

# A CRITICAL STUDY OF THE WAGE SYSTEM AND PRACTICE IN INDONESIA FROM THE MAQASHID AL-SHARIAH

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**Abstract:** This study aims to analyze the wage system and practice in Indonesia from the perspective of Maqashid al-Shariah. The indicators can be seen from several applicable policies, whether they have brought benefits to the workers/laborers or not. This can be answered with an in-depth study and study seen from several aspects, including; list of decent living needs (KHL), specialization and division of labor as the basis for setting wages, wage transparency, and human resource development within companies in Indonesia. As for the methods and techniques of analysis using the content of data analysis carried out qualitatively by making interpretations of policies, rules, and empirical data obtained, then concluded as answers to research problems. Findings in the field reveal that from systems and policies, as well as practices, some companies are still unable to provide decent wages to workers/laborers or even do not meet decent living standards (KHL) in Indonesia. In addition, there are policies and regulations that come from the government or companies that are not in line due to internal factors of the company itself. This research is here to try to provide an affirmative solution by integrating the indicators of the benefit of the Maqashid al-Shariah on improving the policy and wage system in Indonesia.

**Keywords:** *Wages, Laws, Decent Living Needs (KHL), Masalah, and Maqashid al-Shariah*

**Abstrak:** Penelitian ini bertujuan untuk menganalisis sistem dan praktik upah di Indonesia perspektif *Maqashid al-Shariah*. Adapun indikatornya dilihat dari beberapa kebijakan yang berlaku apakah sudah menghadirkan kemaslahatan bagi para pekerja/buruh atau belum. Hal tersebut dapat terjawab dengan kajian dan telaah secara mendalam dilihat dari beberapa aspek, diantaranya; daftar kebutuhan hidup layak (KHL), spesialisasi dan pembagian kerja sebagai basis dalam penetapan upah, transparansi pengupahan, serta pembinaan sumber daya manusia di lingkungan perusahaan di Indonesia. Adapun metode dan teknik analisis menggunakan konten analisis data yang dilakukan secara kualitatif dengan membuat penafsiran terhadap kebijakan, aturan, maupun data empiris yang didapatkan, kemudian disimpulkan sebagai jawaban terhadap permasalahan penelitian. Temuan di lapangan mengungkapkan, dari sistem dan kebijakan, maupun praktik beberapa perusahaan masih belum mampu memberikan upah kepada para pekerja/buruh yang layak atau/bahkan tidak memenuhi standar kebutuhan hidup layak (KHL) di Indonesia. Selain itu, kebijakan maupun aturan baik itu yang datang dari pemerintah maupun perusahaan ada yang belum sejalan dikarenakan faktor internal perusahaan itu sendiri. Penelitian ini hadir mencoba memberikan solusi afirmatif dengan mengintegrasikan indikator kemaslahatan perspektif *Maqashid al-Shariah* terhadap perbaikan kebijakan dan sistem pengupahan di Indonesia.

**Kata kunci:** *Upah, Undang-Undang, Kebutuhan Hidup Layak (KHL), Masalah, dan Maqashid al-Shariah.*

## Introduction

Today's labor politics can be seen from two aspects, namely: *first*, legal products in the form of laws and regulations and their explanations or in the form of government

policies. *The second* is from the behavioral aspect and its implementation. The current legal product is a form of implementation of the New Order development project, so it is not surprising that government policies tend

to be *economic oriented*, which means they are more concerned with economic growth than the welfare of workers and are more in favor of entrepreneurs.<sup>1</sup> Another thing in the Islamic context, the determination of wages or salaries in Islam is based on work services or the use/benefits of one's labor. In Islam, work professionalism is highly valued so that the wages of a worker are based on the expertise and benefits provided by the worker. The explanation can be understood that there are two things that must be considered in determining the wages of workers, namely: the principle of justice and adequacy. Departing from this concept, this paper intends to critically examine the feasibility of wages in contemporary fiqh analysis, especially in the *Maqashid al-Shariah* on the wage system and practice in Indonesia.

This research is a juridical analysis of policies and laws and regulations related to wages that apply in Indonesia, which is examined from the perspective of *Maqashid al-Shariah*. Previously, there was not much literature or reference specifications that discussed the system and practice of wages associated with *Maqashid al-Shariah*. Therefore, the researcher concludes that there is a need for writing to support the academic process and culture, as well as increase knowledge and future policy references related to the wage system and practice in Indonesia.

Substantially, everyone who works has a goal to be achieved, which is to live a decent and prosperous life. Talking about a decent life, Islam has been first with the concept of *maslahah* where the final achievement of the *maq* is *shari'ah*. *Maslahah* summarizes all things

that contain benefits, uses, and goodness. Apart from that, stay away from harm, damage, and adversity.<sup>2</sup> In line with that, the utilitarian developed by Jeremy Bentham has several similarities with the concept of *maslahah* in Islam. The advantage of this utilitarian is that the government has an important role in making policies related to people's welfare. According to Bentham, an action and a rule is considered good or bad depending on how much benefit and happiness there is in it. John Stuart Mill perfects the utility initiated by Bentham by prioritizing distributive justice which can actually be explored in the Islamic philosophy of life. Because this approach emphasizes the effectiveness and efficiency of goodness. In a sense, maximizing happiness and reducing suffering.<sup>3</sup> Further explained by Mill, that the principle of "happiness" is not only in the form of mere benefits, but also stimulation in order to maintain self and feelings of sympathy.

