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Legal Protection for Workers Experiencing Delayed Wage Payments Without the Imposition of Penalties by Employers

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Abstract: This study examines the legal protection afforded to workers who experience delayed wage payments without the imposition of penalties on employers, as regulated under Law No. 13 of 2003 on Manpower and Government Regulation No. 36 of 2021 on Wages. The delayed payment of wages constitutes a violation of workers' rights and may give rise to industrial relations disputes if not addressed effectively. The prevailing legal framework obliges employers—whether through intent or negligence—who delay wage payments to pay a penalty amounting to 5% per day from the fourth to the eighth day of delay, followed by 1% for each subsequent day, up to a maximum of 50% of the wages due. However, many workers are either unaware of their legal entitlements or reluctant to report such violations due to pressure exerted by employers. Using an empirical juridical research method and a qualitative approach involving interviews and field observations, this study aims to: (1) explore the legal protection mechanisms available to affected workers, and (2) identify the obstacles to enforcing sanctions against employers who fail to pay the prescribed penalties for delayed wages.

Keyword: Legal Protection, Delayed Wage Payments, Penalty, Workers' Rights.

INTRODUCTION

Wages are recognized as a fundamental right of every worker and are explicitly guaranteed under Indonesian labor legislation, particularly Law No. 13 of 2003 on Manpower and Government Regulation No. 36 of 2021 on Wages. Timely wage payment is not only a contractual obligation of the employer, but also a critical component of the socio-economic protection of workers. Article 55 of Government Regulation No. 36 of 2021 clearly stipulates that "Employers are required to pay wages at the time agreed upon between the employer and the worker/laborer." This provision underscores the binding nature of wage payment schedules as mutually agreed upon in employment contracts.

However, in practical terms, delays in wage payments remain a recurrent issue in Indonesia's labor sector. These delays, whether arising from deliberate action or negligence on the part of the employer, constitute a direct infringement upon workers' rights and are expressly subject to sanctions. Article 95 paragraph (2) of Law No. 13 of 2003 affirms that: "Employers

who, whether intentionally or negligently, cause delays in the payment of wages shall be subject to fines calculated as a specified percentage of the worker's wage." This legislative framework is intended not merely to penalize non-compliance, but also to function as a deterrent mechanism to prevent exploitative labor practices.

More specifically, Article 61 of Government Regulation No. 36 of 2021 elaborates on the structure of the penalties. For delays occurring from the fourth to the eighth day after the due date, employers are required to pay a fine amounting to 5% of the total unpaid wages for each day of delay. Should the delay extend beyond the eighth day, an additional penalty of 1% per day is imposed, with the cumulative fine capped at a maximum of 50% of the total wages due for that particular payment period. This graduated sanction system is designed to incentivize prompt compliance and to penalize prolonged delays in wage disbursement.

Despite this clear regulatory framework, in practice, enforcement remains weak and inconsistent. Many employers either fail to pay the mandated penalties or are not held accountable due to inadequate monitoring and weak institutional capacity. Moreover, workers themselves often face significant structural barriers in seeking redress. A substantial number of workers are unaware of their legal entitlements, including their right to timely wage payments and the right to report violations. Even when workers are cognizant of their rights, they may be reluctant to report employers due to fear of retaliation, loss of employment, or other forms of coercion. This disjunction between legal norms and actual practice raises critical concerns regarding the effectiveness of labor law enforcement in Indonesia. The absence of proactive enforcement mechanisms, coupled with the power imbalance between employers and workers, undermines the protective function of the wage regulation regime. The legal obligation to impose fines for delayed wage payments risks becoming a normative ideal rather than a practical reality, unless supported by accessible complaint mechanisms, legal aid, and institutional willingness to enforce sanctions.

Furthermore, from a socio-legal perspective, wage delays can have severe implications for workers' livelihood and household stability. For many low-wage and informal sector workers, wages are the sole source of income. Any delay, however minimal, may disrupt basic living conditions, such as access to food, healthcare, education, and housing. The failure to enforce wage protection laws therefore perpetuates economic vulnerability and deepens labor insecurity, ultimately weakening the rule of law in the field of labor relations. Accordingly, there is an urgent need for a more robust and worker-centered enforcement strategy, one that includes legal education, effective dispute resolution mechanisms, empowerment of labor unions, and institutional reforms to ensure accountability of employers. Strengthening the implementation of Articles 55 and 61 of Government Regulation No. 36 of 2021, alongside Article 95 of Law No. 13 of 2003, is essential for actualizing the constitutional and statutory guarantee of fair and just labor conditions in Indonesia.

