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# Reconstruction of Regional Regulation on Wages for Non-Metallic Mineral and Rock Mining Workers in Indonesia, Specifically in Bogor Regency, West Java Province

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## Abstract

Wages for mining workers in Indonesia constitute a complex issue involving various legal, economic, and social aspects. Wage regulations in this sector are governed by several laws and regulations, including Law No. 13 of 2003 on Manpower and Government Regulation No. 78 of 2015 on Wages. However, wage regulation for mining workers in Indonesia still faces various challenges, including a lack of law enforcement, weak supervision, and low legal awareness among mining workers. Many mining companies do not comply with employment and occupational safety regulations, and the government does not have enough labour inspectors to oversee all mining companies. The aim of this study is to analyse the rights and obligations of mining workers in Indonesia based on the Manpower Law and other related regulations. The research method used is a literature study by collecting data from various sources, such as laws, government regulations, scientific journals, and news articles. The research results indicate that mining workers in Indonesia are entitled to several benefits, such as minimum wages, leave, social security, and occupational safety. However, in reality, many mining workers do not receive these rights. This is due to several factors, such as a lack of knowledge about their rights, weak law enforcement, and an uncondusive work culture.

**Keywords:** Workers, Non-Metallic Mineral and Rock Mining Workers, Law Enforcement

## 1. Introduction

Mining is a type of activity that involves the extraction of minerals and other mining materials from within the earth (Rochmaningrum, 2012). Mining is the process of extracting materials that can be extracted from within the earth (Puspitasari, 2022). A mine is the site where mining activities occur. Humans are an inseparable element from geography, as geography studies humans as subjects who occupy and utilise the earth reciprocally to develop better, considering not only the relationship between humans but also between humans and their physical environment (Rustam, 2018). After Law Number 11 of 1967 concerning Basic Provisions of Mining was replaced by Law Number 4 of 2009 of the Republic of Indonesia and subsequently replaced by Law Number 3 of 2020 on Mineral and Coal Mining, many changes have occurred, especially in large-scale or small-scale/community mining. According to Article 175, this law took effect on the date it was enacted. It was enacted in Jakarta on 12

January 2009 by the President of the Republic of Indonesia, Dr. H. Susilo Bambang Yudhoyono. This raises the question of the implementation of regulations. Article 174 of Law 4/2009 was replaced by Law Number 3 of 2020, enacted on 10 June 2020, which states that the implementing regulations of this law must be established within one year of the law's enactment.

The implementing regulations of this law are provided in Government Regulations (PP) and Regional Regulations, including:

- 1) Government Regulation Number 22 of 2010 concerning Mining Areas.
- 2) Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities.
- 3) Government Regulation Number 55 of 2010 concerning the Guidance and Supervision of Mineral and Coal Mining Business Management.

The implementing regulations of these PPs have been issued, including Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 24 of 2012 concerning Amendments to Regulation of the Minister of Energy and Mineral Resources Number 28 of 2009 concerning the Implementation of Mineral and Coal Mining Services Business. Additionally, Law 4/2009 mandates local governments to formulate Regional Regulations (Perda), as outlined in Articles 26, 72, and 143 of Law Number 4 of 2009 on Mineral and Coal Mining:

- 1) Article 26: Further provisions regarding the criteria and mechanism for establishing People's Mining Areas (WPR) are regulated by Regional Regulations of the Regency/City.
- 2) Article 72: Further provisions regarding the procedures for granting People's Mining Permits (IPR) are regulated by Regional Regulations of the Regency/City.
- 3) Article 143: Regents/Mayors provide guidance and supervision for community mining businesses. Further provisions regarding guidance and supervision of community mining are regulated by Regional Regulations of the Regency/City.

The administration of government affairs has been regulated in Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between the Government, Provincial Governments, and Regency/City Governments, stipulating what constitutes the central government, provincial, and regency/city governments' responsibilities in mining affairs as outlined in Appendix BB. In this appendix, the province handles the issuance of business permits for mineral, coal, and geothermal mining services enterprises in the context of PMA and PMDN across regencies/cities, while the regency/city handles the issuance of business permits for mineral, coal, and geothermal mining services enterprises within the regency/city. In the considerations of Law 4/2009, it states that minerals and coal are contained "within the mining jurisdiction of Indonesia..." (considerations, Law Number 3 of 2020 on Mineral and Coal Mining). In summary, if the community intends to conduct mining activities, they must obtain an IPR issued by the Regional Head, and the Regional Head, in granting the IPR, must base it on regional regulations concerning the criteria and mechanism for establishing People's Mining Areas. Article 1, paragraph 1 of Law 4/2009 states that mining is part or all of the stages of activities in the context of research, management, and exploitation of minerals or coal, including general investigation, exploration, feasibility study, construction, mining, processing and refining, transportation and sales, as well as post-mining activities. Thus, the above-mentioned activities of non-metallic mineral and rock mining are known as Category C Mining. Category C Mining refers to mining activities involving the excavation and extraction of materials typically used for construction, such as sand, stone, clay, and other non-metallic materials (Indrawati & Sari, 2022).

