

Identification of Maqashid Shariah's Principles in Establishing a Wage

Asri Wijayanti¹, Siti Zulaikah², Danggur Feliks³, Rudy Wahyu Prasetyo⁴

^{1,2,3,4}Universitas Maarif Hasyim Latif, Sidoarjo, Indonesia

Abstract

There are many theories and practices for fixing workers' wages. One form of wage protection based on Law 13/2003 is the minimum wage. This study aims to identify the principles of maqhasid Sharia in workers' wages. This legal research uses a conceptual approach. The results showed that there are five basic principles of Islamic Maqashid in good wages, namely maintaining the existence of religion, maintaining the spirit, maintaining awareness, maintaining and preserving offspring.

Keywords: Maqashid Sharia, wages, worker

Introduction

Wages are the main goal of every worker, therefore every worker always wants an increase in wages so that they can improve the welfare of themselves and their families. [1][2] Many companies do not comply with the regulations set by the government regarding the provision of wages according to the regional minimum wage (UMR) or the city minimum wage (UMK), although the sanctions that will be received if the employing company does not comply with government regulations regarding UMR/ UMK are still below UMP/ UMK [3]. The lack of understanding of bureaucrats, policyholders, business, and economic actors regarding the concept of the objectives of Islamic sharia or known as Maqashid al-Sharia is one of the causes of the incompatibility of the practice of setting minimum wages for workers with existing legal and statutory purposes [4].

The value of Sharia in this economic activity, that is, it is not allowed to get property by justifying any means [5]. Islamic Sharia emphasizes that there are ways of doing business that is in accordance with sharia, namely ways in which individuals volunteer and get benefits and justice [6]. There are also methods of obtaining assets that are not in accordance with sharia, namely all the ways that are done to obtain property that will only benefit himself at the expense of others [7]. This shows that Islam calls for the application of ethics /morals in every religious activity [8]. Based on the description above, to limit the scope of the research, the problem formulation was determined, namely how the principles of maqashid al-sharia regarding the determination of justice-based minimum wages for workers

Research Methodology

This research is normative legal research [9], with a conceptual approach [10]. The conceptual approach aims to build a legal theory regarding the determination of the minimum wage for workers based on maqashid al-sharia considering that the problem of determining the minimum wage for workers in Islam is a problem of ijtihadiyah, because there is no text either al-Qur'an or Sunnah [6]. The analysis used is qualitative using inductive, deductive, and comparative ways used to find common ground in the

implementation of labor law regulations and maqashid al-sharia theory in the problem of determining the minimum wage for workers based-justice [11][12].

Result And Discussion

Islamic teachings in making a living to meet needs must be done in a halal manner [13]. To get the property, it must be done by volunteering between humans, and through a fair and maslahah for all parties [14]. Any means of obtaining a property that will only benefit oneself at the expense of others is prohibited in Islam (ghairu masyru')[15]. Volunteering for one another between humans, and through a fair and beneficial way for all parties, to avoid future disputes[6].

The requirements for a legal working relationship based on Islam are: The work that is agreed upon is a type of work that is permissible or lawful according to the provisions of Islamic sharia, which is beneficial to both individuals and society; The benefits are clear; Wages as compensation for work must be known, the amount, form, time, and method of payment[14].

On the validity of the work agreement, the reciprocal rights and obligations arise. The workers' obligations are: Doing the work that was promised according to what the employer wanted to carry out its obligations diligently, carefully, thoroughly, and according to the promised time.; maintaining the safety of the goods entrusted to him for work, whereas if the job is a matter, then it must be managed accordingly; compensate for damage if there are items that are damaged if the damage is due to intentional or negligence [16]. Worker's rights are: get a job; get wages in accordance with what has been promised; treated well in the work environment.; the right to social security, especially regarding the risks that workers may experience in carrying out their work[17].

The wage arrangement contained in the Qs Surat al-Nahl verse 90, namely

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ

"Indeed, Allah orders justice and good conduct and giving to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded."[18]

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، عَمِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: مَا بَعَثَ اللَّهُ نَبِيًّا إِلَّا رَعَى الْغَنَمَ. فَقَالَ أَصْحَابُهُ: وَأَنْتَ؟ فَقَالَ: نَعَمْ، كُنْتُ أَرَعُهَا عَلَى قَرَارِيطٍ لِأَهْلِ مَكَّةَ

Narrated from Abu Hurairah r.a. that the Holy Prophet had said: "Allah did not send a Prophet but he had herd goats." Friends ask: "So are you?" He replied: "Yes, I once herded the goats belonging to the people of Mecca with the wages of several qiraths." [18]

If you pay attention, the Qur'an and hadith above are the arguments that an employer is obliged to pay the wages of his workers, whether the worker asks for it or not, especially if the worker asks for it, because it is their right according to Islam. Islamic law provides a solution for determining the minimum wage that must be paid to workers, namely through ushul fiqh science. Among the ijthad methods - which in this case is the method of determining minimum wages for workers - which can be used based on the science of ushul fiqh are the *maslahah al-mursalah* method and the *'urf* method.

From the perspective of muamalah fiqh, there are two, namely the ijarah contract (lease contract) and the ju'alah contract (wage contract). Ijarah means renting or giving wages. Syafi'i defines ijarah as a contract for certain benefits that can be given with certain rewards . According to the DSN-MUI fatwa number 9 of 2000, ijarah is an agreement to transfer the right of use (benefit) to an item within a certain time with the payment of rent (ujrah), without being followed by the transfer of ownership of the goods themselves.[2] Meanwhile, according to the Sharia Economic Law Compilation, ijarah is defined as the

rental of goods for a certain period of time (accompanied) with payment.[19]. The legal basis for ijarah is that it is permissible, is based on surah al-Thalaq verse 6 which means "Then if they breastfeed your (children) for you then give them their payment." Also the Prophet's hadith from Ibn Umar which means "Give the laborer his wages before his sweat dries." [20] According to the jumhur ulama, there are four pillars and conditions of ijarah, namely: akad (contract), aqid, ujroh and benefits.

