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Equitable Remuneration for Workers from the Perspective of Investment Policy in Indonesia

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Abstract: Wages constitute a fundamental aspect of labor law, directly influencing business sustainability and the national investment climate in Indonesia. However, current regulations face normative obstacles characterized by conflicting articles, ambiguous phraseology, and new components that generate legal uncertainty for both employers and workers. This descriptive-analytical legal research aims to analyze these normative issues and formulate a strategy for establishing a social-justice-based wage system. Utilizing a statute approach and a conceptual approach supported by library research and interviews, this study reveals that wage fairness cannot exclusively focus on worker protection. Authentic fairness must simultaneously account for business competitiveness and sustainability as integral parts of national investment policy. The novelty of this research lies in its proposal to re-conceptualize the wage system by harmoniously balancing labor protection with investment stability.

Keywords: Wage Reconstruction, Distributive Justice, Investment Policy, Labor, Pancasila-based Industrial Relations.

INTRODUCTION

National economic development in the Republic of Indonesia is essentially grounded in the mandate of Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945). which affirms that every citizen has the right to work and to a living worthy of humanity. This constitutional recognition demonstrates that employment is not merely a vehicle for exchanging labor as a commodity for material compensation, but an instrument of respect for human dignity. Within the framework of labor law, the right to a decent living is directly translated into wage institutions. Wages serve as the primary source of income for workers and their families to fulfill Decent Living Needs (Zaeni Asyhadie ,2012) which include food, clothing, housing, education, health, and old-age security. The philosophical foundation of wages in Indonesia is bound by the philosophy of Pancasila Industrial Relations which prioritizes the principles of togetherness, strategic partnership, and a balance between the interests of labor and employers. (Payaman J. Simanjuntak, 2011). Theoretically, the formulation of national wage policy is required to

reflect the principle of distributive justice conceived by Aristotle, (W.D. Ross, Batoche Books,1994) in which the distribution of economic resources and business burdens must be allocated proportionally according to contribution and risk. This concept is reinforced by Jeremy Bentham's theory of Utilitarianism, (Jeremy Bentham, 1907) which emphasizes achieving the greatest happiness of the greatest number, as well as the Development Law Theory of Mochtar Kusumaatmadja, (Mochtar Kusumaatmadja, 1996) which positions law as an agent of social renewal and a regulatory tool to balance legal certainty and social justice.

However, within highly competitive global economic dynamics, wage regulation no longer functions in isolation strictly as a social protection institution. The wage system sits at a critical intersection with national investment policy as regulated under Law Number 25 of 2007 concerning Capital Investment. (Undang-Undang Nomor 25 Tahun 2007) On one hand, the government actively endeavors to create a favorable investment climate through foreign direct investment (PMA) and domestic investment (PMDN) to stimulate economic growth, create new employment opportunities, and expand national manufacturing capacity. On the other hand, one of the comparative advantages frequently presented to global investors is labor cost efficiency. (World Bank Group, 2018) This condition generates dynamic tensions between the interests of investors who seek certainty, stability, and affordable wage costs, and the demands of workers advocating for progressive welfare enhancements alongside inflation rates and economic growth.

The history of labor legislation in Indonesia displays dynamic paradigm shifts in wage regimes. Under the regime of Law Number 13 of 2003 concerning Manpower the Minimum Wage (Upah Minimum) determination system placed strong emphasis on the role of Regional Wage Councils through periodic surveys of Decent Living Needs (KHL). This scheme provided dynamic space for bipartite and tripartite negotiations and accommodated variations in actual regional living costs. Furthermore, Law No. 13 of 2003 explicitly regulated Regency/City Sectoral Minimum Wages (Upah Minimum Sektoral Kabupaten/Kota) to provide additional protection for workers in leading industrial sectors characterized by relatively high risks and profitability. (Aloysius Uwiyono,2014)

Although the KHL survey scheme under Law No. 13 of 2003 was deemed to reflect the actual living needs of workers, businesses and investors frequently complained about the unpredictability of the resulting wage formulas. The outcomes of KHL surveys and local political dynamics within Regional Wage Councils often triggered sharp inter-regional wage disparities and unexpected minimum wage shocks that complicated long-term business planning. To curb widening disparities and ensure predictable business calculations, the Government issued Government Regulation Number 78 of 2015 concerning Wages. (Peraturan Pemerintah Nomor 78 Tahun 2015) PP No. 78 of 2015 introduced a standardized formula for setting minimum wages based on national inflation and Gross Domestic Product (GDP) growth, thereby shifting the role of periodic KHL surveys to once every five years.