The right to work is enshrined in the Constitution of the Republic of Indonesia in Article 27, paragraph (2) of the 1945 Constitution, which states: "Every citizen has the right to work and to a humane livelihood." The obligation to work for a laborer is a primary condition for ensuring a decent life (Kahpi, 2018). One's needs are inseparable from the realities faced daily. Therefore, it is essential to enhance the sustainability and harmony in the relationship between workers and employers, where workers find shelter to work. In this context, the author addresses an issue related to a company engaged in Non-Metallic Mineral and Rock Mining, also known as Quarry Mining. The production from this mining is a primary factor supporting the National Development aspired by the Indonesian nation and the Unitary State of the Republic of Indonesia. The role of Quarry Mining entrepreneurs in Indonesia

is significantly linked to the National Development needs and has notably absorbed the workforce for employment in the company.

The regulations applied in Quarry Mining companies, regarding the obligations between workers and employers (company leaders), generally do not adhere to the Labour Law regulations. For instance, workers who have worked for one year are entitled to 12 days of leave with pay. However, in reality, the wage system for quarry workers in these companies is often only in line with what is considered reasonable and proper according to local community standards. For example, work hours are from 8.00 a.m. to 12.00 p.m., a break from 12.00 p.m. to 1.00 p.m., and work again from 1.00 p.m. to 4.00 p.m. The daily wage for permanent workers is IDR 100,000 (one hundred thousand rupiahs), and wages are paid every Saturday, amounting to IDR 600,000 (six hundred thousand rupiahs). Working days are six days a week, as Sunday is a day off. Therefore, the monthly wage for a worker is IDR 2,400,000 (two million four hundred thousand rupiahs), which is below the regional minimum wage (UMK) for West Java.

According to the Head of the West Java Provincial Manpower and Transmigration Office, Rachmat Taufik Garsadi, interviewed directly during the International Labour Day (May Day 2023) celebration in Bandung, the UMK for cities/regencies in West Java is as follows (direct interview with the Head of the West Java Provincial Manpower and Transmigration Office):

1. The UMK for 2016 was IDR 2,960,325 per month.
2. The UMK for 2017 was IDR 3,204,551 per month.
3. The predicted UMK for 2023 is IDR 5,176,179 per month.

Law Number 6 of 2023 is a revision of Law Number 11 of 2020 on Job Creation, which covers various aspects of employment, including freelance workers in the mining sector. The key points related to freelance workers in the mining sector under this law are:

1. **Employment Agreement:** Employment agreements for freelance workers must be made in writing and include clear terms of employment, such as the contract duration, job type, and wages.
2. **Wages and Welfare:** The wages of freelance workers must not be lower than the applicable minimum wage. Additionally, freelance workers are entitled to social welfare benefits such as health and occupational safety insurance.
3. **Occupational Safety and Health (K3):** Companies are required to provide K3 facilities and training for all workers, including freelance workers, to ensure a safe working environment.
4. **Working Hours and Rest:** Working hours for freelance workers must comply with applicable regulations, including the right to adequate rest and holidays as stipulated.
5. **Social Security:** Freelance workers are entitled to social security from BPJS Employment. Companies are obliged to register and pay BPJS contributions for freelance workers in accordance with the applicable regulations.
6. **Protection of Rights:** Freelance workers have the right to protection of their rights, including the right to file complaints if there are violations of their employment rights.
7. **Dispute Resolution:** Disputes between freelance workers and companies can be resolved through mechanisms stipulated in Law Number 2 of 2004 on Industrial Relations Dispute Settlement.

However, in reality, there are freelance workers in Indonesia, often referred to as daily freelance or non-permanent workers. These workers are regulated by several provisions in Law Number 13 of 2003 on Manpower and Law Number 11 of 2020 on Job Creation and its derivative regulations. Key points related to freelance workers under these laws include:

1. **Definition and Regulation:** Articles 56 and 59 of the Manpower Law: Freelance workers can be categorised as workers with a Fixed-Term Employment Agreement (PKWT). PKWT regulates temporary employment relationships for work that is temporary or one-time.
2. **Daily Freelance Employment Agreement:** Government Regulation Number 35 of 2021 (PP 35/2021): Articles 10 to 19 regulate PKWT, including daily freelance workers. Employment agreements for daily freelance workers must be made in writing and regulate the rights and obligations of both parties.
3. **Duration and Payment:**

- Daily freelance workers are usually employed based on daily needs and paid based on the number of working days or completed tasks.
  - Wage payments are made daily or according to the agreement stipulated in the employment contract.
4. Rights and Protection:
- Article 61 of the Manpower Law: Regulates the termination of employment agreements, including the rights of workers when the agreement ends.
  - Freelance workers are still entitled to wages in accordance with the applicable minimum wage and occupational safety and health protection (K3).
5. Social Security: Daily freelance workers are also entitled to be registered in the employment social security programme, such as BPJS Employment, in accordance with applicable regulations.
6. Flexibility and Termination of Employment: Daily freelance workers have flexibility in terms of duration and working hours but can also face easier termination of employment compared to permanent workers. Termination of employment must still follow the procedures stipulated in the law.

