

Criminal Sanctions for Violations of the Provincial Minimum Wage: A Justice-Based Analysis Using John Rawls' Theory

*Dedy Cahyadi, Bambang Soesatyo

Universitas Borobudur, Indonesia

*Email: radenmascip@gmail.com, bambang_soesatyo@borobudur.ac.id

Received: 10/10/2025 Revised: 23/12/2025 Accepted: 24/12/2025 Available Online: 25/12/2025 Published: 25/12/2025

Abstract

Violations of the Provincial Minimum Wage (Upah Minimum Provinsi/UMP) by companies remain a persistent labor law problem in Indonesia, despite the existence of clear statutory provisions mandating minimum wage compliance and criminal sanctions for noncompliance. This study employs a normative legal research method using a statutory and conceptual approach to examine the implementation and effectiveness of criminal sanctions against companies that pay wages below the UMP, analyzed through the perspective of John Rawls' Theory of Justice. The research finds that, in practice, criminal sanctions are rarely enforced and tend to be overshadowed by civil or administrative settlement mechanisms, resulting in weak deterrent effects, inadequate worker protection, and the persistence of structural inequality. From a Rawlsian perspective, this condition fails to fulfill the Difference Principle, as the existing sanction system does not sufficiently benefit or protect the least advantaged workers who are most vulnerable to wage violations. Accordingly, this study argues that reforms are necessary to achieve substantive justice, including strengthening labor inspection capacity, enhancing transparency and consistency in criminal law enforcement, applying sanctions proportionate to a company's economic scale, and establishing direct compensation mechanisms for affected workers. Through these measures, the implementation of the UMP policy can more effectively reflect principles of social justice, fairness, and equitable distribution in accordance with Rawls' theory of justice.

Keywords: Salaries, Criminal Sanctions, John Rawls' Justice, Provincial Minimum Wage.

Abstrak

Pelanggaran Upah Minimum Provinsi (UPAH/UMP) oleh perusahaan tetap menjadi masalah hukum ketenagakerjaan yang persisten di Indonesia, meskipun ada ketentuan perundang-undangan yang jelas yang mengamanatkan kepatuhan upah minimum dan sanksi pidana atas ketidakpatuhan. Penelitian ini menggunakan metode penelitian hukum normatif menggunakan pendekatan hukum dan konseptual untuk mengkaji implementasi dan efektivitas sanksi pidana terhadap perusahaan yang membayar upah di bawah UMP, dianalisis melalui perspektif Teori Keadilan John Rawls. Penelitian menemukan bahwa, dalam praktiknya, sanksi pidana jarang ditegakkan dan cenderung dibayangi oleh mekanisme penyelesaian perdata atau administratif, yang mengakibatkan efek jera yang lemah, perlindungan pekerja yang tidak memadai, dan persistensinya ketimpangan struktural. Dari perspektif Rawlsian, kondisi ini gagal memenuhi Prinsip Perbedaan, karena sistem sanksi yang ada tidak cukup menguntungkan atau melindungi pekerja yang paling tidak diuntungkan yang paling rentan terhadap pelanggaran upah. Oleh karena itu, studi ini berpendapat bahwa reformasi diperlukan untuk mencapai keadilan substantif, termasuk memperkuat kapasitas inspeksi ketenagakerjaan, meningkatkan transparansi dan konsistensi dalam penegakan hukum pidana, menerapkan sanksi yang sebanding dengan skala



Copyrights © Author(s). This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0). All writings published in this journal are personal views of the author and do not represent the views of this journal and the author's affiliated institutions.

ekonomi perusahaan, dan menetapkan mekanisme kompensasi langsung bagi pekerja yang terkena dampak. Melalui langkah-langkah tersebut, implementasi kebijakan UMP dapat lebih efektif mencerminkan prinsip-prinsip keadilan sosial, keadilan, dan pemerataan sesuai dengan teori keadilan Rawls.

Kata Kunci: Gaji, Sanksi Pidana, Keadilan John Rawls, Upah Minimum Provinsi.

INTRODUCTION

Violation of minimum wage provisions in Indonesia is still a common phenomenon, even though regulations regarding wages have been regulated in various laws and regulations.¹ Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages stipulates in Article 27 that the governor is required to set the provincial minimum wage (UMP) every year, with adjustments to the value based on economic and employment conditions. In addition, the governor can also set the district/city minimum wage if the calculation result is higher than the UMP.² However, in practice, there are still many companies that do not comply with this provision and pay workers below the specified standard, citing the company's financial condition or workers' ignorance of their rights.³

Violation of the Provincial Minimum Wage (UMP) provisions is still a serious problem in Indonesia, with many companies paying wages below the standard set by the government. For example, several cases of violations were found in the manufacturing, retail, and plantation sectors, where workers received salaries far below the minimum wage, and in some cases did not receive other rights such as benefits and social security. The main factors that cause companies not to pay wages according to the provisions include difficult economic conditions, where companies claim financial inability to meet wage standards; weak regulations, especially in terms of legal loopholes that allow companies to avoid their obligations; and ineffective supervision from the government, which often does not have sufficient resources or strict law enforcement mechanisms. The impact of these violations is very broad, both for workers and the economy as a whole. For workers, inadequate wages cause difficulties in meeting basic needs, reduce the quality of life, and increase the risk of labor exploitation. In addition, companies' non-compliance in paying the minimum wage can also hamper national economic growth, because workers' purchasing power is reduced, which ultimately affects domestic consumption and social welfare. If not handled seriously, these violations will exacerbate social inequality and create structural injustice in the world of employment in Indonesia.