The paradigm shift in wage policy culminated when the Government and the House of Representatives enacted Law Number 11 of 2020 concerning Job Creation, (Undang-Undang Nomor 11 Tahun 2020) which was subsequently refined through Law Number 6 of 2023 on the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. (Undang-Undang Nomor 6 Tahun 2023) The enactment of the Job Creation Law was designed as a legal breakthrough (omnibus law) to cut hyper-regulation, improve Ease of Doing Business rankings, and attract massive foreign and domestic investment into Indonesia. In the context of wage regulation, the Job Creation Law fundamentally reconstructed national minimum wage determination procedures.

The technical implementation of post-Job Creation Law wage regulations is detailed in Government Regulation Number 36 of 2021 concerning Wages and Government Regulation Number 51 of 2023 on Amendments to PP No. 36 of 2021. (Peraturan Pemerintah Nomor 51 Tahun 2023) Under this derivative regulatory framework, the determination of Provincial

Minimum Wage (*Upah Minimum Provinsi / UMP) and Regency/City Minimum Wage (*Upah Minimum Kabupaten/Kota / UMK) utilizes a new mathematical formula incorporating economic growth, inflation, and an adjustment variable represented by a specific index or the alpha index symbol The alpha index is set within a range of 0.10 to 0.30, representing labor's contribution to regional economic growth. This regulatory shift also led to the elimination of Sectoral Minimum Wages (UMSK) and restricted regional heads' authority to determine minimum wages outside the standardized national formula.

The restructuring of wage norms through the Job Creation Law and its derivative regulations sparked normative discourse and strong opposition from trade unions and labor movements. This policy was viewed as undermining the constitutional function of wages as a means to achieve KHL and diminishing the institutional role of Regional Wage Councils to mere verifiers of statistical data from official government agencies. These alterations also prompted judicial review petitions to the Constitutional Court. In Constitutional Court rulings regarding the Job Creation Law (including Ruling No. 91/PUU-XVIII/2020 and Ruling No. 168/PUU-XXI/2023), (Mahkamah Konstitusi Republik Indonesia,2023) the Constitutional Justices reaffirmed the importance of securing workers' fundamental rights, strengthening wage scale structures at the enterprise level, and maintaining the obligation to consider KHL surveys so that the core of labor protection is not eroded solely by investment facilitation policies.

The dynamics of these regulatory regime shifts highlight an antinomy of norms and a substantial dilemma between two equally vital legal interests. On one hand, national investment policy demands legal certainty, predictability, transparency, and operational efficiency competitiveness so that investors do not reallocate capital to neighboring countries in Southeast Asia. Flexible investment policy is regarded as an absolute prerequisite for absorbing millions of new labor market entrants annually and tackling structural unemployment. (Jimly Asshiddiqie,2012) On the other hand, labor law serves a fundamental protective function to correct economic power imbalances between employers and workers through public law mechanisms (state intervention). (L.J. van Apeldoorn, 2009)

Applying an overly rigid wage formula while ignoring the actual purchasing power of the population creates potential defects within the distributive justice system. When minimum wage increases fall behind the real inflation rate of basic consumer goods borne by workers, a systematic decline in living standards (decline in purchasing power) occurs. Conversely, if wages are increased without accounting for business productivity and growth capacity, the risks include diminished investment competitiveness, mass layoffs, and factory relocations to lower-wage areas. Consequently, a gap analysis emerges between an investment legal policy that leans toward a capitalistic-utilitarian approach and social justice aspirations grounded in Pancasila. (Satjipto Rahardjo, 2009)