The Job Creation Law and its derivative regulations have also introduced several changes and adjustments related to fixed-term employment agreements and protections for freelance workers (Sitorus & Uwiyono, 2022). Based on the above, it is evident that companies engaged in mining activities are directed towards creating skilled and dynamic human resources, as well as fostering high social awareness and responsibility. This is seen as a key component of community performance participation, which should be enhanced, developed, and optimised in their role in regional development, particularly in the development of social welfare.

## 2. Method

This study is a Normative Juridical with a statutory approach, and the research material is supported by interviews.

## 3. Results and Discussion

### 3.1. Wage Regulation for Mining Workers in Indonesia

Wage regulation for mining workers in Indonesia is governed by several relevant laws and regulations, including:

- 1) Law No. 13 of 2003 on Labour: Establishes the rights of workers, including the right to fair wages. Workers are entitled to a minimum wage in accordance with the prevailing regulations in their region.
- 2) Government Regulation No. 51 of 2023 on Wages: Explains the mechanism for setting minimum wages, including for specific sectors such as mining. Wage determination can consider aspects such as productivity and living standards.
- 3) Ministerial Regulations from the Ministry of Energy and Mineral Resources: The relevant ministry may issue specific regulations for the mining sector, which include standards for occupational safety and worker welfare.
- 4) Collective Labour Agreements (CLA): In the mining sector, there are often CLAs between company management and labour unions that further regulate wages, allowances, and working conditions.
- 5) Standards for Additional Wages and Overtime: Mining workers who work overtime are entitled to overtime pay in accordance with prevailing regulations.
- 6) Welfare and Safety Aspects: Besides wages, mining workers are also entitled to social security, safety protection, and occupational health.

It is important to note that wage regulation in the mining sector can vary depending on the location, type of work, and company policies. It is always recommended to refer to official documents or applicable rules, including:

- 1) Law No. 11 of 1967 on Basic Provisions for Mining;
- 2) Law No. 13 of 2003 on Labour;
- 3) Law No. 6 of 2023 (Job Creation Law);
- 4) Law No. 32 of 2004 on Regional Government in conjunction with Law No. 12 of 2008 on the Second Amendment to Law No. 32 of 2004 on Regional Government;

- 5) Government Regulation No. 38 of 2007 on the Division of Government Affairs between the Government, Provincial Governments, and Regency/Municipal Governments;
- 6) Government Regulation No. 78 of 2015 on Wages;
- 7) Government Regulation No. 51 of 2023 on Wages;
- 8) Ministerial Regulation No. 38 of 2014 on Wages for Workers in the Energy and Mineral Resources Sector. This regulation stipulates fair wages for workers in the sector, including provisions on minimum wages, allowances, and other facilities that must be provided by mining companies to their workers.
- 9) Governor of West Java Decree No: 561.7/Kep.804-Kesra/2023 on the Minimum Wage for Regency/Municipal Areas in West Java Province;
- 10) Decree of the Regent of Bogor No. 500.15.14.1/681-DISNAKER on the Determination of the Minimum Wage for Bogor Regency.

Wage regulation for mining entrepreneurs in the regions of West Bandung Regency, Cianjur Regency, and Bogor Regency is principally the same and in accordance with the minimum wage (UMP) applicable in West Java Province. According to the Governor of West Java Decree No: 561.7/Kep.804-Kesra/2023, the minimum wage for 2024 is set at Rp. 4,579,541 per month (Interview with Rachmat Taufik Garsadi, Head of the Manpower and Transmigration Office of West Java Province, 1 May 2024). However, entrepreneurs often provide wages below the minimum wage.

According to the workers, they receive a daily wage of Rp. 150,000 without a meal allowance. This amounts to a monthly wage of Rp. 150,000 x 24 = Rp. 3,600,000. Therefore, these workers' earnings are still below the minimum wage applicable in West Java Province. This applies to daily casual workers, while regular workers should receive additional allowances and welfare benefits (holiday allowances) as well as medical expenses and be required to have BPJS cards.

The researcher refers to a Constitutional Court decision related to wage regulation for casual workers. The decision in question is Constitutional Court Decision No. 100/PUU-X/2021, which was announced on 19 September 2023. This decision examines Article 90 paragraph (1) and Article 91 paragraph (1) of Law No. 13 of 2003 on Labour.

The key points of the Constitutional Court decision are as follows:

- 1) Article 90 paragraph (1) of the Labour Law, which prohibits employers from paying wages lower than the minimum wage, remains applicable to casual workers.
- 2) Article 91 paragraph (1) of the Labour Law, which regulates wage agreements between employers and casual workers, cannot be interpreted to result in wages lower than the minimum wage.

The implications of this Constitutional Court decision are:

- 1) Casual workers are entitled to the minimum wage, just like permanent workers.
- 2) Wage agreements between employers and casual workers must not violate the right of casual workers to receive the minimum wage.

It is important to note that this Constitutional Court decision does not change the status of casual workers. Casual workers still do not have a continuous employment relationship with employers and do not receive other rights such as leave, health insurance, and severance pay.

- 1) This Constitutional Court decision is relatively new, and there are no specific laws governing the wages of casual workers.
- 2) There is still legal uncertainty regarding the interpretation and implementation of this Constitutional Court decision.
- 3) Clearer and more comprehensive laws are needed to regulate the wages of casual workers.

Wages for casual workers should comply with regulations, and there should be no discrimination regarding workers. All workers should be treated equally under labour laws.