The difference between utility and *maslahah* is that utility is only limited to achieving prosperity and satisfaction, it is different from *maslahah* relatively objective in looking at a commodity. In a sense, *maslahah* not only want to achieve the needs, but also the benefits and benefits of these goods. Including own wages, if the wages earned or received come from non-halal money, then in this case the *problem* What is meant is. Likewise with government policies. Therefore, there are several differentiating aspects between utility and *maslahah*, including:<sup>4</sup>

1. *Individual maslahah* is relatively

<sup>2</sup> Mohammad Hasyim Kamali, "Equity and Fairness in Islam, (Kuala Lumpur: Ilmiah Publisher, 2006), 26.

<sup>3</sup> Mansoor Khan and Ishaq Bhatti, *Developments In Islamic Banking: The Case of Pakistan* (New York: Palgrave Macmillan, 2008), cet. Ke-1, 31.

<sup>4</sup> Ika Yulia Fauzia dan Abdul Kadir Riyadi, *Prinsip Dasar Ekonomi Islam Perspektif Maqashid al-Shariah* (Jakarta: Kencana, 2015), Cet. Ke-2, 167

<sup>1</sup> Eggi Sudjana, *Bayarlah Upah Sebelum Keringatnya Mengering* (Yogyakarta: PPMM, 2000), 23. Lihat juga: Ana Annisa'atun, "Ketentuan Upah Menurut UU No. 13 Tahun 2003 Dalam Perspektif Hukum Islam", *Maliyah*, Vol. 01, No. 01, Juni 2011

consistent with *problems*, on the other hand individual utility is not necessarily in line with social utility. *Maslahah* is to facilitate the formulation of economic policies;

2. *Maslahah* has the same goal in terms of economic actors (producers, distributors, and consumers), namely the welfare of life. In contrast to utilities, where consumers want to fulfill their wants (*wants*) while producers and distributors fulfill continuity and maximum profit;
3. *Maslahah* is a measurable concept of thought. Weak utility is not being able to measure or compare the level of needs of all people, because they have different desires. In essence, *maslahah* and utility both have benefits and goals for welfare and allow for increased predictability and validity of economic policies.<sup>5</sup> Based on this, the 1945 Constitution basically stipulates that the welfare of citizens is realized and protected by the state. However, the point of the common thread is that business actors often ignore government rules and regulations just because they want to get more profit without thinking about the conditions of the workers/laborers under them.

Therefore, it is necessary to have four aspects that are able to reflect the determination of equitable wages in accordance with the liquidity of workers/laborers and companies, in order to ensure welfare and uphold justice. The four aspects, including; *First*, the need for a decent living (KHL) in terms of *Maqashid Al-Shari'ah*; *Second*, specialization and division of labor as the basis for setting wages; *Third*, the development of human

resources (HR) within the scope of Islam; and *Fourth*, Islamic transparency in cooperation agreements. This research focuses on examining wage practices that have been going on for a long time in Indonesia, both in terms of legislation and implementation in the field.

Departing from the several aspects mentioned above, an in-depth study of the perspective of *Maqashid Al-Shari'ah*, one of which is the component of decent living needs (KHL) which is standardized by the government in determining / determining nominal wages at the national and regional levels. Previously, researchers have reviewed previous studies that are relevant to this research, including; *First*, research conducted at the Kebon Agung Sugar Factory, Malang Regency.<sup>6</sup> Basically, this study only focuses on discussing the nominal wages set for workers in the Kebon Agung Sugar Factory in accordance with the KHL in Malang Regency only. *Second*, a journal entitled "Wahbah Az-Zuhaili's View on the Law of Giving Wages with Food from the Perspective of Maqasid Syariah",<sup>7</sup> where the focus of the discussion is on paying wages based on customs in an area by providing a number of staple foods at the willingness of both parties. *Third*, the journal with the title "Components of Living Needs in Minimum Wage Regulations from the Maqasid Al-Syariah",<sup>8</sup> with a focus on discussing the KHL components only to be used as standardization in determining wages. The striking differences with the

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<sup>5</sup> Fahim Khan, *Esai-esai Ekonomi Islam* (Jakarta: PT. Rajagrafindo Persada, Agustus 2014), 38.

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<sup>6</sup> Gilang Mei Durrotun Nasihah, "Tinjauan Upah Minimum Terhadap Pemenuhan *Maqashid al-Shariah*", *Fakultas Ekonomi dan Bisnis Universitas Brawijaya*, Juli 2015.

<sup>7</sup> Muhammad Syukri Albani Nasution, "Pandangan Wahbah Az-Zuhaili tentang Hukum Memberi Upah dengan makanan Perspektif Maqasid Syariah", *Al-Maslahah*, Vol. 08, No. 1, Mei 2020.

<sup>8</sup> Adin Fadilah, "Komponen Kebutuhan Hidup Dalam Regulasi Upah Minimum Perspektif Maqasid Al-Syariah", *Muslim Heritage*, Vol. 1, No. 1, Mei-Oktober 2016.

research I did are; *First*, on a national scale; *Second*, it is not only the KHL component that is studied, but there are other aspects as well; *Third*, affirmative solutions are described in detail (found in the results and discussion below).

## Research Methods

### 1. Data Collection Method The data

Collection method used is *library research* and *field research*. The literature study is carried out by collecting and analyzing books, journals, and laws and regulations in Indonesia related to the research theme. While in the field study, the researcher conducted interviews with several workers/laborers in the company, the supervisory team, and other relevant agencies. The type of interview that the researcher conducted was an unstructured interview, meaning that the researcher asked questions freely and freely without being bound by a set of questions.

### 2. Methods of Data Analysis

From the data obtained, an assessment and analysis will be carried out to answer the practice/application of wages. Data analysis was carried out qualitatively, namely making interpretations of the data that had been processed and linked to a theoretical framework and conceptual framework that was formulated and then concluded as answers to research problems, as well as critical analysis using analytical descriptive techniques, namely data processing methods based on study results. in the field which is then combined and analyzed with data obtained from literature studies.