Provisions regarding minimum wages are also regulated in Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulation instead of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the Job Creation Law), especially in Article 88E paragraph (2), which expressly

¹ Nizar Sukma Purnama and Hanny Amelia, "Efektivitas Pengaturan Upah Tenaga Kerja Berdasarkan Undang Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *PEMULIAAN HUKUM* 4, no. 1 (2021): 63–82.

² Alan Joan Saputra and Ayunita Nur Rohanawati, "Konsistensi Regulasi Pengupahan Di Indonesia Terhadap Keputusan Menteri Ketenagakerjaan Republik Indonesia Nomor 76 Tahun 2024 Tentang Pedoman Pelaksanaan Hubungan Industrial Pancasila (HIP) Pada Sektor Pengupahan Di Tengah Globalisasi Pekerjaan," 2024, 182–99.

³ Aria Mulyapradana and MBA Muhammad Hatta, *Pekerja Melek Hukum; Jadi Karyawan Kaya* (Visimedia, 2016).

prohibits employers from paying wages lower than the minimum wage set.⁴ Although this prohibition is clear, many companies still ignore it, and most violations are resolved through civil mechanisms or industrial relations disputes.⁵ This phenomenon shows that even though there are criminal sanctions regulated in laws and regulations, their effectiveness is still low in providing a deterrent effect on perpetrators of violations.

To take firm action against companies that pay wages below standard, the Job Creation Law also regulates criminal sanctions in Article 185, which states that violations of minimum wage provisions can be subject to criminal sanctions in the form of imprisonment for a minimum of one year and a maximum of four years, and a fine ranging from IDR 100,000,000.00 to IDR 400,000,000.00.⁶ However, although these sanctions are quite severe in practice, the application of criminal sanctions against violators of the minimum wage is still rarely carried out compared to settlement through civil channels. As a result, many workers experience injustice, which has an impact on their welfare and contributes to social inequality and economic instability.⁷ Therefore, it is important to review the effectiveness of criminal sanctions in enforcing minimum wage provisions and ensure that the legal policies implemented can provide justice for workers.

Criminal sanctions against companies that violate minimum wage provisions have been regulated in the Job Creation Law. Article 88E paragraph (2) of this regulation expressly states that employers are prohibited from paying wages lower than the minimum wage.⁸ If a violation occurs, Article 185 paragraph (1) of the same law regulates criminal sanctions in the form of imprisonment for a minimum of one year and a maximum of four years, and a fine of at least IDR 100,000,000.00 and a maximum of IDR 400,000,000.00.⁹ This provision shows that normatively, the government has provided a fairly severe criminal threat to suppress violations of the minimum wage policy.

However, the effectiveness of enforcing these criminal sanctions is still low due to several obstacles in its implementation. One of the main obstacles is the lack of understanding of law enforcement officers regarding labor crimes so many cases of minimum wage violations are not processed criminally.¹⁰ In addition, the special minimum criminal provisions stipulated in the Job Creation Law are often not implemented optimally, considering that many violations end in administrative sanctions or civil settlements. The lack of firm legal action makes companies feel unthreatened by

⁴ Patrick Winson Salim and John Michael Hizkia, "Pengaruh Undang Undang Cipta Kerja Terhadap Pemenuhan Upah Minimum Pekerja," *Jurnal Kewarganegaraan* 7, no. 2 (2023): 1599–606.

⁵ Tip Hukum Praktis, *Hak Dan Kewajiban Karyawan* (PT Niaga Swadaya, 2010).

⁶ Yana Sukma Permana, "Penerapan Sanksi Pidana Ketenagakerjaan Terhadap Pelaku Usaha Yang Tidak Membayar Upah Karyawan Sesuai Hukum Ketenagakerjaan," *Collegium Studiosum Journal* 7, no. 1 (2024): 204–14.

⁷ Fathur Al Araafi et al., "Kesenjangan Sosial-Ekonomi Pasca Pandemi COVID-19: Analisis Kritis Terhadap Penyebab Dan Dampaknya Pada Masyarakat Di Indonesia," *Jurnal Bina Bangsa Ekonomika* 17, no. 1 (2024): 819–29.

⁸ Niken Dwi Amanda et al., *Analisis Yuridis Perlindungan Hukum Tenaga Kerja mengenai Pengupahan Buruh dalam Studi Kasus Putusan No. 305/Pid. Sus/2021/PN CBI*, n.d.

⁹ Raditya Pratomo et al., *Perlindungan Hukum Bagi Pekerja Yang Uang Pesangon Dan Atau Penghargaan Masa Kerja Tidak Dibayar Oleh Pengusaha*, Mutiara: Multidisciplinary Scientific Journal, 2024.