Based on this comprehensive background analysis, there is a clear imperative for philosophical, juridical, and sociological research into the reconstruction of wage policy in Indonesia. The ideal wage policy formulation should no longer be framed as a binary opposition between investment interests and labor protection. Instead, a new equilibrium (equilibrium) must be established—one capable of realizing distributively just wage systems while reinforcing a productive and competitive national investment ecosystem. (Bernard Arief Sidharta,2009)

Based on the background outlined above, the research questions of this study are formulated as follows, How are wage regulations synchronized, and what is their *ratio legis* within investment policy in Indonesia, What are the legal implications and problematic norm antinomies or ambiguities in wage regulation following the enactment of the Job Creation Law and How can wage policy be reconstructed to achieve distributive justice while supporting the investment climate in Indonesia.

METHODS

This study is normative legal research, which examines positive legal norms as its main object of study. Specifically, this research applies a statutory approach (statute approach) to examine the hierarchy of laws up to their derivative regulatory instruments, as well as a conceptual approach (conceptual approach). All obtained legal materials are then analyzed, interpreted, and systematized using qualitative legal analysis methods to construct comprehensive legal arguments in answering the research problems. In normative legal research, law is no longer viewed merely as a utopian concept, but has been institutionalized and written in the form of existing legal norms, principles, and institutions. Normative legal research is also referred to as dogmatic research that examines, maintains, and develops the structure of positive law using logical constructs. (Moh. Taufik Makarao, Efridani Lubis, Farhan Hazairin dan Andreas Eno Tirtakusuma,2026) In normative legal research, the use of a statutory approach (statute approach) is a certainty. It is said to be certain because, in legal logic, normative legal research is based on research conducted on existing legal materials. Even if, for example, research is conducted due to a perceived legal vacuum, that legal vacuum can be identified because there are already legal norms requiring further regulation in positive law. (Cholida Hanum, 2021)

The data sources used are classified into three levels of legal materials: primary legal materials sourced from the basic norms of the 1945 Constitution of the Republic of Indonesia (khususnya Pasal 27 ayat 2, Pasal 28D ayat 2, dan Pasal 33), Law No. 6 of 2023, and Government Regulations in the field of remuneration; secondary legal materials comprising scientific literature, journal articles, official statistical data from BPS, ministry documents, as well as supporting data from interviews with stakeholders such as Apindo, Kadin, the Manpower Office, trade unions, and MSME actors; and tertiary legal materials including legal dictionaries, comparative references from other countries, and relevant electronic portal information. Data collection was carried out through library research techniques (library research) enriched with informant interviews to support the analytical precision of secondary materials.

The processing and analysis of legal materials were conducted using qualitative legal techniques based on a deductive reasoning flow (silogisme hukum) without utilizing mathematical variables or statistical tests. Operationally, this syllogistic analysis places constitutional provisions alongside Grand Theory (Teori Keadilan Distributif dan Utilitarianisme), Middle Theory (Teori Hukum Pembangunan), and Applied Theory (Teori Hubungan Industrial Pancasila) as major premises, which function to dissect technical wage norms and the investment policy of the Job Creation Law as minor premises. Through this deductive reasoning, the antinomic conflict between the protection of workers' constitutional rights and investment climate efficiency is synthesized to produce a prescriptive conclusion in the form of an Integrative Wage Governance Reconstruction Model Based on Pancasila.

RESULTS AND DISCUSSION

Ratio Legis and Synchronization of Labor Wage Regulation within the Investment Policy Paradigm in Indonesia

Philosophical Ratio Legis of Wages: The national wage ratio legis is rooted in Article 27 paragraph (2) and Article 28D paragraph (2) UUD NRI 1945 (Majelis Permusyawaratan Rakyat, Undang-Undang Dasar Negara Republik Indonesia 1945), which is oriented towards the doctrine of labor decommodification to reject treating labor merely as a factor of production (Asri Wijayanti, 2021). Ratio Legis of Investment Policy: Under the Job Creation Law paradigm (UU No. 11 Tahun 2020 jo. UU No. 6 Tahun 2023), the ratio legis of wage arrangements has shifted to provide operational cost certainty for business actors (predictable operating cost), regulatory simplification, and the promotion of an investment climate for job creation (Hasil wawancara Kepala Dinas Tenaga Kerja Kabupaten Karawang, 27 Mei 2026).