Researchers also conduct legal comparisons in this study to facilitate unification, legal certainty and legal simplification. The focus is on analyzing the practice/implementation of minimum wages for workers/laborers from a *Maqashid al-*

*Shariah*. Then the data that has been obtained besides being analyzed, is also interpreted by comparing or looking for continuity with the theory of decent wages and laws and regulations. So that later conclusions can be drawn and affirmative solutions offered from the critical analysis.

## Results And Discussion

### Decent Living Needs (KHL) in the *Maqashid al-Shariah*

One of the applications of *muamalah* in society is the fulfillment of economic needs whose peak is welfare. The benchmark for a person's welfare can be seen when the necessities of life for him and his family are met, be it food, clothing, and shelter needs. To meet these needs, wages are one of the important components in the world of employment that are in direct contact with meeting the needs of life and the level of welfare.<sup>9</sup> In the world of labor, not only wages are an indicator of a worker's welfare, but there are workers' social security which consists of guarantees for work safety, old age, health, and death.<sup>10</sup>

When linked to Islam, then you will find *maqashid al-shari'ah* to be used as an analytical tool for wage practices. Therefore, the concept of *Maqashid al-Shariah* can be used as a barometer of the needs of workers. For the sake of realizing the benefit of workers/laborers, it is necessary to have a construct of Islamic law that is synergized into national law. One of the most appropriate steps is to integrate the principles of Islamic law into national law. Munawir Sjadzali said that the effort to integrate Islamic law into positive law in Indonesia is to make Islamic law more

<sup>9</sup> Dian Ferricha, "Peninjauan Upah Hukum Positif Perspektif Doktrin Ekonomi Islam Mengenai Upah Syariah", *An-Nisbah*, Vol. 02, No. 01, Oktober 2015, 313.

<sup>10</sup> Zaeni Asyhadie, *Aspek-aspek Hukum Jaminan Sosial Tenaga Kerja di Indonesia* (Jakarta: Rajawali, 2008), 86.



friendly, moderate, of fair value, contextual, and sticking to the principles, spirit and essence of Islamic teachings with an Indonesian perspective.<sup>11</sup>

In this case, to analyze the components of a decent living need for workers, then *Maqashid al-Shariah* can be used as a benchmark in terms of three elements, namely: *d}aru>ri>yyah*, *h}a>ji>yyah*, and *tah}si>niyyah*. Speaking of the Indonesian context, the accumulation of various problems and existing gaps is the slump in the Indonesian economy in facing the crisis. Even the improvement of economic regulations in Indonesia has also not escaped the attention of all circles.<sup>12</sup> Particularly in the field of employment, the main element of economic growth is seen from the surplus of labor and the resulting production. When workers/laborers who work but do not get the right to a decent life, there is a gap here.

Determination of the components of the need for a decent living is one of the duties, principals, and functions (TUPOKSI) of the national/regional wage council (DPN/D) which is regulated in accordance with the manpower law and the regulation of the minister of manpower (Permenaker). The DPD includes representatives from the government, entrepreneurs, workers/labor, and academics. Among the components of the necessities of life surveyed are;

- (a) Food and drink consists of 13 items
- (b) Clothing consists of 17 items
- (c) Housing consists of 31 items
- (d) Education consists of 2 items
- (e) Health consists of 9 items

- (f) Transportation consists of 2 items
- (g) Recreation and savings consists of 2 items.

The survey phase was carried out by representatives of the 3 groups. After that the results are given to the Governor for the stipulation of a Governor's Decree related to wages. However, the fact that was found was that there were several regions that did not form a DPD in conducting the KHL survey, which in the end resulted in inequality and the survey was carried out only by a handful of people in power. Today, the KHL survey is no longer a mandatory matter to be carried out, because considering the determination of the minimum wage, there is already a new formula. Changes and developments indicate that more important factors take precedence.

In Islam, every economic activity that contains benefits for mankind is called a necessity.<sup>13</sup> Al-Syatibi argues, human benefit can be realized if the five basic elements of human life can be realized and maintained, including: religion, soul, reason, lineage, and property. Meanwhile, the five main elements in its implementation are seen from the three basic needs, including: **first**, the *d}aru>ri>yyah* needs will be seen if all the things that are the foundation of human existence are properly fulfilled, namely: freedom to choose beliefs, protection of the soul, lineage, wealth, and reason. **Second**, the *h}a>ji>yyah* aspect has the main principle of eliminating difficulties, easing the burden of *taklif* and facilitating human affairs. That is, the absence of the *h}a>ji>yyah* aspect does not threaten the existence of human life to be damaged, but only causes difficulties and difficulties.<sup>14</sup>

<sup>11</sup> M. Usman, *Rekonstruksi Teori Hukum Islam: Membaca Ulang Pemikiran Reaktualisasi Hukum Islam Munawir Sjadzali*, (Yogyakarta: Lkis Pelangi Aksara, 2015), 203.

<sup>12</sup> Moh. Asra Maksum, "Egalitarianisme Fiqh Mu'a>malah dalam Sistem Ekonomi Islam", *Islamica*, Vol. 7, No. 1, September 2012, 224.

<sup>13</sup> M. Fahim Khan, *Shatibi's Objectives of Shari'ah and Some Implications Of Consumer Theory*, dalam Abu Hasan M. Sadeq dan Aidit Ghazali, *Reading in Islamic Thought*, 193.