¹⁰ Barzah Latupono, "Perlindungan Hukum Dan Hak Asasi Manusia Terhadap Pekerja Kontrak (Outsourcing) Di Kota Ambon," *Sasi* 17, no. 3 (2011): 59–69.

existing criminal provisions so the practice of paying wages below standard continues to occur.¹¹

In addition, the suboptimal role of labor crimes also contributes to weak law enforcement in cases of minimum wage violations. This desk should function to follow up on minimum wage violations criminally, but in practice, these cases are more often resolved through civil channels or the Industrial Relations Dispute mechanism. As a result, the criminal aspect in cases of wage violations is often ignored, so that violations do not get the deterrent effect that should be caused by the threat of criminal penalties as regulated in the Job Creation Law.¹² This worsens the conditions of workers who should receive legal protection for their labor rights.

The number of criminal decisions related to minimum wage violations is much lower than civil decisions, which shows a tendency to resolve cases through non-criminal channels. One of the main reasons is time efficiency, where the civil process or Industrial Relations Dispute is considered faster and provides more immediate legal certainty for workers compared to the criminal process which tends to be longer and more complex.¹³ In addition, employers and workers often avoid criminal proceedings because they are considered more repressive, can damage employment relationships, and have more severe consequences for perpetrators. However, the dominance of civil settlements affects the objectives of criminal law, especially in providing a deterrent effect on violators. With minimal criminal sanctions imposed, many employers still dare to violate minimum wage provisions because they only face the obligation to pay the wage difference without significant criminal threats to enforce labor law becomes less effective in protecting workers' rights.

John Rawls in *A Theory of Justice* puts forward two principles of justice, namely the Principle of Equal Liberty and the Principle of Difference.¹⁴ The first principle emphasizes that every individual has the right to equal basic freedoms, while the second principle states that social and economic inequality can only be justified if it benefits the most disadvantaged groups in society.¹⁵ In criminalizing companies that violate the minimum wage, this principle requires law enforcement that is not only formal but also substantive in ensuring justice for workers. Criminal sanctions for minimum wage violations should be implemented effectively to ensure that the policy truly protects workers, especially those in the most vulnerable positions, such as contract workers and informal sector workers.¹⁶

The problem of violations of the Provincial Minimum Wage (UMP) reflects a significant gap between regulations and the reality on the ground. Although the government has established policies related to the UMP to guarantee workers' welfare, in practice there are still many companies that do not comply with these regulations.

¹¹ Asri Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*, vol. 1 (Sinar Grafika, 2009).

¹² Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*, vol. 1.

¹³ I Made Adiwidya Yowana and MH SH, *Penyelesaian Perselisihan Hubungan Industrial: Pengaturan Batas Waktu Penyelesaian Perselisihan Di Pengadilan Hubungan Industrial* (Nas Media Pustaka, 2023).

¹⁴ Pan Mohamad Faiz, "Teori Keadilan John Rawls (John Rawls' Theory of Justice)," *Jurnal Konstitusi* 6, no. 1 (2009): 135–49.

¹⁵ Angga Christian et al., "Teori Keadilan Menurut Jhon Rawls," *Quantum Juris: Jurnal Hukum Modern* 7, no. 1 (2025).

¹⁶ Sahroni Sahroni, "Sanksi Hukum Bagi Perusahaan Membayar Upah Di Bawah Upah Minimum Regional (Studi Komparatif Hukum Pidana Islam Dan Hukum Pidana Positif)," *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam* 1, no. 1 (2020): 1–24.

Existing regulations should provide legal protection for workers, but weak supervision and law enforcement often make sanctions against violators ineffective or even ignored. Many companies continue to pay wages below standard without clear legal consequences, either due to weak government control mechanisms or economic interests that prioritize profits over workers' welfare. This situation not only creates injustice for workers who depend on the minimum wage for their livelihoods but also worsens employment conditions in Indonesia with increasing labor exploitation and increasingly sharp social inequality. Therefore, a more in-depth study is needed to evaluate the extent to which the application of criminal sanctions for violations of the UMP can be an effective solution in upholding justice and reducing the number of violations.

The justice approach, especially from the perspective of John Rawls' theory of justice, is very important in assessing and improving the criminal sanction system for companies that violate the provisions of the UMP. Rawls' theory, which emphasizes the principles of equality and distributive justice, can be an analytical framework for reviewing whether the current sanction policy truly favors the most vulnerable group, namely low-income workers. Through this research, it is expected that a fairer and more effective solution can be found in implementing criminal sanctions that are not only repressive but also have a deterrent effect on companies. This research also has benefits for various parties, including the government in formulating more assertive and implementable policies, companies in understanding the legal implications and business ethics in implementing the UMP, workers in fighting for their rights, and academics in developing further studies on labor law and social justice. Thus, this research is expected to encourage a fairer and more sustainable employment system in Indonesia.

RESEARCH METHODS

This study uses a normative legal method, namely legal research that focuses on the norms and rules that apply in the Indonesian legal system. This method aims to analyze the laws and regulations governing the provincial minimum wage (UMP) and criminal sanctions for companies that violate these provisions. In this study, two main approaches are used, such as the statute and the conceptual approach. The statutory approach is performed by examining various regulations related to minimum wages and legal sanctions, such as Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, and its implementing regulations. Meanwhile, the conceptual approach is used to understand how the concept of justice in John Rawls' perspective can be applied in assessing the effectiveness of criminal sanctions against violations of the UMP. By combining these two approaches, the study can provide a comprehensive analysis regarding the conformity of positive law with the ideal principle of justice.