In a comparative legal analysis of wages in Malaysia, the national minimum monthly wage in Malaysia is RM 1,500. When converted, this amounts to Rp. 5,244,287 (RM 1 = 3,496.19 IDR). According to the Ministry of

Human Resources in Kuala Lumpur, employers who compensate their employees or workers on an hourly basis must calculate the minimum wage at RM 7.21 per hour, and employers must pay wages through financial institutions and provide pay slips for each pay period.

In terms of receiving the minimum wage in Malaysia, certain workers such as domestic workers, miners, and informal or non-traditional workers may not be covered by the minimum wage regulations. However, as a member of the International Labour Organization (ILO), Malaysia adheres to the recommendation that domestic and freelance mining workers be paid a minimum wage without discrimination. ILO recommendations also include extending minimum wage protection to workers in the informal economy when they transition to formal employment. This includes non-standard employment, such as fixed-term contracts or part-time work. Although public sector employees are not covered by labour laws, administrative mechanisms ensure that they are paid at least the minimum wage (Interview with a Labour Officer in Kuala Lumpur, Ministry of Human Resources, Deputy Labour Commissioner. Noorsiaty Binti Nordin, Malaysia: 20 June 2024).

Given the above conditions, from the perspective of justice theory, laws and regulations must provide everyone with their rightful entitlements according to principles of justice. Justice demands equality in legal treatment for all individuals, as proposed by Gustav Radbruch, a renowned German jurist and philosopher known for his theory of justice. Radbruch's theory emphasises the importance of balancing positive law with more fundamental principles of justice (Damaitu, 2024). Radbruch expressed his views on justice through a concept known as the "Radbruch Formula." According to Gustav Radbruch, the theory of justice is as follows:

1) Main Elements of Radbruch's Theory of Justice

Three Fundamental Values of Law a. Justice: This principle emphasizes that the law must give everyone their due rights in accordance with the principle of justice. Justice requires equality in the legal treatment of all individuals. b. Utility: The law should be beneficial to the general welfare. It means the law should be designed in such a way that it provides maximum benefit to society as a whole. c. Legal Certainty: The law must provide certainty so that society knows what to expect and can plan its actions in accordance with the applicable law.

2) Radbruch Formula Radbruch developed the "Radbruch Formula," which became very famous in legal philosophy. This formula emerged in response to Radbruch's experience with the injustice of the Nazi regime in Germany. According to Radbruch, there are three main principles in law: a. Positive Law: Law made by legitimate authorities must be respected and obeyed because it provides legal certainty. Positive law is written law enacted by the state. b. Justice: If positive law is extremely contrary to principles of justice, then the law loses its legal force and need not be obeyed. Justice acts as a balance against positive law. c. Utility: Law must also consider the utility or benefits for society. The law should reflect the public interest and social welfare.

3) Conflict Between Law and Justice Radbruch stated that in situations where positive law is extremely contrary to justice, justice should be prioritized. This means that highly unjust laws should not be considered legitimate (Lago, 2023; Sudiyan, 2018). Radbruch argued that there are limits beyond which positive law must not override justice. Here are some key points from this view: a. Justice as the Highest Standard: When positive law blatantly contradicts justice, for instance, through the application of inhumane or discriminatory laws, such laws are not legitimate and need not be followed. b. Critique of Positivist Law: Radbruch criticized the positivist view that law should be followed without considering justice. He asserted that law should always be measured against fundamental principles of justice.

4) Application in Historical Context Radbruch developed his views on justice after witnessing the abuse of law during the Nazi regime in Germany. This experience reinforced his belief that law cannot be seen merely as a set of rules to be followed but must be evaluated based on higher values of justice.

5) Relevance of Radbruch's Theory Radbruch's theory of justice remains relevant in modern legal discussions, particularly in the context of human rights enforcement and resistance to unjust laws. This theory provides a basis for the argument that law must reflect fundamental justice and should not merely be a tool of power. Radbruch's theory of justice emphasizes that law must reflect justice, utility, and legal certainty. The Radbruch Formula teaches that in extreme cases where positive law contradicts principles of justice, justice must be prioritized. This theory critiques rigid legal positivism and emphasizes the importance of integrating moral values in the interpretation and application of law (Suryono, 2011).

Based on the above explanation, it appears that the regulation of mining workers' wages is not covered and discussed. The regulation of mining workers' wages in Indonesia still faces various challenges:

- a) Lack of law enforcement: Many mining companies do not comply with labor laws and safety regulations.
- b) Weak supervision: The government does not have enough labor inspectors to oversee all mining companies.
- c) Lack of legal awareness: Many mining workers are unaware of their rights and are afraid to sue companies that violate the law.

Efforts to enhance legal protection for mining workers in Indonesia include:

- a) Improving law enforcement: The government must be more assertive in dealing with mining companies that break the law.
- b) Strengthening supervision: The government needs to increase the number of labor inspectors and improve the quality of supervision.
- c) Increasing legal awareness: There needs to be socialization and education about workers' rights to mining workers.

Additionally, the following efforts should be made:

- a) Forming labor unions: Labor unions can assist workers in fighting for their rights and combating legal violations by companies.
- b) Enhancing the role of civil society: Civil society can help monitor mining companies and report legal violations to the authorities.