Against this background, the present study entitled "Legal Protection for Workers Experiencing Delayed Wage Payments Without the Imposition of Penalties by Employers" was undertaken to critically examine the existing legal framework and its practical implementation. The research is driven by two primary objectives. First, it seeks to explore how workers are legally protected when facing delays in wage payments, particularly in instances where employers fail to fulfill their obligation to pay the prescribed penalties as mandated by labor regulations. Second, the study aims to identify and analyze the underlying factors that hinder the effective enforcement of legal sanctions against employers who neglect or refuse to pay such penalties. By addressing these two core issues, the research intends to contribute to the broader discourse on labor rights and the rule of law within the context of wage protection in Indonesia

METHOD

This research employs a normative juridical method, which relies primarily on legal literature review to examine and analyze the positive legal norms governing employers' obligations to pay wages and the imposition of penalties for delayed payments. The primary focus of this approach is to systematically study the relevant statutory provisions, such as Law No. 13 of 2003 concerning Manpower and Government Regulation No. 36 of 2021 concerning Wages, as well as legal principles and theoretical frameworks related to the protection of workers' rights to wages. Data in this study are derived from the analysis of primary legal materials, namely statutory regulations, and secondary legal materials, including legal literature, academic journals, previous research findings, and official documents that support the normative analysis. The objective of this method is to identify, interpret, and evaluate the applicable legal norms, and to assess the extent to which such norms provide adequate protection for workers—particularly in cases of delayed wage payments where employers fail to pay the legally prescribed penalties. This normative approach is also used to examine the consistency and effectiveness of the legal system in upholding workers' rights and to provide juridical arguments for the need to enforce administrative or criminal sanctions to prevent similar violations in the future..

RESULTS AND DISCUSSION

Wages constitute the remuneration received by a worker after performing labor over a certain period of time, and are intended to improve the worker's welfare (Sulaiman & Walli, 2019). A worker, in this context, is defined as a person who performs a job and, in return for his or her services, receives wages from an employer or entrepreneur. However, in practice, workers frequently encounter issues related to wage payment (Maimun, 2007), such as delayed disbursement of wages. One such case was experienced by R, a former security officer employed by a private company (CV). Based on an interview conducted on April 27, 2025, R reported that he had experienced a delay in wage payment while working for the said company. The incident occurred when the employer was on vacation in Bali, and R, whose wages had not been paid for four days beyond the agreed date as stipulated in the employment contract, attempted to contact the employer. The employer claimed that the mobile banking application typically used to transfer wages was on a different phone, which had been left at the hotel. R's wages were eventually paid two days later; however, this payment was made without the imposition of any penalty for the delay. This situation clearly demonstrates an element of negligence on the part of the employer, which constitutes a violation of Article 95 paragraph (2) of Law No. 13 of 2003 concerning Manpower, which states: "An employer who, due to negligence, causes a delay in wage payment shall be subject to a penalty in accordance with a certain percentage of the worker's wage." As a result of such conduct, the worker suffered financial harm. The employer's failure to pay the prescribed penalty for the delayed wage payment is a form of non-compliance with the law and constitutes a violation of the worker's legal rights.

An employer who fails to pay the penalty for delayed wage payments may give rise to a rights dispute (Husni, 2016), as it constitutes a failure to fulfill the legal entitlements of the worker. In such cases, a dispute of rights between the worker and the employer is inevitable. However, the law provides legal protection for workers with respect to their wages. Legal protection for workers refers to efforts to ensure that workers are guaranteed the fulfillment of their rights, and such protection may be preventive or repressive in nature (Harahap, 2019). Preventive legal protection aims to prevent disputes from arising, primarily through statutory regulations such as Law No. 13 of 2003 concerning Manpower, Government Regulation No. 36 of 2021 concerning Wages, and Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes. Nevertheless, should a dispute occur, repressive legal protection

mechanisms are available for the worker to pursue. These mechanisms include (Rahmadi, 2017):