The data sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include applicable laws and court decisions related to violations of the UMP. Secondary legal materials include literature, law journals, and previous research results that discuss criminal sanctions and theories of justice in labor law. Tertiary legal materials are used as additional references, such as legal dictionaries, encyclopedias, and other official documents that support the research analysis. Data collection techniques are carried out through library research by tracing and analyzing various relevant legal sources. After the data is collected, this study uses descriptive qualitative data analysis techniques, namely by describing and interpreting legal data based on applicable norms and linked to John Rawls' theory of justice. With this approach, research can produce a deep understanding of the effectiveness of criminal sanctions

against companies that violate the UMP and how their implementation can be more by the principles of social justice.

RESULTS AND DISCUSSION

Application of Criminal Sanctions Against Companies Violating Provincial Minimum Wage (UMP) Provisions Based on Legislation in Indonesia

The Provincial Minimum Wage (UMP) is the lowest wage standard that must be paid by companies to workers in a province, as regulated in the labor law system in Indonesia.¹⁷ The UMP is set annually by the governor based on recommendations from the Wage Council and takes into account various factors, such as decent living needs (KHL), economic growth, inflation, and labor productivity. The main legal basis governing the UMP is Law Number 13 of 2003 concerning Manpower, which was later updated by Law Number 6 of 2023 concerning Job Creation and its derivative regulations, such as Government Regulation Number 36 of 2021 concerning Wages. This regulation states that paying wages below the UMP is a violation of the law and can be subject to administrative and criminal sanctions. The UMP aims to protect workers from exploitation and ensure that they receive a decent income to meet basic living needs, thus creating a balance between the interests of the workforce and the business world. The regulations in Article 88E paragraph (2) of the Job Creation Law expressly prohibit employers from paying wages below the minimum wage that has been set. This provision aims to protect workers, especially those in vulnerable groups with a work period of less than one year.¹⁸ In criminalization, Article 185 paragraph (1) of the Job Creation Law stipulates that violations of this provision can be subject to criminal sanctions in the form of imprisonment of one to four years and/or a fine of IDR 100 million to IDR 400 million. With the threat of this sanction, it is expected that companies will be more compliant with applicable employment policies so that the principle of justice can be realized through the protection of workers' rights.

The legal foundation governing the Provincial Minimum Wage (UMP) in Indonesia is contained in several laws and regulations, ranging from laws to government and ministerial regulations. Law Number 13 of 2003 concerning Manpower, as amended by Law Number 11 of 2020 concerning Job Creation, is the main regulation governing provisions regarding wages. Article 88 paragraph (1) of the Manpower Law states that every worker has the right to receive income that meets a decent living for humanity. Then, Article 88C paragraph (1) of the Job Creation Law states that the government determines wage policies to realize the rights of workers/laborers to a decent living. Furthermore, technical regulations regarding minimum wages, including UMP, are regulated in Government Regulation Number 36 of 2021 concerning Wages, a derivative regulation of the Job Creation Law. Article 25 paragraph (1) of PP No. 36 of 2021 emphasizes that the minimum wage is determined based on economic and employment conditions. In addition, Article 26 of PP No. 36 of 2021 stipulates that the governor is required to determine the UMP every year by considering the recommendations of the Wage Council. For supervision, Article 190 paragraph (1) of the Manpower Law states that employers who pay wages lower than the minimum provisions can be subject to criminal sanctions in the form of imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of at least IDR 100 million and a maximum of

¹⁷ Muhammad Afzulkifli, "Penyelesaian Tunggakan Iuran Dalam Penyelenggaraan Jaminan Sosial Ketenagakerjaan Sebagai Upaya Perlindungan Hukum Terhadap Pekerja," *Lex Lata*, 2020.

¹⁸ Yafiz Arya Dharma et al., "Implementasi Hukum Terhadap Upah Pekerja Dibawah UMR," *Qiyas: Jurnal Hukum Islam Dan Peradilan* 8, no. 1 (2023): 12–20.

IDR 400 million. In addition, the Regulation of the Minister of Manpower (Permenaker) Number 18 of 2022 concerning the Determination of the Minimum Wage in 2023 is also a reference in calculating and adjusting the UMP by considering a certain formula.¹⁹

Companies have a legal obligation to pay workers' wages under the Provincial Minimum Wage (UMP) set by the governor based on applicable laws and regulations. This obligation is regulated in Article 88C paragraph (2) of Law Number 11 of 2020 concerning Job Creation, which states that employers are prohibited from paying wages lower than the minimum wage. In addition, Article 26 paragraph (1) of Government Regulation Number 36 of 2021 concerning Wages requires the governor to set the UMP annually by considering recommendations from the Wage Council, which consider variables such as economic growth, inflation, and labor productivity levels. The mechanism for determining the UMP is carried out through an evaluation and discussion process involving the government, labor unions, and employers before being officially announced, usually at the end of the year before being implemented in the following year. In addition to receiving the right to the UMP, workers also have other rights related to wages, such as timely payment, transparency in wage components, and legal protection if the wages received do not comply with the provisions. This right is reinforced in Article 90 paragraph (1) of the Manpower Law, which states that employers are prohibited from paying wages below the minimum wage and if they violate, they can be subject to sanctions following Article 185 of the Manpower Law, which include imprisonment and fines.