It is important to remember that wages in the mining sector can vary depending on location, job type, and company policy. Here are some important points related to mining workers' wages in Indonesia:

- a) Minimum wage: Mining workers are entitled to the minimum wage according to the applicable regulations in their area.
- b) Regulations of the Minister of Energy and Mineral Resources: The relevant ministry can issue special regulations for the mining sector, including work safety standards and worker welfare.
- c) Collective Labor Agreements (CLA): In the mining sector, there are often CLAs between company management and labor unions that further regulate wages, allowances, and working conditions.
- d) Standards for Additional Wages and Overtime: Mining workers who work overtime are entitled to overtime pay according to the applicable regulations.
- e) Welfare and Safety Aspects: In addition to wages, mining workers are also entitled to social security, safety protection, and occupational health.

The researcher refers to a Constitutional Court (MK) ruling regarding the wages of freelance workers. The ruling states that freelance workers are entitled to the minimum wage, just like permanent workers. In conclusion, the regulation of mining workers' wages in Indonesia still needs to be strengthened and enforced. Efforts to enhance legal protection for mining workers must be carried out continuously. Gustav Radbruch's theory of justice can serve as a reference in fighting for the rights of mining workers and ensuring they receive fair and decent wages.

### *3.2. Implementation of Legal Protection for Mining Workers in Indonesia*

The implementation of legal protection for mining workers in Indonesia is regulated by various laws and regulations, including:

- a) The 1945 Constitution of the Republic of Indonesia: Article 27, paragraph (2) and Article 28D, paragraphs (1) and (2)
- b) Law Number 13 of 2003 concerning Manpower
- c) Minister of Energy and Mineral Resources Regulation Number 26 of 2018 concerning the Implementation of Good Mining Practices and Mineral and Coal Supervision



- d) Minister of Manpower Regulation Number 18 of 2013 concerning the Guidance and Supervision of Occupational Safety and Health (OSH) in Mineral and Coal Mining Companies

However, the implementation of legal protection for mining workers in Indonesia still faces several challenges, including:

- a) Lack of law enforcement: Many mining companies do not comply with labour and occupational safety regulations.
- b) Weak supervision: The government lacks sufficient labour inspectors to oversee all mining companies.
- c) Lack of legal awareness: Many mining workers are unaware of their rights and are reluctant to take legal action against companies that violate the law.

Efforts to enhance legal protection for mining workers in Indonesia include:

- a) Strengthening law enforcement: The government must be stricter in taking action against mining companies that violate the law.
- b) Enhancing supervision: The government needs to increase the number of labour inspectors and improve the quality of supervision.
- c) Raising legal awareness: There needs to be more socialisation and education about workers' rights for mining workers.

Additionally, further efforts are needed, such as:

- a) Forming labour unions: Labour unions can assist workers in fighting for their rights and challenging legal violations by companies.
- b) Increasing the role of civil society: Civil society can help monitor mining companies and report legal violations to the authorities.

With these efforts, it is hoped that legal protection for mining workers in Indonesia can be improved and their rights can be well protected.

Regarding the legal protection of mining workers in the regions of West Bandung Regency, Cianjur Regency, and Bogor Regency, it is generally observed that all regulations set by the government as stipulated in the Labour Law have been adhered to and fully implemented by both employers and mining workers in these areas. This compliance creates a direct harmony between workers and employers, where both parties fulfill their obligations. Workers perform their duties from 08.00 a.m. to 12.00 p.m., take a break from 12.00 p.m. to 01.00 p.m., and then resume work from 01.00 p.m. to 04.00 p.m. If workers continue working past 04.00 p.m., this overtime work is counted and compensated accordingly. However, in practice, there are still discrepancies in adherence to existing regulations, and thus both companies and workers should comply with all regulations as stipulated in labour laws. This ensures that legal protection is mutually binding and respected by both workers and employers.

Based on the theory of Philipus M. Hadjon, an Indonesian legal expert known for his theory on legal protection for citizens, the concept is developed to provide theoretical and practical foundations for efforts to protect citizens' rights from arbitrary actions by authorities. Philipus M. Hadjon's theory of legal protection emphasises the importance of preventive and repressive mechanisms in protecting citizens' rights from arbitrary actions by authorities. By ensuring fair law, legal certainty, due process, and effective supervisory institutions, citizens can feel protected and have access to justice (Hadjon, 1987).

In comparison, the researcher examined the legal protection of workers in Malaysia. According to an interview with Noorsiati Binti Nordin, all workers in Malaysia are now protected under the Employment Act of 1955, thanks to amendments made in 2022. As a result, the Malaysian government, through the Ministry of Human Resources in Kuala Lumpur, created a website called Working For Workers (WFW). This digital channel serves all workers in Malaysia, including local and foreign workers, and functions as a platform for workers to file complaints regarding their welfare. This application is an initiative under the Malaysian government to ensure workers' rights and welfare are preserved. WFW also enables workers to use the appropriate medium to voice their grievances and dissatisfaction regarding labour issues affecting their welfare. Similarly, Indonesia has a digital complaint

platform for workers to understand wage regulations and labour issues, accessible via the link: <https://www.kemnaker.go.id>. However, many freelance mining workers are unaware of this digital system and reporting mechanism due to a lack of socialisation and information dissemination.