<sup>14</sup> Lihat Al-Syatibi, *Al-Muwafaqat fi Ushul al-Shari'at*, (Beirut: Lebanon, Dar al-Ma'rifat, t.t. Juz II), 8-11.

While *tah}si>niyyah* includes everything that is appropriate and appropriate according to reason and habit and stays away from everything that is reprehensible according to common sense. Although *tah}si>niyyah* is only complementary to benefit, but the basic value contained in *tah}siniyyah* itself is good life ethics, and it is a mandatory thing that every human being must possess.

If the three aspects of *maqashid al-sha>ri'ah* above become a barometer for analyzing the components of wages in the field, it is found that several elements in the author's assessment have not been able to accommodate and resolve labor polemics. One of these elements is seen in the legal aspect or legislation that should serve as a reference but is not obeyed by the entrepreneur/company. In addition, the KHL components that have been determined are of course aimed at ensuring that the needs of workers/laborers can be properly met. However, the reality on the ground shows that not all companies in Indonesia are able to apply wages that depend on the KHL component. If in setting wages the company does not look at the KHL component as the basic necessities of life for workers, then the wages that are set will later become unequal and be detrimental to the workers themselves. At this point, it appears that there is a deviation or misuse by not complying with the laws and regulations as official regulations. Not to mention the human rights of workers to get a decent wage are not accommodated properly. Starting from this problem, ideally the wages of a worker should be in accordance with the quantity and quality of work and output provided by the worker/labourer.

The study of *Maqashid al-Shariah* above, several irregularities were found in the practice of wages in the field, such as the failure to achieve the aims and objectives of the KHL, namely the welfare of the workers/laborers themselves. In fact,

*Maqashid al-Shariah* is protection for something that other people are forbidden to play with or abuse.<sup>15</sup> Viewed in terms of *hifz al-nafs* or the right to employment protection, it is certainly also an important point in the realm of labor. As the hadith of the Prophet saw., Which means "Do not burden them (slaves), and if you give them a task, help them" (Narrated by Bukhari No. 30).<sup>16</sup> Furthermore, from Uthman Bin Affan, Rasulullah said "Do not burden women workers (employees) beyond the limits of their ability/strength in an effort to achieve livelihood, because if you do that to him, he may do acts that are contrary to morality, and do not you burden the male subordinate with a task that is beyond his ability, because if you do that to him, maybe he will commit theft (corruption). Be considerate of your servants, surely God will be considerate of you. It is obligatory for you to give them good and halal food".<sup>17</sup>

As the hadith above explains, the safety and protection of workers is the responsibility of the entrepreneur/company. As a consequence, employers/companies are responsible for all matters relating to the safety of workers. For example, workers/labor are required to be registered with the Social Security Administering Agency (BPJS) for Employment. When examined from contemporary management science, the concept of *Maqashid al-Shariah* have relevance to the concept of motivation. This connection is reflected in human motivation in doing work, which is to meet the needs and benefits of life in this world and the hereafter. Maslow in his hierarchy concept states, if all of a person's needs have not been met at the same time, then the

<sup>15</sup> Ahmad Al-Mursi Husain Jauhar, *Maqashid al-Shariah Fi al-Islam*, terj. Khikmawati (Jakarta: Amzah, Juli 2013), cet. Ke-3, xii.

<sup>16</sup> SahihBukhari (Bab al-Iman), (Bulaq: al-Matba'ah al-Amiriyah, 1311 H), Vo. 1, 15.

<sup>17</sup> Bukhari dalam Sahih-nya, 1:16, 3:185. Lihat juga: Muslim dalam Sahih-nya, 3:1283.

most basic fulfillment is the top priority. Even so, the construction of *maqashid al-shari'ah* initiated by al-Syatibi has advantages over Maslow's theory of needs, namely that religion is a priority for human needs. *Hifz ad-din* is the prerogative of every human being and Islam with its privileges regulates the concept in great detail so that every work done must aim to serve and worship Allah SWT. However, the affiliation of the two concepts (*maqashid al-shari'ah* and motivation) has been adopted into the Manpower Act.

However, the weakness here lies in the implementation and lack of preventive measures, as well as sub-optimal supervision from the central and local governments. If this continues to happen without any clarity and resolution, then the workers/laborers will also be harmed. Even the government's reputation will decline because it is considered incompetent in overcoming the existing polemics. Islam tries to prevent harm that will happen to someone as well as prevent someone who will cause harm to others. Even trying to eliminate the harm that occurred. This principle is reflected in the *fihiyyah* rules which read;

لَا ضَرَرَ وَلَا ضِرَارَ

Meaning: "You must not harm others and harm yourself."

The above rules are interpretations in solving *muamalah fiqh* issues, especially regarding employment. It was explained that the Manpower Law, which became a protective framework in the world of labor, should be obeyed and adhered to by business actors. Therefore, it is not appropriate for business actors to violate these provisions. In this case, the role of reason is also needed in responding to the various dynamics of life related to business activities. For example, workers/labourers need to have higher education and trade

unions as a representation when there are problems within the company. One alternative is to establish and become a member of a labor union, because this is also part of the rights of workers in the company. The purpose of forming a trade/labor union is to achieve equality before the law in conducting negotiations.