Violations of the Provincial Minimum Wage (UMP) by companies in Indonesia still often occur and take various forms. One of the most common types of violations is the payment of wages below the UMP, where companies pay workers a wage lower than the standard set by the government. In addition, many companies delay salary payments, which causes workers to experience economic difficulties because they do not receive their rights on time. Another form of violation often found is illegal wage deductions, for example on the grounds of unclear work disciplinary fines, uniform costs, or other levies that do not have a strong legal basis. In the manufacturing, retail, and plantation sectors, many cases have been found where workers only receive wages below the UMP on the pretext of cost efficiency or the company's difficult financial condition. An example of a violation that has occurred is the case in the textile sector in West Java, where several companies were reported to have paid their workers below the UMP on the grounds of high production costs, so that workers had to work longer to get a decent wage. Similar violations also occurred in the plantation sector, especially in Sumatra and Kalimantan, where workers were often paid far below the minimum standard limited funds or unstable market conditions.

The main factors that cause companies to violate the UMP provisions are diverse, ranging from economic aspects to weak regulations and supervision. From an economic perspective, many companies claim that they are unable to pay the UMP due to unstable financial conditions, tight business competition, and high operational costs. Some companies also take advantage of regulatory weaknesses, especially in legal loopholes that allow them to avoid the obligation to pay the UMP, for example by employing employees with contract or casual worker status who are not covered by the minimum wage policy. In addition, ineffective supervision by the authorities is also a major factor that exacerbates UMP violations. Although labor supervision has been regulated in

¹⁹ Bambang Waluyo, *Penegakan Hukum Di Indonesia* (Sinar Grafika, 2022).

regulations, the limited number of supervisors and the lack of strict sanctions against violators cause many companies to continue to dare to pay wages below standard. Another factor is the lack of worker awareness of their rights to a decent wage, which causes many cases of UMP violations to go unreported and simply be ignored. If this problem is not immediately addressed seriously, workers' welfare will continue to be neglected and social inequality in the world of employment in Indonesia will widen.

To prevent and prosecute companies that violate the UMP, the government has set various sanctions in laws and regulations. Article 185 paragraph (1) of Law Number 13 of 2003 concerning Manpower, which was updated through Law Number 11 of 2020 concerning Job Creation, states that employers who pay wages lower than the minimum provisions can be subject to criminal sanctions in the form of imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of at least IDR 100 million and a maximum of IDR 400 million. In addition to criminal sanctions, companies can also be subject to administrative sanctions, such as warnings, freezing of business licenses, and revocation of business licenses if they continue to violate the provisions. One case of the application of sanctions for violations of the UMP occurred in a garment company in Central Java which was imposed a large fine because it was proven to have paid its workers below the minimum wage standard for years. However, in practice, the effectiveness of criminal sanctions is a controversy because many companies have managed to avoid punishment through various means, such as negotiating with workers or using outsourcing worker status to avoid the obligation to pay the UMP.

The application of criminal sanctions against companies that violate the provisions of the Provincial Minimum Wage (UMP) faces various obstacles and challenges in practice. One of the main obstacles is the weakness in law enforcement, where many companies continue to operate even though they are proven to pay wages below the minimum standard. In some cases, companies take advantage of legal loopholes, such as using the status of contract workers, outsourcing, or casual workers to avoid the obligation to pay the minimum wage. In addition, the legal process against companies that violate is often protracted due to lengthy administrative procedures, so the sanctions that should be imposed are less effective as a deterrent. Companies also frequently have strong economic and political influence, so they can negotiate or lobby with certain parties to avoid punishment. On the other hand, workers who are victims are often reluctant to report violations for fear of losing their jobs or facing intimidation from the company, so many violations are not revealed and not processed legally.

In addition to legal obstacles, another challenge is the gap between regulations and implementation in the field, which reflects the still weak labor supervision system in Indonesia. Although the laws regarding sanctions for violations of the UMP are quite clear in the Manpower Law and the Job Creation Law, in practice, labor inspectors often experience limitations in conducting inspections and taking action. The limited number of labor inspectors compared to the number of companies that must be supervised is the main factor that makes supervision less than optimal. In addition, coordination between government agencies, law enforcement officers, and labor unions in handling violations of the UMP is still not running effectively, many companies can still avoid sanctions. The lack of transparency in the investigation process also leads to the potential for corrupt practices or bribery that allow companies to avoid the penalties that should be imposed. To overcome these obstacles, it is necessary to strengthen labor supervision, increase the capacity of law enforcement officers, and be transparent in enforcing criminal sanctions.

Without improvements in the implementation aspect, existing regulations will find it difficult to provide effective protection for workers and will not be able to provide a deterrent effect for companies that violate the provisions of the UMP.

John Rawls' Theory of Justice Perspective in Assessing the Effectiveness of Criminal Sanctions Against Companies That Do Not Fulfil the Provisions of the Minimum Wage

John Rawls, in his book "A Theory of Justice," defines justice as "justice as fairness", namely justice as a principle that must ensure freedom and well-being for all individuals, especially for those in disadvantaged positions. Rawls argues that a just society is a society built on a social contract agreed upon under the condition of a "veil of ignorance", where individuals formulate principles of justice without knowing their social position or economic status in society. This aims to avoid bias and ensure that the rules made are fair to all parties. Rawls then developed two main principles of justice, namely the Liberty Principle and the Difference Principle. The Liberty Principle states that every individual has the right to the same basic freedoms, such as freedom of speech, thought, and participation in social and political life. Meanwhile, the Difference Principle asserts that social and economic inequality can only be justified if the inequality benefits the most disadvantaged groups in society. In other words, rules or policies must be designed in such a way as to provide greater protection and opportunity for groups that are structurally more vulnerable, including low-wage workers.