Norm Synchronization Problem: A desynchronization occurs between the protective function of law (protective law) and technocratic autocracy (technocratic autocracy) due to the use of a centralized macroeconomic formula that ignores real regional Decent Living Needs (KHL) surveys (Jimly Asshiddiqie, 2006). Synchronization Based on Pancasila Industrial Relations (HIP): HIP positions ease of investment not as an ultimate goal, but as a means to achieve Social Justice (Sila Ke-5) and Just and Civilized Humanity (Sila Ke-2) (Payaman J. Simanjuntak, 1993) through three pillars of partnership: Partners in Production: Regulatory simplification must not neglect workers' fundamental rights, which could potentially reduce productivity endurance (Aloysius Uwiyono, 2014). Partners in Profit: Profits from investment must be distributed proportionally to improve the living standard and welfare of workers (Asri Wijayanti, Hukum Ketenagakerjaan Pasca Reformasi, 2021, hlm. 142). Partners in Responsibility: Workers and employers are jointly responsible for business continuity and the social protection of workers' families (Hasil wawancara DPK Apindo Karawang, 24 November 2025). National Wage System: Indonesia applies social engineering (social engineering) that positions the minimum wage as a social safety net (social safety net), rather than leaving it to free market mechanisms (free market) (Asri Wijayanti, 2021.

Juridical Implications as well as Problematics of Antinomy and Vagueness of Wage Norms Post-Enactment of Law Number 6 of 2023 Unclear Formula Parameters and Excessive Delegation (Delegated Legislation): Article 88D of Law No. 6 of 2023 broadly delegates variables and wage calculation methods to Government Regulations (PP No. 36/2021, PP No. 51/2023, and PP No. 49/2025), thereby triggering an open legal policy that harms legal certainty (Jimly Asshiddiqie, 2006). Degradation of the Meaning of Decent Living Needs (KHL): The determination of KHL (64 komponen sesuai Permenaker No. 18/2020) is downgraded merely to marginal considerations (Permenaker No. 18 Tahun 2020 tentang Kebutuhan Hidup Layak), replaced by a Specific Index formula (α) that reduces workers' subsistence rights amid spikes in real living costs (Putusan Mahkamah Konstitusi Nomor 168/PUU-XXII/2024). Hourly Wages and Potential Exploitation: Article 88B paragraph (2) of Law No. 6 of 2023 opens unit-of-time wages (hourly wages) without a minimum working hours limit, driving the casualization of labor phenomenon and income uncertainty (Iftida Yasar, 2020).

Minimum Wage Exemption for MSMEs and Social Dumping Practices: MSME exemptions in Article 90B of Law No. 6 of 2023 create a race to the bottom condition (Asri Wijayanti, Hukum Ketenagakerjaan Pasca Reformasi, 2021, hlm. 142), where large corporations exploit this leniency by shifting workloads to subcontractor MSMEs in the supply chain (supply chain) to pay low wages (Hasil wawancara Disnaker Karawang dan Pelaku UMKM, 27 Mei 2026). Abolition of Sectoral Minimum Wage (UMSK): The abolition of UMSK eliminates wage protection instruments relevant to risk profiles and productivity in capital-intensive or high-risk industries (Payaman J. Simanjuntak, 2001).

Dysfunction of Tripartite Institution Deliberation: Restricting the range of alpha index values (α) by the Central Government paralyzes the deliberative function of Regional Wage Councils, causing industrial deliberation to degrade into mere administrative formality (Allan F.G. Wardhana, 2021).Weakness of Supervision and Law Enforcement: The limited ratio of Labor Inspectors compared to the number of companies and weak execution of administrative and criminal sanctions often render wage norms ineffective in the field (Aloysius Uwiyono, 2014). Impact on Investment Climate and Unemployment: Setting high UMK in industrial areas such as Karawang and Bekasi that is not accompanied by increased productivity causes labor-intensive companies to go out of business, triggering waves of layoffs and an increase in the Open Unemployment Rate (TPT) (Data BPS Jawa Barat dan DPK Apindo Karawang, 2021–2025).