1. Bipartite negotiation, a resolution process conducted directly between the disputing parties—namely the employer and the worker—without involving a third party. The parties engage in negotiations to reach a mutual agreement based on consensus.
2. Mediation, an alternative dispute resolution mechanism whereby the employer and the worker are brought together in a peaceful setting to resolve the dispute with the assistance of a neutral third party (mediator). The mediator facilitates communication but does not impose a decision; the final settlement depends on the agreement of the parties.
3. Conciliation, a process involving a conciliator who actively participates in resolving the dispute by offering solutions and opinions, with the goal of reaching an agreement acceptable to both parties. Unlike mediation, the conciliator takes a more proactive role in proposing outcomes.
4. Arbitration, a legally binding dispute resolution process whereby a neutral arbitrator renders a decision after hearing arguments and examining evidence presented by both parties. The arbitral decision is final and must be complied with by both parties.

In addition, the Department of Manpower (Dinas Ketenagakerjaan) serves as a venue where workers may report employers who fail to pay penalties for delayed wage payments. The Department may facilitate mediation between the employer and the worker, acting as an intermediary (Sumanto, 2014). However, if no agreement is reached, the dispute may be escalated to the Industrial Relations Court. Litigation in the Industrial Relations Court serves as the final recourse to protect the rights of the worker, with the imposition of legal sanctions upon the employer who is found in violation. Nevertheless, prior to initiating court proceedings, the worker must ensure that bipartite negotiations and mediation have been duly attempted (Ibrahim, 2019). Furthermore, should an arbitral award raise legitimate doubt or uncertainty, the dispute may also be referred to the Industrial Relations Court, accompanied by the reasoning that justifies such doubt.

The enforcement of legal sanctions against employers who fail to pay penalties for delayed wage payments is often hindered by a range of structural and socio-economic factors (Syed, 2023). One of the foremost issues is the profit-oriented mindset of employers; when business profits decline or become negative, some employers tend to prioritize financial survival over legal compliance, resulting in the withholding of employee wages (Yuning, 2020). This is compounded by weak government supervision. Although labor law mandates state oversight to ensure employer compliance and to preserve the integrity of employment relations, the current supervisory system remains ineffective. Factors contributing to this include the limited number of labor inspectors relative to the vast number of business entities, particularly micro-enterprises, and the large volume of formal workers—amounting to 60.81 million as of August 2024 (according to the Central Bureau of Statistics)—which overwhelms the government's monitoring capacity (Statistik, 2024).

Furthermore, local government interference also plays a significant role in weakening law enforcement. The involvement of public officials who side with employers often obstructs labor inspectors from imposing sanctions, allowing violations to persist without consequence (Dewey, 2018). Another critical obstacle is the low level of legal awareness among both employers and workers. Many employers knowingly disregard their legal obligations, while workers often lack understanding of their rights, including their entitlement to timely wage payments and the penalties applicable for non-compliance. As a result, workers tend to remain passive, unwilling to initiate legal processes due to a lack of knowledge, fear of retaliation, or fear of losing their jobs (Schipani et al., 2016).

The legal process itself is often perceived as complex and burdensome. Lengthy and convoluted procedures discourage workers from asserting their rights, which in turn enables employers to evade responsibility with impunity. Additionally, there exists a structural

imbalance of power between employers and workers. Without institutional authority or adequate protection, workers may hesitate to report violations, especially when doing so might jeopardize their employment (Santoso, 2018). This situation is exacerbated by widespread ignorance of labor rights; many workers are unaware that delayed wage payments constitute a legal violation and mistakenly view such incidents as private disputes rather than enforceable claims (Dombrowski et al., 2017). Over time, the repeated failure of employers to pay wages on time has become normalized in certain employment settings, further reducing workers' motivation to seek justice.

Although the law provides a comprehensive framework for legal protection—ranging from bipartite negotiations, mediation, conciliation, and arbitration (Hermansyah, n.d.), to complaints submitted to the Department of Manpower and proceedings before the Industrial Relations Court—these mechanisms are often underutilized. For instance, in the case of Worker “R,” the employer was not reported due to the worker’s lack of legal knowledge and fear of uncertain legal outcomes, despite the availability of formal procedures. The fear of losing one’s job and the perception that legal resolution might not be achieved even after exhausting existing remedies contribute significantly to the broader challenges in enforcing labor law against non-compliant employers.