In public policy and labor law, Rawls' theory of justice provides a relevant framework for assessing regulations related to the Provincial Minimum Wage (UMP). Rawls' principle of freedom recognizes the right of workers to receive legal protection and equal opportunities to earn a decent living. Meanwhile, the Difference Principle supports the existence of the UMP policy as a form of state intervention to ensure that low-wage workers receive adequate welfare standards. In practice, the application of Rawls' theory can be seen in wage policies that aim to reduce social inequality, such as the minimum wage adjustment mechanism based on decent living needs and inflation. In addition, this theory also emphasizes the importance of effective law enforcement against companies that do not comply with the UMP regulation, because without strong enforcement, inequality will widen, and the principle of justice will not be realized. Thus, Rawls' theory of justice emphasizes that labor regulations, including minimum wage policies and sanctions for violations, must be designed and implemented to protect the most vulnerable groups of workers from exploitation and economic injustice.

The Provincial Minimum Wage (UMP) in John Rawls' perspective of Justice can be understood as a form of economic protection for the least advantaged, namely low-wage workers who are vulnerable to economic exploitation. Within the framework of the Difference Principle put forward by Rawls, the UMP policy is designed to ensure that economic inequality that occurs in the market system does not further worsen the conditions of the lowest-ranking groups of workers in the social structure. The UMP regulation reflects the principle of equality and distribution of justice because the minimum wage is set based on decent living needs that take into account the social and economic aspects of workers so that they can still live at a humane standard. With the UMP, the state plays a role in correcting the inequality that occurs due to market mechanisms that tend to benefit capital owners compared to workers. However, in its implementation, there must be a balance between the interests of workers and companies so that this policy does not hinder economic growth. On the one hand, the UMP protect workers' rights so that they do not receive wages that are too low, but on the other hand,

this policy must also consider the company's ability to meet minimum wage provisions without having to sacrifice business continuity and create negative impacts such as workforce reductions.

Criminal sanctions against companies that violate the provisions of the Provincial Minimum Wage (UMP) should be an instrument that guarantees substantive justice for workers, especially those in vulnerable positions. In the labor law system in Indonesia, violations of minimum wage payments can be subject to sanctions in the form of fines and imprisonment, as stipulated in the Manpower Law and the Job Creation Law. However, in practice, the effectiveness of these criminal sanctions is still questionable, considering the many cases where companies still do not fulfill their obligations even though there is a threat of punishment. From the perspective of Rawls' Theory of Justice, law enforcement against violations of the UMP must be oriented towards protecting the rights of less advantaged workers. If the sanctions given are still weak or not applied consistently, then this does not reflect substantive justice, because companies continue to benefit while workers continue to experience economic injustice. Therefore, the criminal sanctions system must be strictly enforced to provide a deterrent effect for perpetrators of violations and ensure that workers' rights to a decent living remain protected.

About the Difference Principle put forward by Rawls, criminal sanctions against companies that violate the UMP should not only be repressive but also have a corrective and distributive function. This principle emphasizes that social inequality can only be justified if it benefits the most disadvantaged group. In the context of the UMP policy, criminal sanctions must be designed in such a way as to provide a real impact on workers' welfare, not just ineffective administrative punishment. If the fines imposed on companies are too small or not commensurate with the benefits they obtain from paying wages below standard, it will not protect workers. Therefore, the law enforcement mechanism needs to be strengthened with a compensation system for workers whose rights have been violated, for example by requiring companies to pay unpaid wages along with additional fines that are directly given to affected workers. In this way, criminal sanctions are not only a means of punishment but also an instrument that contributes to the redistribution of economic justice for low-wage workers.

The existing legal system also needs to be evaluated in terms of its ability to provide equal opportunities for workers to obtain their rights, as emphasized in Rawls' theory of justice. In many cases, workers who face violations of the UMP often experience structural barriers in accessing justice, such as fear of losing their jobs if they report violations, weak legal protection for workers who file claims, and limited access to information and legal assistance. In addition, the legal process for violations of the UMP is often protracted, so workers have to wait a long time to obtain their rights. From Rawls' perspective, the legal system must ensure that all individuals have an equal opportunity to fight for their rights, without being constrained by economic factors or social status. Therefore, reforms are needed in the law enforcement mechanism, including increasing the number and quality of labor inspectors, accelerating the process of resolving labor disputes, and strengthening protection for workers who are victims of violations of the UMP. Thus, the legal system does not only function to prosecute perpetrators of violations but also becomes a truly effective tool in realizing social justice for all workers.