Ideal Reconstruction of Equitable Wage Governance within the Frame of Investment Policy in Indonesia

Re-Integration of KHL Norms into the Body of the Law: Explicitly relocking the 64 KHL component parameters into the body of the Manpower Law/Job Creation Law as an absolute lower limit (floor limit) so they cannot be reduced by Government Regulations (Hasil wawancara SP KEP dan Serikat Buruh Kerakyatan, 27-28 November 2025). Anti-Social Dumping Clause in the Supply Chain (Supply Chain): Formulating an absolute prohibition for MSMEs acting as suppliers, subcontractors, or parts of the core supply chain of medium/large industries from utilizing minimum wage exemption facilities (Hasil wawancara Wakil Ketua Kadin Karawang, 26 Mei 2026). Restoration of Regional Wage Council Deliberations: Restoring the authority to determine the value of the Specific Index (α) to the Regional Tripartite Wage Council through consensus deliberation based on sectoral inflation and local living cost surveys (Hasil wawancara DPC FSP KEP KSPI, 27 November 2025).

Productivity and Competence-Based Wage System: Transforming from a sole focus on minimum wage (floor wage) toward a productivity and competence-linked wage system through the implementation of transparent Wage Structures and Scales (SUSU) based on job weight, education, and performance evaluation (performance appraisal) (Agusmidah dan T. Erwinsyah, 2022).Strengthening Vocational Training, Certification, and Supervision: Mandating training budget allocations for PMA companies, conducting reskilling for workers affected by automation, enforcing mandatory HR certification (Keputusan Menteri Ketenagakerjaan Nomor 115 Tahun 2022), and integrating supervision through the Online Single Submission Risk Based Approach (OSS RBA) system (Permenaker No. 11 Tahun 2026 tentang Tata Cara Pengawasan Ketenagakerjaan).

Tabel 1. Matrix of Norm Reconstruction and Novelty in Pancasila-Based Integrative Wage Governance

Issue Focus/ Substance	Current Legal Condition (Ius Constitutum)	Proposed Norm Reconstruction (Ius Constituendum)	Position of Novelty (Novelty) & Ratio Legis
Position of KHL in Regulatory Hierarchy	Job Creation Law delegates KHL to PP; KHL is reduced to merely a statistical variable.	Definitively relocking KHL norms into the body of the Law as an absolute lower limit.	Synthesis of Antinomy: Proving that investment certainty and protection of rights to KHL are not a win-lose dichotomy, but a definite safety net against regulatory volatility.
Minimum Wage Exemptions for the MSME Sector	Leniency in MSME conditions is exploited by large industries for social dumping via outsourcing	Prohibiting MSMEs that are affiliated with or act as supply chain subcontractors for large industries from using minimum wage exemptions	Supply Chain Protection: Eliminating social dumping practices, creating fair business competition (fair trade), and protecting vulnerable workers.
Determination of the Specific Index Formula (α)	Determination of α is dominated by a rigid, centralized mathematical approach that eliminates negotiation	Restoring the authority of Regional Wage Councils to determine α through tripartite deliberation	Pancasila Procedural Justice: Investment cost certainty is achieved via participatory dialogue to minimize social unrest and maintain the business climate.

Through the above reconstruction of norms, national wage governance successfully integrates investment certainty with the protection of worker dignity in a fair, balanced, and humanistic manner according to the legal ideals of Pancasila (Susi Dwi Harijanti, dkk., 2023).