Based on the above explanation, the implementation of legal protection for mining workers in Indonesia can be summarised as follows:

The implementation of legal protection for mining workers in Indonesia is still suboptimal. Although there are existing laws and regulations governing the legal protection of mining workers, their implementation is hindered by several factors, such as:

- a) Lack of law enforcement: Many mining companies do not comply with labour and occupational safety regulations.
- b) Weak supervision: The government lacks sufficient labour inspectors to oversee all mining companies.
- c) Lack of legal awareness: Many mining workers are unaware of their rights and are reluctant to take legal action against companies that violate the law.

As a result of weak legal protection, many mining workers experience violations of their rights, such as:

- a) Low wages
- b) Long working hours
- c) Unsafe working conditions
- d) Lack of social and health security

Therefore, efforts must be made to improve the legal protection of mining workers in Indonesia, including:

- a) Strengthening law enforcement: The government must be stricter in taking action against mining companies that violate the law.
- b) Enhancing supervision: The government needs to increase the number of labour inspectors and improve the quality of supervision.
- c) Raising legal awareness: There needs to be more socialisation and education about workers' rights for mining workers.
- d) Forming labour unions: Labour unions can assist workers in fighting for their rights and challenging legal violations by companies.
- e) Increasing the role of civil society: Civil society can help monitor mining companies and report legal violations to the authorities.

By implementing these efforts, it is hoped that the legal protection for mining workers in Indonesia can be improved and their rights can be well protected. Furthermore, efforts should also be made to enhance the welfare of mining workers, such as:

- a) Increasing wages
- b) Reducing working hours
- c) Improving working conditions
- d) Providing better social and health security

By improving the welfare of mining workers, it is hoped that they can work better and more productively, thereby contributing more significantly to national development.

It is important to note that the legal protection of mining workers is a shared responsibility. The government, employers, and workers must work together to ensure that the rights of mining workers are well protected. In this way, it is hoped that mining workers can work safely, comfortably, and prosperously.

### *3.3. Reconstructing Wage Regulation for Mining Workers in Indonesia, Particularly in the West Java Region*

Freelance workers in the mining sector often face hazardous working conditions and low wages. Several factors contribute to this situation, such as:

1. The high-risk nature of the job, including accidents and exposure to dust and other hazardous materials.

2. Lack of labor regulations and supervision.
3. Weak organization and unions within this sector.

To address these issues, better regulation and wage systems for freelance mining workers are necessary. The following points are essential to consider:

Effective wage regulation for freelance workers in the mining sector (non-metallic minerals and rocks) requires a holistic and sustainable approach. Here are some steps to achieve fair and decent wage regulation:

- 1) **Setting Sectoral Minimum Wages**
  - a) The government can establish a sector-specific minimum wage for the mining sector that takes into account specific working conditions, living costs, and job risks. The sectoral minimum wage should be higher than the regional minimum wage due to the more strenuous and risky working conditions.
- 2) **Transparency and Legal Certainty**
  - a) **Clear Employment Contracts:** Every worker should have a written employment contract that clearly outlines their rights and obligations, including wage rates, work duration, and entitlement to benefits.
  - b) **Legal Protection:** The government must ensure regulations that protect freelance mining workers from exploitation and unfair practices.
- 3) **Fair Compensation**
  - a) **Overtime Pay:** Workers should receive fair compensation for additional or overtime hours according to labor regulations.
  - b) **Allowances and Incentives:** Introduce allowances for risky working conditions, such as health benefits, meal allowances, and performance incentives.
- 4) **Health and Safety at Work**
  - a) **Personal Protective Equipment (PPE):** Employers are required to provide and ensure the proper use of adequate PPE.
  - b) **Health and Safety Training:** Regular training programs on workplace safety and emergency procedures should be conducted for all workers.
  - c) **Work Accident Insurance:** Workers should be covered by work accident insurance, which includes medical costs and compensation for work-related accidents.
- 5) **Training and Capacity Development**
  - a) **Technical Training:** Provide regular technical training to enhance workers' skills.
  - b) **Career Development:** Offer clear career paths for freelance workers to become permanent employees or advance in their roles based on performance and work experience.
- 6) **Monitoring and Evaluation**
  - a) **Government Supervision:** Relevant government agencies must actively supervise and inspect to ensure compliance with labor regulations.
  - b) **Regular Reporting:** Companies should be required to report working conditions and regulatory compliance regularly.
- 7) **Worker Participation**
  - a) **Trade Unions:** Encourage the formation of trade unions or worker associations in the mining sector to advocate for their rights and interests.
  - b) **Social Dialogue:** Conduct regular social dialogues between workers, employers, and the government to discuss labor issues and find collective solutions.

#### Practical Implementation

- 1) **Policy Review:** Local governments, in collaboration with the Ministry of Manpower, should review and update existing labor policies in the mining sector.
- 2) **Empowering Labor Inspectors:** Increase the capacity and number of labor inspectors to ensure the implementation of regulations on the ground.
- 3) **Raising Awareness:** Campaigns to raise awareness about labor rights and the importance of workplace safety in the mining sector through media and training programs.