The foregoing explanation demonstrates that the impediments to law enforcement against employers who fail or deliberately avoid their obligation to pay fines for delayed wage payments do not merely stem from inadequate legal norms, but rather from the weak implementation and ineffectiveness of law enforcement in practice. In the context of labor law, the substantive norms are, in fact, sufficiently established, as the employer’s obligation to pay penalties for wage payment delays is stipulated in various regulatory instruments, such as Law Number 13 of 2003 concerning Manpower, Government Regulation Number 36 of 2021 concerning Wages, and Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement. Nevertheless, there remains a substantial gap between the law in the books and the law in action.

One of the most apparent obstacles lies in institutional issues related to labor inspection (Santoso, 2018). The supervisory function, which should serve both preventive and repressive purposes, often proves ineffective due to the limited number of inspectors and the vast scope of supervision required. In an ideal legal system, labor inspectors act as a crucial mechanism to ensure compliance with labor norms. However, when the number of inspectors is disproportionate to the number of business entities that must be supervised, the legal oversight function becomes inherently weak. This reflects a crisis in the institutional capacity of the state to safeguard workers’ rights.

Moreover, the interference of local officials in the enforcement process indicates that Indonesia’s labor system has yet to be fully liberated from the disproportionate exercise of power relations. When public officials side with employers and interfere in legal processes, the principle of equality before the law is effectively undermined (Ellis & Goggin, 2017). As a result, employers may evade legal obligations without undergoing lawful dispute resolution mechanisms.

From the workers’ perspective, low legal literacy constitutes a significant barrier. A lack of awareness regarding their entitlement to fines for wage delays, fear of job loss, and the perception that delayed wage payment is a personal rather than legal issue all underscore the need for sustained legal education (Clibborn & Hanna-Osborne, 2023). This suggests that legal protection efforts must go beyond structural or juridical approaches and incorporate cultural strategies, particularly through legal literacy and rights awareness programs for workers. Without an adequate understanding of their normative rights, workers will remain in a subordinated position and incapable of asserting their claims effectively (Bartley, 2018). Another equally important aspect is the perception that legal processes are complicated, time-consuming, and fail to guarantee fair outcomes. In practice, the resolution of disputes through

formal mechanisms, such as the Industrial Relations Court, involves a protracted process beginning with bipartite negotiations, followed by mediation, and possibly arbitration. Workers' reluctance to pursue legal remedies reflects a broader distrust in the ability of the legal system to deliver justice effectively.

CONCLUSION

The law affords protection to workers through Law Number 13 of 2003 concerning Manpower, Government Regulation Number 36 of 2021 concerning Wages, and Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. These legal instruments guarantee and safeguard workers' rights while also providing mechanisms for resolving disputes arising from an employer's failure to pay penalties for delayed wage payments. Dispute resolution may be pursued through bipartite negotiations, mediation, conciliation, arbitration, or by filing complaints with the Department of Manpower and, ultimately, the Industrial Relations Court. However, the enforcement of these legal protections remains hindered by several factors, including low levels of legal awareness among workers, weak labor inspection mechanisms, undue interference by local officials, the normalization of wage payment delays, power imbalances between workers and employers, and workers' limited understanding of their legal entitlements. Although the available dispute resolution mechanisms—such as bipartite negotiations, mediation, conciliation, arbitration, and administrative or judicial complaints—are legally established, they are underutilized. This underutilization reflects both institutional weaknesses and the inaccessibility of legal remedies for many workers. Accordingly, there is an urgent need to strengthen labor inspection, expand legal outreach and education for both workers and employers, and simplify procedural requirements to ensure that legal protections are meaningfully and effectively implemented.

Based on the findings of this study, several recommendations are proposed. First, the government should enhance labor inspection practices. While the number of inspectors may not be proportional to the number of enterprises and workers, improved inspection systems can still facilitate legal enforcement against noncompliant employers and promote the implementation of legal protections for workers. Second, the government should conduct systematic legal education and awareness campaigns to inform workers of their rights and to foster employer compliance with their legal obligations. Third, legal procedures should be simplified to facilitate access to justice for workers. Processes such as bipartite negotiations, mediation, or complaints to the Department of Manpower must be streamlined and expedited to prevent workers from being discouraged by complex and time-consuming procedures. The provision of clear, accessible step-by-step guidance would encourage workers to assert and claim their legal rights more confidently.

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