In John Rawls' theory of justice, a fair legal system should be able to provide protection for the most vulnerable groups, including workers who rely on the Provincial Minimum Wage (UMP) to meet their living needs. However, in practice, there is a significant gap between the regulations that have been made and the implementation of

sanctions for companies that violate the provisions of the UMP. One of the main challenges in law enforcement is the lack of effectiveness of labor supervision, where the number and capacity of labor inspectors are still limited compared to the many cases of UMP violations that occur. In addition, the complaint and dispute resolution mechanisms are often complicated and time-consuming, so workers who experience violations prefer to continue working under unfair conditions rather than lose their livelihoods. On the other hand, companies that violate the provisions of the UMP can often avoid sanctions in various ways, such as exploiting legal loopholes, negotiating with relevant authorities, or even using political and economic influence to soften legal demands. As a result, this weak law enforcement strengthens the inequality between workers and capital owners, which is contrary to the principle of justice that demands more protection for disadvantaged groups.

Sanctions imposed on companies that violate the UMP have also not been fully implemented fairly and effectively, especially in distributive justice. In many cases, the fines or penalties imposed on companies are not commensurate with the benefits they gain from paying workers below the UMP standard so existing criminal sanctions do not provide a strong enough deterrent effect. Large companies with significant economic and political influence often have greater access to avoid punishment compared to small companies that have limited ability to lobby the relevant authorities. This condition creates injustice in the legal system, where stronger companies can more easily avoid legal consequences, while affected workers lose their economic rights without receiving adequate compensation. This weak law enforcement impacts distributive justice because instead of protecting the most vulnerable workers, the existing system allows economic inequality to widen. Therefore, for the regulation of UMP to truly reflect the Rawlsian principle of justice, reforms are needed in the law enforcement mechanism, including strengthening supervision, accelerating the legal process for violators of UMP, and providing direct compensation for workers who experience violations, so that the sanctions applied are not only punitive but also function as a corrective instrument to restore workers' rights.

To increase the effectiveness of criminal sanctions against companies that violate the provisions of the Provincial Minimum Wage (UMP), the legal system must be more oriented towards protecting vulnerable groups, namely low-wage workers who have a high dependence on minimum wage policies. Based on the Difference Principle in John Rawls' theory of justice, employment policies should be designed to benefit the most disadvantaged groups in society. Therefore, improvements to the sanction system need to focus on aspects of compensation and restoration of workers' rights, not just punishment for violators. For example, companies that are proven to pay wages below the UMP required double compensation to concerned workers, in addition to paying fines to the state. It seeks to ensure that punishment is not only repressive towards companies but also has a corrective impact on workers' welfare. In addition, there needs to be a more proactive enforcement mechanism, such as a reporting system that is more easily accessible to workers, strict supervision of companies with a history of violations, and the application of stricter sanctions for companies that repeat the same mistakes.

For UMP regulations to be enforced more fairly and evenly, employment policies need to be directed at closing loopholes that are often exploited by companies to avoid minimum wage payment obligations. One policy proposal that can be implemented is strengthening the responsibility of large companies in the supply chain, where the parent company must be responsible if its suppliers or subcontractors pay workers below the

minimum wage. It is significant because, in practice, many companies avoid the obligation to pay the minimum wage by using an outsourcing system or outsourcing of labor, so that the burden of violations is shifted to small companies that are more difficult to monitor. In addition, transparency in law enforcement must also be strengthened, for example by extending public data on companies that violate the minimum wage so that the public can monitor company compliance and the government has greater pressure to take action against violators. The application of penalties based on the company's economic scale also needs to be considered so that large companies that have high profits cannot easily avoid their obligations by simply paying fines that are relatively small compared to the profits they get from unfair wage practices.

In the reform of labor inspection and the legal system, fundamental changes are needed so that regulations regarding the minimum wage truly support social justice as emphasized by Rawls. One important step is to increase the number and capacity of labor inspectors, as well as give them broader authority to take direct action against companies that violate. In addition, accelerating the legal process in cases of violations of the UMP must be a priority, considering the many matters that drag on, thus harming workers who need legal certainty. To support the effectiveness of this reform, collaboration between the government, trade unions, and civil society organizations needs to be strengthened so that there is greater pressure to ensure that the implementation runs smoothly. Ultimately, this reform is not only aimed at punishing companies that violate, but also at building a more just, transparent, and worker-friendly employment system, so that the principles of justice in Rawls' theory can truly be realized in employment policies in Indonesia.

CONCLUSION

Based on the analysis that has been conducted, it can be concluded that the application of criminal sanctions against companies that violate the provisions of the Provincial Minimum Wage (UMP) still faces various challenges, especially the effectiveness of law enforcement and workers' justice. Although regulations have regulated the obligation to pay the UMP and the threat of sanctions for violators, implementation in the field still shows a gap between the rules and reality. Many companies continue to violate the provisions of the UMP due to weak supervision, the low deterrent effect of existing sanctions, and the economic and political influence of large companies that can avoid legal consequences. From the perspective of John Rawls' Theory of Justice, the minimum wage policy should be more oriented toward protecting the most vulnerable groups of workers (least advantaged), and the sanctions applied must have corrective and distributive functions so as not to only punish companies, but also restore the rights of workers who have been harmed. Therefore, improvements are needed in the system of sanctions and labor supervision so that the UMP policy truly reflects the principle of social justice and substantially protects workers' rights.