Effective wage regulation for freelance mining workers requires collaboration between the government, companies, and workers. Structured and sustainable steps will ensure better working conditions, fair wages, and adequate protection for workers in this sector.

According to W. Friedman's essential principles of Hans Kelsen's legal theory:

- 1) The goal of legal theory, like any science, is to reduce chaos and plurality to unity.
- 2) Legal theory is the science of valid law, not actual law.
- 3) Law is a normative science, not a natural science.
- 4) Legal theory, as a theory of norms, has nothing to do with the effectiveness of legal norms.
- 5) Legal theory is formal, a theory of arranging and changing content in a specific way. The relationship between legal theory and the specific system of positive law is a relationship of what is possible with actual law.

Indonesia is a state based on law, as stated in Article 1, Paragraph (3) of the 1945 Constitution. This article requires that governance be based on legal principles to limit government power, meaning the state's power through its apparatus is limited by law (*Rechtsstaat*), not based on power (*Machtsstaat*).

Article 1, Paragraph (3) of the 1945 Constitution states: "The State of Indonesia is a state of law." This assertion emphasizes that Indonesia is a country based on law. Consequently, all aspects of life in Indonesia must adhere to applicable law. This principle includes several important meanings:

- 1) Supremacy of Law: Law is the primary foundation and guideline in state administration.
- 2) Justice: Everyone is treated equally before the law, without discrimination.
- 3) Protection of Human Rights: Human rights are guaranteed and protected by law.
- 4) Public Trust: The public has confidence in the law and law enforcement officers.

Article 1, Paragraph (3) of the 1945 Constitution is a fundamental basis for Indonesia's legal system. Its consistent application is expected to achieve the Indonesian nation's goals of justice and welfare for all people.

Examining the opinions of constitutional law experts, Teguh Prasetyo suggests that formally, the term "state of law" can be equated with "*Rechtsstaat*" or "Rule of Law," as all these terms aim to avoid absolute power and emphasize the recognition and protection of human rights. In implementing laws related to mining workers in several mining companies located in West Bandung Regency, Bogor, and Cianjur, ten mining companies have been identified, and among these, the most reputable companies include PT. HOLCIM, PT. AQUARINDO, PT. LOTUS SG LESTARI, and PT. BSM (BINA SAMPURNA MAKMUR), located in Cipinang Village, Rumpin Subdistrict, Bogor Regency. In West Bandung Regency, the most reputable mining companies are PT. PUMARIN, PT. BATU RAYA, and PT. JAVA INDAH, located in Citatah Village, Cipatat Subdistrict, with neighboring companies including PT. BATU MAS MEKAR AGUNG, PT. BANDUNG MARMER, and PT. BUKIT ASHAR. In Cianjur Regency, the reputable mining companies in Cilaku Subdistrict include PT. Naga Mas, CV. Bunka Sarana Puri Cilaku, and CV. HGN, located in Cibinong Hilir Village, Cilaku Subdistrict, Cianjur Regency (field research results).

These mining companies operate under the supervision of the local labor office. All regulations in labor law are adhered to by both the mining companies and their workers. The companies use modern heavy equipment and primarily employ local villagers, except for specialized mechanics brought in from outside the region, often from Central Java. The workforce in companies such as PT. Holcim, PT. Aquarindo, PT. Lotus SG Lestari, and PT. Bina Sampurna Makmur in Rumpin Subdistrict, Bogor Regency, totals approximately 200 employees, including permanent, daily, and contract workers. Social benefits and minimum wages are better than the West Java provincial standard.

In Cipatat Subdistrict, West Bandung Regency, the total permanent workforce in mining companies is around 1,400, mostly graduates of junior and senior high schools. Other workers, totaling about 700, including freelance daily workers, are mostly elementary school graduates. Social benefits and minimum wages meet the West Java provincial standards, with basic salaries below the provincial minimum wage at around IDR 2,500,000 per month,

but with allowances and meal money, the total exceeds the provincial minimum wage (interviews with mining workers in Cipatat Subdistrict).

In Cianjur Regency, the mining workers in Cibinong Hilir Village, Cilaku Subdistrict, employed by PT Naga Mas, CV. Bunka Sarana Puri Cilaku, and CV. HGN, receives social benefits, but the minimum wage does not meet the West Java provincial standard. Daily wages range from IDR 60,000 to IDR 80,000, and monthly wages average IDR 2,500,000, below the provincial minimum wage. All workers in these three regencies are registered with the local labor office (interviews with both employers and subdistrict officials).

The working hours in these mining companies are 7 hours per day and 40 hours per week, with holidays on major holidays. Workers receive double pay for working on regular holidays and triple pay for working on major holidays (Eid al-Fitr), applicable only to permanent employees, not contract workers.

Wages are paid monthly on the first of each month, applicable to both permanent and freelance daily workers. The minimum monthly wage for freelance workers is IDR 2,500,000, while the maximum is IDR 5,176,179, depending on their tenure and skill level. The West Java provincial minimum wage for 2023 is IDR 5,176,179. Comparatively, mining companies in West Bandung Regency and Cianjur Regency do not meet the provincial minimum wage standards (interviews with mining workers in Bandung, Cianjur, and Bogor).