Talking about the relevance of the KHL component to the concept of *Maqashid al-Shariah*. indicated by the presence of components in the form of material but able to support other needs. Broadly speaking, all the components of the KHL above have represented workers' rights, such as: *d}aru>ri>yyah* and *h}a>ji>yyah* needs in the form of daily staples which are neatly structured by regulations. If there are no such components, it is difficult to maintain the basic value of *Maqashid al-Shariah* itself. The relevance in question is the need for religion which is supported by the inclusion of sarongs, mukena, and caps.<sup>18</sup>

### **The Islamic Construct: The Essence of Specialization and the Division of Labor as a Base in Wage Determining**

The division of labor determined by the company/entrepreneur is an important part in determining the salary/wages in the company. The average nominal wage given by the company is based on the level or level of a person's work. The harder the work, the higher the salary/wages he receives. However, this pattern does not always provide protection to workers/labourers nor fulfill their needs. It is proven that until now, the polemic related to wages is still an important debate by every line of employees/workers/labourers.

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<sup>18</sup> Komponen KHL terakhir diperbaharui tahun 2020(<https://ekonomi.bisnis.com/read/20201019/9/1306891/menaker-tetapkan-64-komponen-hidup-layak-2020-buruh-wajib-tahu>)

Whether we realize it or not, workers are an element of urgency and have a 'share' in the production process in a company. The Qur'an has previously placed more emphasis on human power. This is reflected in the letter an-Najm verse 39 which reads;

وَأَنْذَرْنَا لِلْإِنْسَانِ إِلَّا مَا سَعَىٰ

Meaning: "And that a man obtains nothing other than what he has earned".

The extended meaning of the above verse is, whoever works hard will be rewarded accordingly. The reward in question is in the form of compensation received based on the output given by the employee to the company. An-Nabhani in his book explains that the forms of work that are prescribed in Islam are work done with one's own ability and it is beneficial. The practice of muamalah like this has been done for centuries, and Islam classifies work into several types, including:

1. *Al-Hirafiyyin*, those who have occupations such as tailors, carpenters, and restaurant owners. In today's context, such work is better known as transport and labor services.
2. *Al-Muwazafin*, those who legally earn a fixed salary such as employees of a company and civil servants.
3. *Al-Kasbah*, the workers who cover their daily food needs by buying and selling like small traders.
4. *Al-Muzarri'un*, those who work in farming or who are better known as farming.

The above classification is of course based on the text of Islamic law, one of which is the hadith of the Prophet. which means "give the workers wages before their sweat dries". When the above wage problems are projected into the values developed by Ibn Khaldun, then the type or

level of employment has an important relationship with the population/prospective workforce which is a key factor in driving economic growth. In a sense, with a large number of population or potential labor, there will be job specialization that will increase surplus and international trade. Khaldun added that there should be specialization and repetition of simple operations such as training to improve the skills of the workforce. In addition, it not only forms a job specialization but also empowers by providing facilities or support for the workforce in innovating.<sup>19</sup>

With this specialization and division of labor, work professionalism will be created related to the progress of production and market breadth.<sup>20</sup> Khaldun said that there must be a stimulating factor to create a desire to work that upholds the value of work professionalism, namely the 'group feeling' factor or group awareness seen in teamwork. Islam formulates that the contract that occurs between the worker and the employer is a work contract. The Islamic mission in labor affairs must have a positive influence on the economy. Jaribah al-Harithi in his book explains, the classification/division of work will determine the level of wages he will get. The goal is for workers to be able to do jobs that are considered easy because of their limits. It is permissible, because it will raise the spirit and productivity. In line with Ibn Khaldun's version of work specialization, Adam Smith through his book entitled "The Wealth of Nations" campaigned for maximum freedom for economic actors to carry out activities they liked. One of the factors that he prioritizes is population growth. If population growth increases, work specialization among the workforce will

<sup>19</sup> Ibn Khaldun, *Muqaddimah*, terj. Ahmadie Thoha (Jakarta: Pustaka Firdaus, 2001), 447-450.

<sup>20</sup> Jaribah al-Harithi, *Al-Fiqh Al-Iqtisadi li Amiril Mukminin Umr Ibn Al-Khattab* terj. Asmuni Solihan Zamakhshari (Jeddah: Dar Al-Andalus Al-Khadra', 2003), 93.



accelerate the process of economic development. Because work specialization will increase the level of labor productivity and encourage technological development.<sup>21</sup>

However, the weakness of Smith's theory is that he views workers as one of the inputs for the production process. Implicitly, Smith states that the salary/wages given to workers are the lowest wages, while the profits earned by employers/companies are doubled. This means that in a capitalist system, the bargaining power of workers against employers is relatively small. This has resulted in the slavery of workers. The position of worker slavery is the difference between the West and Islam. Because Islam has an intrinsic value that not all resources can and may be explored freely. This includes labor and wages. Work optimization will be achieved if the worker/laborer does the job as well as possible. This will be realized if employees/workers/laborers are facilitated with various forms of supporting facilities that can increase their motivation and work spirit.

In addition, the corporate culture itself is also an important point in setting a good example for the company. Call it by making workers/laborers as investments from the company itself. This linkage will shape the character and mindset of workers/laborers that they are valued by the company.

A simple term that can be used is *human capital*, which includes education, experience, skills, and knowledge that are believed to be critical success factors in various organizations, both business and non-profit.<sup>22</sup>

In *human capital*, matters relating to salaries and other compensation are considered as investments and the consequence is the obligation to generate returns. If a company has a *human capital* that is facilitated by training and education, it will provide feedback that will benefit the company. design *Human capital* like this will be different from a company that adheres to salary and labor compensation as costs. When a company that embraces *human capital* in calculating production costs will have an approach such as: the labor component is not only salaries and overtime wages, but also investment costs (training or *training*) and the development of other workforce potential. *Human capital* is a form of investment (*investing in people*) and is a demand of the modern economy that companies cannot avoid.<sup>23</sup>

### Human Resource Development within the Scope of Islam

As for human resource development, which is similar to *human capital*, Islam has constructed it into three forms. Because human resource development in Islam is an integral part of a comprehensive coaching process which is the responsibility of company management. The goal is to ensure the formation of human resources that are *kafa'ah*, *trustworthy*, and *himmatul 'amal*. As for coaching, including: *first*, *Shaks'iyyah Islamiyyah* or also known as Islamic personality which is combined from two aspects, namely: *aqliyah Islamiyyah* (Islamic way of thinking) and *nafsiyah Islamiyyah* (Islamic soul attitude).<sup>24</sup> The formation of *shaks'iyyah Islamiyyah* in a person can be reached through two stages including: realizing or instilling the Islamic

<sup>21</sup> Nurul Huda, *Ekonomi Pembangunan Islam*, (Jakarta: Prenadamedia Group, 2015), 90.