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. The ratio legis of wage regulation in Law No. 6 of 2023 reflects a shift in legal policy from an absolute protection paradigm to economic facilitation, aiming to foster investment ease and employment absorption through predictable operational cost calculations. However, vertical synchronization tests demonstrate the presence of antinomies, norm vagueness, and doctrinal disharmony with the 1945 Constitution, wherein the suppression of the minimum wage for capital competitiveness has reduced the essence of wages as an instrument to fulfill Decent Living Needs as guaranteed under Article 28D paragraph (2), while disregarding the principle of just efficiency in Article 33 paragraph (4). This policy represents a fundamental deviation from Distributive Justice Theory and the Pancasila Rule of Law Principle, which not only degrades workers' constitutional rights for the sake of illusory investment certainty, but also triggers social instability that threatens the long-term sustainability of investment itself. Therefore, a legal reconstruction restoring the essential norms of wage regulation to the statutory law level is an absolute prerequisite for realizing fair legal certainty, wherein business climate certainty and social justice for workers can stand side by side without negating one another.
2. The legal implications and the antinomy or vagueness of wage norms following Law No. 6 of 2023 (Job Creation Law) have a dual impact: For Workers (Undermining the Safety Net: Over-delegation of wage norms to Government Regulations (PP) and loopholes in wage exemptions for MSMEs trigger social dumping practices. Middle and large-scale industries exploit these loopholes via supply chain and subcontracting schemes to avoid paying living wages. And For Investors (Creating Uncertainty): The antinomy that sacrifices social justice for capital efficiency harms the orderly process. Regulatory volatility (frequent revisions of Wage Government Regulations) and social resistance stemming from diminished tripartite dialogue ultimately drive procedural unpredictability and long-term business climate instability.
3. An ideal wage reconstruction must absolutely be built upon the foundation of Pancasila-Based Integrative Wage Governance—a governance framework that synthesizes investment efficiency with human protection. The concrete manifestation of this reconstruction (ius constituendum) requires three structural steps: (a) reincorporating essential wage provisions into the main body of the Law to halt the practice of over-delegation and securing the position of Decent Living Needs (Kebutuhan Hidup Layak / KHL) as an absolute fundamental variable; (b) establishing strict parameters that prohibit MSMEs affiliated with the core supply chains of large industries from utilizing minimum wage exemption facilities; and (c) restoring the deliberative role of the Wage Council in determining the calculation limit variable (alpha index) by taking into account the vulnerability of workers' real purchasing power. Through this reconstruction, investment policy in Indonesia can transform into regulations that are capital-friendly yet remain humanistic.

Recommendations

1. To the Government and the DPR (House of Representatives) The DPR and the Government are recommended to immediately revise wage norms to halt the practice of excessive delegation (*over-delegation*). All essential wage content, particularly the obligation to fulfill Decent Living Needs (*Kebutuhan Hidup Layak* - KHL), must be brought back into the body of the Law. This is crucial so that workers' constitutional rights have a strong safety net and are not easily altered by unilateral executive policies. The components of Decent Living

Needs (KHL) serve as the primary variable determining the minimum wage. *Regulating Anti-Legal Evasion Clauses in the MSME Ecosystem* — Lawmakers must establish a strict floor limit and restrictive criteria regarding exemptions from minimum wage payment obligations for the MSME (Micro, Small, and Medium Enterprises) sector. The Law must contain an absolute prohibition preventing MSMEs that function as suppliers, subcontractors, affiliates, or part of the core supply chain of medium/large corporations from utilizing wage exemption facilities. This norm aims to close loopholes for social dumping practices and labor exploitation.

2. To the Executive Branch (Ministry of Manpower and Regional Governments)
   a. Restoring the Deliberative Function of the Wage Council: The Ministry of Manpower is recommended to revise the Government Regulation on Wages by restoring the substantive authority of the Wage Council (both National and Regional). The determination of the Specific Index variable (α) must be established through tripartite negotiations that consider real purchasing power conditions, levels of social vulnerability, and sectoral inflation in each respective region.
   b. Harmonization of Investment Incentives: Central and regional governments are advised to no longer rely on "cheap wages" as the primary commodity to attract investment. Investment competitiveness should be engineered through incentives in other areas, such as tax relaxation (tax holidays/allowances), logistical efficiency, and bureaucratic simplification, ensuring that capital efficiency is not achieved at the expense of worker welfare.
3. To Law Enforcement (Labor Inspectors and Industrial Relations Courts) Enhancing Supply Chain Audits: Labor inspectors at the central and regional levels are recommended to establish proactive oversight mechanisms for industrial supply chain structures. Strict legal rules and administrative sanctions are required against large corporations or investors that intentionally transfer their core business to "fictitious" MSMEs or partner MSMEs solely to evade the obligation to pay living wages.

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