Work regulations include starting work at 08:00, a break at 12:00, resuming at 13:00, and finishing at 16:00. Thus, workers receive a one-hour break each day. If work extends beyond 16:00, the additional hours are considered overtime. During the break, workers receive a meal or a meal allowance of Rp. 15,000. If overtime exceeds three hours, workers receive another meal or an additional Rp. 15,000.

In these mining companies, there is no night work unless machinery malfunctions necessitate repairs to ensure smooth production. Employers also comply with safety obligations as recommended by the Ministry of Manpower, based on Work Safety Law No. 1 of 1970, Article 10, which promotes cooperation and understanding between employers and employees regarding workplace safety and health. Safety measures implemented by the mining companies include:

- 1) Availability of fire extinguishers.
- 2) Safety covers on all machine wheels to ensure secure operations.
- 3) Workers, operators, and others wear safety helmets, and masks are used in dusty areas to protect respiratory health.

While these mining companies adhere to some aspects of the labour law regarding safety and health, there are no concrete written agreements between workers and employers. Regulations are made unilaterally by the companies without a mutual agreement. Consequently, if workers take leave with permission, their wages are deducted according to the duration of their leave.

According to Government Regulation No. 8 of 1981, leave should be paid, but in these mining companies, the principle of “No work, no pay” is applied, except when a worker is ill, in which case medical expenses are covered up to a certain amount. This rule does not apply to daily casual workers, even if they have worked long term.

However, there is some leniency for daily casual workers; if they fall ill, they may borrow money for medical treatment, which is later deducted from their wages. If a worker passes away, the company waives the debt and provides a modest contribution for funeral expenses.

Moreover, in Rumpin Subdistrict, Bogor Regency, there are mining companies in the form of PT (limited companies) and CV (partnerships), as well as individual enterprises. The number of workers in these informal sectors is often higher than in legally incorporated companies. Their work is result-oriented, focusing on achieving the highest and most satisfactory outcomes without specific work limits (Interviews with mining workers in Ds. Cipinang Rumpin).

Based on the above, the following problems and solutions are identified: Problems:

- 1) Wages below the regional minimum wage: In some areas, such as Cianjur, mining workers' wages are still below the West Java provincial minimum wage.
- 2) Lack of employment contracts: Many mining workers do not have written employment contracts with their employers.
- 3) Contract work system: The contract work system in some areas does not guarantee a minimum wage for workers.
- 4) Insufficient oversight: Monitoring of labour practices in the mining sector is still weak.

Solutions:

- 1) Enforcing minimum wage regulations: The government needs to enforce the minimum wage regulations more strictly in the mining sector.
- 2) Creating employment contracts: Employers must provide written employment contracts to workers.
- 3) Implementing a fair wage system: The wage system should be fair and guarantee the minimum wage for workers.
- 4) Enhancing oversight: The government should improve monitoring of labour practices in the mining sector.

Comparison with Malaysia:

- 1) The Malaysian Employment Act (1955) covers all workers in Malaysia, including casual mining workers.
- 2) Labour laws in Malaysia do not apply in Sabah and Sarawak.

More serious efforts are needed to improve the legal protection and welfare of mining workers in West Java. Continuous efforts in law enforcement, creating employment contracts, implementing fair wage systems, and enhancing oversight are necessary.

#### **4. Conclusion**

In Indonesia, wage regulations for mining workers are not explicitly outlined in laws or regulations, leaving a gap in legal protections for these workers. It is important to note that wages in the mining sector can vary depending on location, job type, and company policy. Key points regarding mining workers' wages in Indonesia include the right to receive a minimum wage as per regional regulations, the potential for the Ministry of Energy and Mineral Resources to issue specific regulations covering work safety and worker welfare, and the existence of Collective Labour Agreements (PKB) between company management and workers' unions that further regulate wages, allowances, and working conditions. Additionally, mining workers who work overtime are entitled to overtime pay according to prevailing regulations, and they also have the right to social security, safety, and health protection. There is a Constitutional Court ruling affirming that casual workers are entitled to the same minimum wage as permanent workers. However, the implementation of legal protections for mining workers in Indonesia is still suboptimal due to factors such as lack of law enforcement, insufficient labour inspectors to monitor all mining companies, and low legal awareness among mining workers, who often do not know their rights and are hesitant to take action against non-compliant companies. As a result, many mining workers face issues such as low wages, long working hours, unsafe working conditions, and lack of social and health security. To enhance legal protections for mining workers in Indonesia, it is necessary to strengthen oversight by increasing the number of labour inspectors and improving the quality of inspections, raising legal awareness among workers through education and outreach, encouraging the formation of workers' unions to help advocate for workers' rights and combat legal violations, and increase the role of civil society in monitoring mining companies and reporting violations to authorities. Additionally, efforts should be made to improve the welfare of mining workers by increasing wages, reducing working hours, improving working conditions, and providing better social and health security. A suggested approach is to reconstruct wage regulations for mining workers in Indonesia, especially in West Java, by adopting regulations similar to those in Malaysia, where mining workers have their own specific regulations that ensure fairness. Therefore, it is recommended that each regional government in Indonesia amend its local regulations without altering the existing national laws.

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