As a recommendation, there needs to be reform in the labor law enforcement system, including strengthening the capacity of labor inspectors, increasing transparency in the application of sanctions, and accelerating the legal process for cases of violation of the UMP. The government must also implement a direct compensation mechanism for workers who experience violations so that they are not only objects in the legal system but also receive real protection for their economic rights. In addition, policies related to criminal sanctions must be adjusted to provide a stronger deterrent effect, for example by implementing progressive fines based on the company's economic scale and following up on repeated violations with heavier sanctions. Finally, synergy is needed between the government, trade unions, and civil society in supervising the implementation of the

UMP, so that existing regulations are not just rules on paper, but are truly able to create social justice for all workers following the principles of Rawlsian justice.

ACKNOWLEDGMENTS

This section contains acknowledgments to institutions and individuals who have contributed to the implementation of the research and the preparation of this manuscript. The authors would like to express their sincere gratitude to all parties who have provided support, guidance, and assistance throughout the research process, including academic advisors, funding institutions, and other individuals or organizations whose contributions were invaluable to the completion of this study.

FUNDING INFORMATION

None.

CONFLICTING INTEREST STATEMENT

The authors state that there is no conflict of interest in the publication of this article.

BIBLIOGRAPHY

- Afzulkifli, Muhammad. "Penyelesaian Tunggakan Iuran Dalam Penyelenggaraan Jaminan Sosial Ketenagakerjaan Sebagai Upaya Perlindungan Hukum Terhadap Pekerja." *Lex Lata*, 2020.
- Al Araafi, Fathur, Muhammad Sadam, Keisha Nahda Tsabitah, Radhita Rasya Anindya, and Fatkhuri Fatkhuri. "Kesenjangan Sosial-Ekonomi Pasca Pandemi COVID-19: Analisis Kritis Terhadap Penyebab Dan Dampaknya Pada Masyarakat Di Indonesia." *Jurnal Bina Bangsa Ekonomika* 17, no. 1 (2024): 819–29.
- Amanda, Niken Dwi, Merry Kurniawati Nurdin, Hilyah Az Zahra, and Dwi Desi Yayi. *Analisis Yuridis Perlindungan Hukum Tenaga Kerja mengenai Pengupahan Buruh dalam Studi Kasus Putusan No. 305/Pid. Sus/2021/PN CBI*. n.d.
- Christian, Angga, Ainun Nabilah, and Sulthoni Ajie. "Teori Keadilan Menurut Jhon Rawls." *Quantum Juris: Jurnal Hukum Modern* 7, no. 1 (2025).
- Dharma, Yafiz Arya, Arifuddin Muda Harahap, and Miftahul Hasan. "Implementasi Hukum Terhadap Upah Pekerja Dibawah UMR." *Qiyas: Jurnal Hukum Islam Dan Peradilan* 8, no. 1 (2023): 12–20.
- Faiz, Pan Mohamad. "Teori Keadilan John Rawls (John Rawls' Theory of Justice)." *Jurnal Konstitusi* 6, no. 1 (2009): 135–49.
- Latupono, Barzah. "Perlindungan Hukum Dan Hak Asasi Manusia Terhadap Pekerja Kontrak (Outsourcing) Di Kota Ambon." *Sasi* 17, no. 3 (2011): 59–69.
- Mulyapradana, Aria, and MBA Muhammad Hatta. *Pekerja Melek Hukum; Jadi Karyawan Kaya*. Visimedia, 2016.
- Permana, Yana Sukma. "Penerapan Sanksi Pidana Ketenagakerjaan Terhadap Pelaku Usaha Yang Tidak Membayar Upah Karyawan Sesuai Hukum Ketenagakerjaan." *Collegium Studiosum Journal* 7, no. 1 (2024): 204–14.
- Praktis, Tip Hukum. *Hak Dan Kewajiban Karyawan*. PT Niaga Swadaya, 2010.
- Pratomo, Raditya, Helvis Helvis, and Malemna Sura Anabertha. *Perlindungan Hukum Bagi Pekerja Yang Uang Pesangon Dan Atau Penghargaan Masa Kerja Tidak Dibayar Oleh Pengusaha*. Mutiara: Multidisciplinary Scientific Journal, 2024.

- Purnama, Nizar Sukma, and Hanny Amelia. "Efektivitas Pengaturan Upah Tenaga Kerja Berdasarkan Undang Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." *PEMULIAAN HUKUM* 4, no. 1 (2021): 63–82.
- Sahroni, Sahroni. "Sanksi Hukum Bagi Perusahaan Membayar Upah Di Bawah Upah Minimum Regional (Studi Komparatif Hukum Pidana Islam Dan Hukum Pidana Positif)." *Al-Qanun: Jurnal Kajian Sosial Dan Hukum Islam* 1, no. 1 (2020): 1–24.
- Salim, Patrick Winson, and John Michael Hizkia. "Pengaruh Undang Undang Cipta Kerja Terhadap Pemenuhan Upah Minimum Pekerja." *Jurnal Kewarganegaraan* 7, no. 2 (2023): 1599–606.
- Waluyo, Bambang. *Penegakan Hukum Di Indonesia*. Sinar Grafika, 2022.
- Wijayanti, Asri. *Hukum Ketenagakerjaan Pasca Reformasi*. Vol. 1. Sinar Grafika, 2009.
- Yowana, I Made Adiwidya, and MH SH. *Penyelesaian Perselisihan Hubungan Industrial: Pengaturan Batas Waktu Penyelesaian Perselisihan Di Pengadilan Hubungan Industrial*. Nas Media Pustaka, 2023.