<sup>22</sup> J.M Unger, "Human Capital and Entrepreneurial Success: A Meta Analytical Review, *Journal of Business Venturing*, 2009, 1-8.

<sup>23</sup> Robert Brown, *Economic Growth in Cross Section of Countries* (New York: Delphin Pers, 2007), 203.

<sup>24</sup> M. I. Yusanto dan M.K. Widjajakusuma, *Menggagas Bisnis Islami* (Jakarta: Gema Insani Press, 2002), 212.

faith in a person so that it can be used as a view in his life, and building a way of thinking or tendencies based on the Islamic faith. *Second*, not much different from *human capital*, Islam itself requires the implementation of ongoing skills and expertise development through education and training.

Education is basically a human resource development process that is philosophical and theoretical. While the training is intended to improve the mastery of various skills and techniques in carrying out the work. *Third*, leadership development is closely related to responsibility. The responsibility (*mas'uliyah*) is based on authority (*shalahiyah*) and decision-making (*taqrir*) which is mandated to a leader. In describing the function of leadership into two main functions, namely: a problem-solving function that is oriented towards providing opinions, information, and solutions to problems that originate from *shari'at*. This function is directed to provide *spiritual* to the organization's HR. The second function is the social function related to the interaction between members to maintain harmonization and is conducive to the achievement of common goals. Seeing the condition of the modern state which is now rampant and increasingly repressive, corrupt, exploitative, and does not care about the fate of the weak, it is necessary to contribute and have a spiritual touch that is rich in ethical and moral values.

The solution from Islam above, should be taken into account to overcome labor problems in Indonesia in particular. Likewise with the missions of other religions such as Christian morals with their love guide, Hinduism with its *ahimsa* (*non violence*) energy, and Buddhism with its simple and simple work ethic. Considering that Indonesia is a democratic country that has a variety of beliefs and is based on law

that refers to Pancasila as the state foundation and the 1945 Constitution as the basic written law (*basic law*). Examined more deeply, the values contained in Pancasila and the 1945 Constitution carry messages of culture and the ancestors of the nation. Therefore, every activity/transaction whether it is political or economic, it is appropriate to carry every ancestral value into the draft law (RUU) or other provisions. For example, economic transactions are not only about profit and loss, but also include how to provide good role models for subordinates/workers/labourers so that they are loyal to the company and are reluctant to break the rules.

### **Islamic Solution: Wage Transparency in Cooperation Agreements**

Based on the development and variety of companies today, illustrates the many differences in the implementation of the wage system. The majority of companies prefer to provide salary/wages after the employee/worker/laborer has finished his work at the end of the (determined) time. In addition, the aspect of honesty or transparency when giving salaries/wages is urgent in the management of wages in the company. In Islam, a worker is not only entitled to a decent wage, health insurance, good working conditions and the right to organize, but also has the right to co-own the company where they work.<sup>25</sup> Therefore, in order to create transparency of wages in the company, what needs to be understood is the fulfillment of the principles of justice by looking at the process of determining the wages. In this case, market surveys and the government as regulator as well as supervisor play an important role before setting wages.

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<sup>25</sup> Azhari Akmal Tarigan, *Teologi Ekonomi: Upaya Internalisasi Nilai-Nilai tauhid dalam Aktivitas Ekonomi dan Bisnis Islam*, (Jakarta: PT Rajagrafindo Persada, 2014), 201.

In general, contemporary scholars – to the author's knowledge – have not yet explained the components in detail about adequate and decent wages for workers/laborers. It's just that the statement requires paying wages that are able to meet their needs. Contemporary scholars are guided by the words of the Prophet Muhammad<sup>26</sup>. which means "Your slaves are your brethren, whom Allah made them under your dominion. So whoever has his brother under his authority, let him feed him with what he eats, and clothe him with what he wears. Do not burden them with what burdens them, and if you burden them then help them."

Talking about the nominal wages that can meet the living needs of workers/laborers, Ibn Taimiyyah puts forward the meaning of equal compensation (*'iwad al-mithl*) and equal prices (*thamman al-mithl*). Taimiyyah details, equal compensation will be measured or assessed by equal things and that is the essence of justice. Equality can be judged from the quantity of specific objects in general use.<sup>27</sup>

A similar analogy can be analyzed for today's wage fixing problem, so a **market survey** conducted as an 'equivalence' of an item with other goods to determine the nominal wage for workers/labourers is legal and capable of being used as a guide. But in fact, market surveys are no longer an important thing to do today. The model for determining and giving salaries/wages in several companies is different. In contrast to trading and retail companies, wages are set only based on the level of work and nominal wages given below the standard set by the government. This practice shows that the essence of

justice is no longer a priority in the company. Quraish Shihab<sup>28</sup> interpret justice into several meanings, namely: *first*, it means the same. The attitude and treatment of law enforcement when the decision-making process is running, where law enforcement must place the litigants in the same position. *Second*, it means balance. Justice in the sense of balance is being able to create or manage something according to a certain size, level, and time to achieve a goal. *Third*, attention to individual rights and giving those rights to each owner.

