I. (2003). *Hukum perburuhan bidang hubungan kerja.* Djambatan.

Staatsblad Number 133 of 1880.

Tahir, S. (1997). Economic teaching of Prophet Muhammad. In M. A. Choudhury, M. Z. Abdad, & M. S. Salleh (Eds.), *Islamic political economy in capitalist globalization* (pp. 23–45). Utusan Publication.

Tedjasukmana, I. (1961). *The development of labour policy and legislation in the Republic of Indonesia* [PhD Thesis, Cornell University]. ProQuest. https://www.proquest.com/openview/2b9557dba3ffe5f4591144b3938e4d90/1?pq-origsite=gscholar&cbl=18750&diss=y

The ILO Convention on Freedom of Association and Protection of the Rights to Organize No. 87 of 1948.

The International Covenant on Civil and Political Rights (ICCPR).

The International Declaration of Human Rights (UDHR).

Tjandra, S. (2016). *Labour law and development in Indonesia* [PhD Thesis, Leiden University]. Universiteit Leiden. https://scholarlypublications.universiteitleiden.nl/handle/1887/37576

Wertheim, W. F. (1959). *Indonesian society in transition: A study of social change* (2nd ed.). W.van Hoeve Ltd.

Ya'ala, A., Al-Qadi., & Ibn al-Farra'. (1966). *Al-ahkam al-sultaniyya.* Mustafa al-Babi al-Halabi.

Zweigert, K., & Kötz, H. (1998). *An introduction to comparative law.* Oxford University Press.

NDONESIA'S MINIMUM WAGE POLICY AFTER THE OMNIBUS LAW A COMPARATIVE ANALYSIS FROM ISLAMIC PRINCIPLES

ORIGINALITY REPORT

18%	17%	12%	%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

#	Source	Type	%
1	www.e-journal.uum.edu.my	Internet Source	2%
2	openaccess.leidenuniv.nl	Internet Source	2%
3	link.springer.com	Internet Source	1%
4	e-journal.uum.edu.my	Internet Source	1%
5	journals.sagepub.com	Internet Source	1%
6	onlinelibrary.wiley.com	Internet Source	1%
7	ebin.pub	Internet Source	1%
8	hdl.handle.net	Internet Source	1%
9	ogma.newcastle.edu.au	Internet Source	1%
10	www.introducingislam.com	Internet Source	<1%
11	hoptacquocte.moj.gov.vn	Internet Source	<1%
12	www.uumjls.uum.edu.my	Internet Source	<1%

www.sea-info.net

13	Internet Source	<1%
14	mpra.ub.uni-muenchen.de Internet Source	<1%
15	dergipark.org.tr Internet Source	<1%
16	www.business-humanrights.org Internet Source	<1%
17	vi.unctad.org Internet Source	<1%
18	hts.org.za Internet Source	<1%
19	Mirza Satria Buana. "Development as a Threat to Indigenous Peoples’ Rights in Indonesia", International Journal on Minority and Group Rights, 2020 Publication	<1%
20	www.tandfonline.com Internet Source	<1%
21	Norshahril Saat. "Bibliography", Walter de Gruyter GmbH, 2018 Publication	<1%
22	www.scribd.com Internet Source	<1%
23	"Bibliography", Cambridge University Press (CUP), 2019 Publication	<1%
24	edit.hrw.org Internet Source	<1%
25	etd.repository.ugm.ac.id Internet Source	<1%
26	uumjls.uum.edu.my Internet Source	<1%

27	Rasmus Dalgaard Laustsen. "The Average Consumer in Confusion-based Disputes in European Trademark Law and Similar Fictions", Springer Science and Business Media LLC, 2020 Publication	<1 %
28	www.researchgate.net Internet Source	<1 %
29	8d0df907-8345-4c74-904b-12c0428e3bcf.filesusr.com Internet Source	<1 %
30	C. (Kees) van Dijk. "Rebellion under the Banner of Islam", Brill, 1981 Publication	<1 %
31	Jaesok Kim. "From coercion to cooperation: Urban governance and evolving modes of control in a Beijing village", Critique of Anthropology, 2021 Publication	<1 %
32	Starmanns, Mark. "The Grand Illusion? Corporate Social Responsibility in Global Garment Production Networks", Kölner UniversitätsPublikationsServer, 2011. Publication	<1 %
33	studentsrepo.um.edu.my Internet Source	<1 %
34	Masudul Alam Choudhury. "Perspectives on the Islamization of Knowledge and their Implications for Organization of the Occupational Composition: The Case of the Canadian Muslims in the Labour Market", Journal of Muslim Minority Affairs, 2010 Publication	<1 %
35	dokumen.pub Internet Source	<1 %

	Source	
36	lwp.law.harvard.edu Internet Source	<1 %
37	Javaid Rehman, Ayesha Shahid. "The Asian Yearbook of Human Rights and Humanitarian Law", Brill, 2018 Publication	<1 %
38	kobra.uni-kassel.de Internet Source	<1 %
39	dx.doi.org Internet Source	<1 %
40	flosse.dss.gov.au Internet Source	<1 %
41	lup.lub.lu.se Internet Source	<1 %
42	media.neliti.com Internet Source	<1 %
43	www.coursehero.com Internet Source	<1 %
44	www.artifex.org.ro Internet Source	<1 %
45	www.springerprofessional.de Internet Source	<1 %
46	scholarship.law.upenn.edu Internet Source	<1 %
47	Aditya Jain, Stavroula Leka, Gerard I.J.M. Zwetsloot. "Managing Health, Safety and Well-Being", Springer Science and Business Media LLC, 2018 Publication	<1 %
48	Charles Thomas Tackney, Imran Shah. "Authenticity/ الصحة as a criterion variable for Islam and Roman Catholic theology of the	<1 %

workplace analysis", Management Research Review, 2017
Publication

49	etheses.whiterose.ac.uk Internet Source	<1%
50	jurnal.fh.unila.ac.id Internet Source	<1%
51	www.apec.org Internet Source	<1%
52	Justus M. van der Kroef. "Indonesian Communism's Expansionist Role in Southeast Asia", International Journal: Canada's Journal of Global Policy Analysis, 2016 Publication	<1%
53	en.wikipedia.org Internet Source	<1%
54	real.mtak.hu Internet Source	<1%
55	www.ukm.my Internet Source	<1%
56	Jawad Syed, Abbas J. Ali. "Principles of employment relations in Islam: a normative view", Employee Relations, 2010 Publication	<1%
57	Michele Ford, George Martin Sirait. "The state, democratic transition and employment relations in Indonesia", Journal of Industrial Relations, 2016 Publication	<1%
58	Michele Ford. "A victor's history: a comparative analysis of the labour historiography of Indonesia's New Order", Labor History, 2010 Publication	<1%

59	ejournal.unida.gontor.ac.id Internet Source	<1 %
60	eprints.soas.ac.uk Internet Source	<1 %
61	Federica Misturelli, Claire Heffernan. "The shape of change: A memetic analysis of the definitions of poverty from the 1970s to the 2000s", Journal of International Development, 2012 Publication	<1 %
62	Iftikhar Ahmad. "RELIGION AND LABOR: PERSPECTIVE IN ISLAM : AHMAD: LABOR IN ISLAM", WorkingUSA, 12/2011 Publication	<1 %
63	commons.wmu.se Internet Source	<1 %

Exclude quotes	Off	Exclude matches	Off
Exclude bibliography	Off		