Ju'alah means what is given to someone because of something they do [21]. According to Al-Jazairi, ju'alah is the gift of someone in a certain amount to a person who performs a special action, known or unknown [22]. Rukun ju'alah is the existence of sighat; there is a wage; there is work to be done; there is a clear time limit in the work agreement. There are competency standards/ quality/ resource capabilities of workers, namely technical, social, managerial, intellectual (Siddiqui, 1996).

The classification of maqashid al-sharia according to al-Ghazali's theory is grouped into five principles, namely the maintenance of religion, life/ soul, lineage, property, and reason [13]. Of the five points, there are dharuriyah, hajiyah, and tahsiniyah levels. In this study, it is only limited to the Dharuriyah level [6]. Hifz al-Din (Maintaining Religion). That maintaining religion at the dharuriyah level in terms of determining minimum wages for workers in the implementation of sharia commands and abandoning prohibitions. -sharia prohibition in setting the minimum wage for workers [24]. The concept of hifz al-din (maintaining religion) in the matter of setting wages for workers, the determination of the minimum wage must be done by carrying out sharia commands and leaving what is prohibited, with the following conditions: the agreement of both parties regarding the nominal amount of wages to be given; motivation to help; trust and justice; compliance by law. Economic activities must run properly and healthily in the sense that there are no elements of injustice. The government in this case has the right to interfere in economic activities carried out by individuals and institutions, both to oversee the running of economic transaction activities or to regulate or carry out several kinds of economic activities that cannot be carried out individually, such as export-import activities. In setting the minimum wage for workers, leave the following matters: Gharar, namely unclear or vague. Riba, ikrah, that is a compulsion, Maysir, or gambling.

Hifz al-Nafs (Maintain life/ soul). There are 3 levels of importance, namely: at the dharuriyat level is like the obligation to meet basic needs in the form of food to sustain life; in the hajiyah level, that is, if this provision is ignored, it will not threaten the existence of life; in the tahsiniyah level, if this level is ignored it will not threaten the soul's existence or complicate life, but if it is fulfilled it will facilitate the maintenance of the two levels above it. [25]

Hifz al-Nasab (Caring for Offspring/ Family). It is divided into three parts, namely: at the level of dharuriyat, such as the law of marriage and the prohibition of committing adultery and the stipulation of had sentences; at the hajiyah level; in the tahsiniyah level [26]

In the context of labor law, the problem of hifz al-nasab (raising offspring) is not just limited to marriage issues but is broader than that, which is closely related to issues of maintaining survival, health, and family education or workers' children. Based on the al-Qur'an surah al-Nisa verse 9 which reads:

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَةً ضَعِيفًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا

"And fear Allah those who should leave behind them weak children, whom they worry about (their welfare). So let them fear Allah and speak words of appropriate justice." (QS. Al-Nisa 'verse 9.) [18] We should not leave our families, including children, wives, and so on, in a state of economic weakness after our death. (QS. Al-Nasyrah verses 7-8) [18]. If the problem of hifz al-nasab is related to the problem of

determining the minimum wage for workers, the minimum wage for workers must include funds for employment insurance.

Hifz al-Aql (Maintaining reason). Intellect is an important element in humans that distinguishes it from other creatures. Maintain the existence and health of reason which is very valuable for humans. There are three levels namely: at the level of dharuriyat, like it is forbidden to consume intoxicating drinks (liquor); at the hajiyah level, like studying knowledge; at the level of tahsiniyah, such as avoiding daydreaming .[27]. The concept of hifz al-aql is related to the problem of determining the minimum wage for workers, so the minimum wage for workers must meet the costs for maintaining the health of workers so that these workers can work to the maximum of their ability.

Hifz al-Mal (Maintaining Property). In Islamic sharia, cooperation in the economic sector is regulated by clear sharia principles such as not harming either party, no tyrannical elements, the prohibition of gharar (unclear goods in transactions), maysir (gambling), ribah (additional accompanied by extortion), as well as ikrah (coercion), as well as giving compensation, keeping promises, recording all transactions, and so on. Hifz al-mal (maintaining the property) is divided into three levels: at the level of dharuriyat such as requiring rules of ownership of property and prohibition of taking other people's property by illegal means; at the level of the hajiyah as it is recommended to buy and sell in the way of greeting; at the tahsiniyah level, such as provisions to avoid fraud. Because it is related to morals or ethics in muamalah or business ethics.[27]. In muamalah activities, including in matters of employment relations, no party should be harmed, forced, exploited, or cheated on various grounds to gain a unilateral advantage at the expense of the rights of other parties.

Conclusion and Acknowledgments

There is five identification of Maqashid Sharia principles, namely:

- Hifz al-din (maintaining religion), in the form of implementing sharia commands and abandoning sharia prohibitions in interact /employment
- Hifz al-nafs (maintaining the soul), in the form of a wage that can meet the needs of the worker's life which includes the cost of eating and drinking, clothing, and a place to live.
- Hifz al-nasab (maintaining offspring), in the form of employment insurance which can guarantee the survival, health, and education of the children of workers.
- Hifz al-aql (maintaining reason) in the form of wages can meet the health costs of workers
- Hifz al-mal (maintaining the property) in the form of no workers' rights being eliminated

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