If the principle of justice is projected into the current practice of wages, then the meaning of "**proportional**" is found. In a sense, the wages given must be in accordance with the responsibilities and quality of work carried out by the worker/labor which includes accuracy, clarity, and perfection of work. The general meaning of proportional has also been revealed in the *majmu' fatawa* of Shaikh al-Islam Ibn Taimiyyah, namely; if the worker commits a violation, the negligence or gap can be fined and vice versa if the mistake is made by the company, the employer is obliged to compensate the worker.<sup>29</sup>

Apart from being proportional, the meaning of justice itself in determining wages is closely related to **clarity or transparency** which is reflected in the form of written evidence. Written evidence or work agreements are made to ensure the rights of workers/laborers such as payment of wages, timing of payment, and protection of the wages. In addition, the meaning of transparency is that wages will

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<sup>26</sup> Jaribah al-Harithi, 243.

<sup>27</sup> Anshari Thayib, *Konsepsi Ekonomi Ibnu Taimiyah*, terj. (Surabaya: PT Bina Ilmu Offset, 1997), 95.

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<sup>28</sup> Muchlis, M. Hanafi, *Tafsir Al-Quran Tematik: Hukum, Keadilan, dan Hak Asasi Manusia*, (Jakarta: Lajnah Pentashihan Mushaf, 2010), 6.

<sup>29</sup> Ibn Taimiyyah, *Majmu' Fatawa Li Shaikh Al-Islam*, (Riyad: Mata'bi' al-Riyad, 1963), Vol. 30, 92.

be deducted if workers/laborers skip work without permission from the company. With these two points, the essence of justice between workers/laborers and employers/companies will be seen.

The government as the regulator is responsible for realizing the adequacy limit for each individual of its people. According to the Islamic principle, everything that is used by other people is entitled to mutually beneficial compensation for capital, labor, rental goods or goods produced. Basically, workers/labourers are entitled to compensation for their hard work, either in the form of a certain wage or a certain percentage of the company's production or net profit. Compensation can be categorized into two forms, namely compensation in the form of financial and non-financial (in the form of facilities and employee positions in the company).<sup>30</sup>

Rafiq Yunus al-Mashri said that wages or rewards (*i'wad*) with *shirkah* may be combined with both.<sup>31</sup> It is carried out by combining the provision of a basic living wage (UPL) as the operational costs of workers who have been determined before working and providing incentives with a profit-sharing system. Fairly defined incentives can encourage workers to increase *output* and a strong desire to achieve additional income that can benefit all parties.

In Islam, a worker/labourer has a relatively equal position with the employer in terms of profit. The higher the profit earned, the wages will automatically increase. And vice versa, if the company suffers a loss, then a worker also feels the

pain of his employer.<sup>32</sup> In modern resource management, an acceptable/feasible application to define a cooperation contract between workers/labor and companies is to use the *gain-sharing approach*. applications *gainsharing* include:<sup>33</sup> **First**, *Employee ownership*; The first and foremost approach carried out by the company is *employee ownership* which provides opportunities and space for employees/employees to own the company by allowing employees/workers to buy shares for their contribution to the company.

This approach has been around since the 1950s, which was first initiated by a company in the United States. However, not all companies have implemented this share ownership model. Because not all workers are able to provide *output* in the company where he works. In Indonesia, this approach has begun to be applied by large companies such as: PT. Astra International Tbk, PT. Telkom Tbk and PT. PLN. This share ownership by employees is a form of long-term incentive approach for employees to participate in owning the company. The implementation of a share ownership program or known as *employee stock ownership plan* (ESOP) can be an alternative strategy to minimize conflicts of interest that occur between shareholders and management. Because these differences in interests can affect the company's performance.

In Islam, the provision of wages more than the basic wage has been reflected in the letter An-Najm verse 39-40 which means "*And that a man does not get anything other than what he has worked for, (40) And that effort will later be shown (to*

<sup>30</sup> M. Ghufon, "Politik Negara dalam Pengupahan Buruh di Indonesia", *Al-Daulah*, Vol. 1, No. 2, Oktober 2011. 125.

<sup>31</sup> Rafiq Yunus al-Masri, *Ushul Al-Iqtisad Al-Islami* (Damaskus: Dar al-Qalam, 1993), 199. Lihat juga: M. Ghufon, "Politik Negara dalam Pengupahan Buruh di Indonesia", *Al-Daulah*, 125.

<sup>32</sup> Abdul Jalil, "Obyektifitas Konsep Perburuhan Islam di Indonesia", *Islamica*, Vol. 1, No. 1, September 2006, 38.

<sup>33</sup> Masternak, R, and Ross, T, *Gainsharing: Bonus plan or employee involvement* (New York: Compensation and Benefit Review, 1992), 46-47. Lihat juga: Abdul Jalil, *Teologi Buruh* (Yogyakarta: LKis, April 2008), 242.



him)". A just wage system, has a commitment to become a total producer of wealth and welfare for all business actors involved in it. For example, by providing share ownership opportunities to employees/employees is a tangible form of commitment itself; **Second, Production Sharing Plans**; The production sharing plan with workers is carried out through the provision of bonuses when it exceeds the output planned These plans tend to be short term and relate to specific production goals.

In practice, production sharing is one form of strategic partnership which is given equal rights to benefit from the business; **Third, Profit Sharing Plans**; Profit sharing plans are a form of profit sharing with employees that are not only related to employee performance. This type of incentive is a long-term one whose initial goal is that the company has an obligation to distribute company profits to its employees in order to improve the welfare of employees/workers.

The purpose of this plan is strived to produce better results by giving rewards for cooperation in the company. In general, *profit sharing* will be distributed at the end of the year or when the *book is about to close*. The benefits are received, formulated and agreed upon between the union and company management in a fair and transparent manner so that all workers are aware of it. This type of incentive, can educate the individual worker to understand his position in contributing as a factor that determines the success of the company where he works. However, the phenomenon of the *gainsharing* in some companies is not always successful, it even finds some new problems. For example, the basis of cultural and structural awareness which is still not comprehensive has become a socio-political reality in this

country. Approach *gainsharing* must be understood as *araw materials* such as customary law, marriage and others. It is possible that this approach can be transformed into positive law that is agreed upon by the joint forum through democratic methods and procedures.

Bani Sadr said that Islam appreciates the participation of workers/laborers in running the motion/wheel of the factory/industry. Sadr added that by providing rewards other than wages, workers/laborers will actualize their potential by working more actively, creatively and competitively. In a sense, workers/labourers are not merely a service in increasing the production of a company. But it also looks at the humanitarian side of workers/ laborers who must always be protected and have the right to be free. As the words of the Prophet Muhammad. which means "*The Messenger of Allah said: When your laborer comes with food (profit or sales), then invite him to sit with you and take some of it, because he is the one who feels the joys and sorrows*". In the context of Islam, the characteristics of the engagement must meet several elements such as: 1) the divine principle, every step and human action will not escape the decree of Allah swt; 2) the principle of freedom given by Islam will be returned to the party who is in the engagement. However, this right to freedom is not absolute, when the engagement does not violate the limits set by *shari'ah*, then the law is allowed to carry out the engagement; 3) the principle of equality and equality, in carrying out the engagement, the parties have their respective responsibilities and rights based on the principle of equality and equality; 4) the principle of justice (*al-'ada>lah*).

Yusuf al-Qaradawi defines justice as a balance between individuals and society, both morally and materially based on *shari'ah* Islamic. In the context of the company, the parties to the engagement are required to act correctly in disclosing their will and circumstances in order to fulfill the agreements and obligations they made.<sup>34</sup>; 5) namely the principle of willingness.<sup>35</sup> In essence, in every engagement process it is on the basis of consensual or voluntary consent from both parties; 6) the principles of honesty and truth (*ash-Shidq*), organizational/company culture and a good work culture are reflections of a harmonious company; 7) written principles. With a clear contract and work rules, every need for workers/laborers in the company will be guaranteed. On the other hand, the employment contract is a moral guarantee for highly qualified workers/laborers in the event of unwanted problems in the future.

## Conclusion

From a normative juridical point of view, laws and regulations, especially in the field of labor, are a form of protection and support from the government towards workers/labourers. However, the regulation has not been able to become a preventive reference and of course in its realization in the field it has not been effective. This can be proven by several components of decent living needs (KHL) that have not been able to become standardization for all companies in Indonesia. So this causes another effect, namely that the nominal wages given have not reached the standards set by the central and regional governments. In addition, the polarization of wages in companies is found to be uneven, due to several factors, including;

education level, workload, to the profit given to the company.

Furthermore, regarding the transparency of nominal wages or in Islamic law, these can be categorized into contracts that should be clear at the outset. But in fact, the culture of transparency tends to have not been maximally rooted in Indonesia. Human empowerment as one of the fundamental sources of economic growth in Indonesia is also crucial in the eyes of the world of workers. Because, we often meet, hear, or read news related to the exploitation of workers/laborers and even causing loss of life. Therefore, several aspects and basic policies above are appropriate for reconstruction in order to strengthen and increase protection for the world of workers in the current era of the industrial revolution. It is undeniable that economic competition in today's globalized world is worrying and even becomes a threat if the methods and constructs of domestic policies have not been fully changed.

Islam with the mission of *rahmatan lil 'alamin* from ancient times has begun to provide opportunities for improvement and strengthening, especially in the field of *muamalah* (read; Islamic business), one of which is in the field of employment. *Maqashid al-Shariah* is one of several concepts in Islam that can be used as a capable barometer or indicator in determining the standard of living needs that are decent and good for workers / laborers. It does not only reflect welfare, but also external justice and safety to all workers/laborers in Indonesia. In addition, the market survey method that has been described by Ibnu Taimiyah is also able to support the main duties of the regional wage council (DPD) to be more optimal before giving the formulation of wage determination to regional heads later. Regarding the purpose of working in Islam,

<sup>34</sup> Lihat QS. Al-Baqarah ayat 177, al-Mu'minun ayat 8-11, al-A'raf ayat 29, dan al-Maidah ayat 8.

<sup>35</sup> Gemala Dewi, *Hukum Perikatan Islam di Indonesia*, (Jakarta: Kencana, 2005), 30-38.

it is to achieve blessings, prosperity and justice not only in this world but also in the hereafter. Therefore, the Islamic solution in supporting the principle of fairness of wages is projected a proportional value. In a sense, the value of wages is given based on; responsibility and liquidity of workers, so that it is profitable for both parties (employees and companies) with good negotiations beforehand. As for integrating the rules of Islamic law, especially in the field of employment into the national legal order, in general it does not violate the basics of state law. In fact, the value and meaning of Pancasila, especially the first principle which upholds the value of Godhead, of course prioritizes the principle of monotheism that was born first in the Islamic world (as set forth in the Koran as a guide for Muslims in the world). Furthermore, at the end of the precepts, namely the fifth precept, it presents the value of Justice, where the ultimate goal is exactly the same as the construct of justice in Islam.

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