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Minimum Wage Setting: A Comparison of Wage Formulation in Indonesia and Malaysia

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ABSTRACT
The enactment of wage regulations through Government Regulation (GR) No. 51 of 2023, as an amendment to GR No. 36 of 2021 concerning Wages, raises many different opinions. The government claims that GR No. 51 of 2023 is better than the existing wage regulations in terms of preventing gaps or disparities in minimum wages between regions, therefore the minimum wage of workers will certainly increase in the year 2024. Likewise, the GR No. 51 of 2023 will be the basis in determining the minimum wage for the year 2024 and beyond. Meanwhile, the opinion of workers in on the opposite, the new regulation has the potential to make workers unable to obtain a wage increase in the following year. As several articles contained in GR No. 51 of 2023 is unclear, there may be no increase in the minimum wage. This article aims to analyze the differences and similarities in the wage legal system applicable in Indonesia and Malaysia. Whether the regulations have been able to protect the rights of Indonesian workers, and how to formulate minimum wage setting that can provide protection and legal certainty for workers. This article is doctrinal legal research which by analyses and interpreting the applicable wage rules and regulations, particularly on the determination of the national minimum wage, and comparing them with the wage setting regulations applicable in Malaysia. Similarities and differences is examined in the minimum wage determination rules in Indonesia and Malaysia. It is found that there is a need for an effective regulatory framework that can adapt to the dynamics of the global economy while ensuring adequate protection for all workers.

KEYWORDS: Minimum Wage, Wage Setting Regulation, Labour Protection, Decent Work

1. Introduction

Wages are one of the essential elements in an employment relations, considering that the existence of wages is always associated with sources of income for workers to achieve a decent standard of living for themselves and their families. The dimensions of wage have a broad scope, both related to aspects of fulfilling the basic needs of workers, as well as those related to aspects of economic growth and expansion of employment opportunities. The direction of the wage system development policy emphasizes aspects of wage protection for workers to achieve welfare by considering the company's ability and national economic conditions. Minimum wages are the minimum standard used by employers and the industrial sector to provide wages to workers within their business or work environment.[1]

The government sets wage policies, one of which is to realize harmonious, dynamic, and equitable industrial relations. The wage policy includes, among others, the policy of setting the minimum wage by the governor every year and the policy of compiling and implementing the structure and scale of wages in companies. The enactment of Law No. 6 of 2023 concerning the Stipulation of Government Regulation in accordance with Law No. 2 of 2022 concerning Job Creation Law, has changed several wage provisions, especially related to the minimum wage. The main change in the minimum wage provisions is in the formula used to calculate the minimum wage. The Law No. 6 of 2023 stipulates that the formula for calculating

[1] Indra Riko Rosandi., et. al., "*Implementasi Peraturan Pemerintah Republik Indonesia Nomor 78 Tahun 2015 Tentang Pengupahan (Studi Kasus Penerapan Upah Minimum di Kota Samarinda)*", eJournal Ilmu Pemerintahan Volume 5, 3 (2017), pp. 1119-1130.

the minimum wage must take into account the variables of economic growth, inflation, and certain indexes. These three variables are intended to maintain the purchasing power of workers and on the other hand, can also provide opportunities for the business world to remain competitive. The implementation of the minimum wage is regulated in that it applies to workers with a work period of less than 1 (one) year at the company concerned. However, these provisions are not intended to close the possibility for workers with a work period of less than 1 (one) year who have certain qualifications required for a job position, to obtain sallary above the minimum wage.

Under the internationally recognised rules, the minimum wage is a form of protection provided by the state to workers as a social safety net so that workers' wages do not fall into the free market mechanism. In many international practices, minimum wages are generally made with two simple concepts, simply with provincial minimum wages or sectoral minimum wages. However, Indonesia introduced three forms these are: (a) provincial minimum wages; (b) district/municipality minimum wages; and (c) sectoral minimum wages with different wage amounts. After that, the minimum wage is allowed not to be implemented with the minimum wage delay mechanism, even with full requirements accompanied by evidence.

In general, wages must be able to guarantee a decent life for workers and their families.[2] Minimum wages should be a safety net determined by the government to ensure that workers and their families can live decently. On the other hand, there is a group of workers who are assumed to be unable to protect themselves, such as workers with low education, unskilled, contract workers, and those with work periods of less than one year. Thus, workers must not be paid below the minimum wage. It is the general rules of international human rights law that state has a duty to protect, respect and fulfill.

Unfortunately, the minimum wages concept in Indonesia is implemented in a complex way so that along the way there are many problems, it is difficult to comply with and is prone to deviation. Therefore, the presence of the state to protect these vulnerable parties is very important to realize a fair wage system. In addition, wage regulations must also be able to tackle the challenges the global dynamics and the transformation of information technology that have an impact in changing the social and economic conditions. This includes changes in the pattern of employment relations in the labor market. Therefore, wage regulations need to regulate several strategic issues, including the form of wages, wages for workers, minimum wages, and wages for workers in micro and small businesses.

The latest regulations on wages is the Government Regulation (GR) No. 51 of 2023 which amend the GR No. 36 of 2021 concerning Wages, was enacted and came into effect on November 10, 2023. This GR has raised many different perceptions, from the government, employers and workers. The government claims that GR No. 51 of 2023 is better than the existing wage regulations in terms of preventing gaps or disparities in minimum wages between regions therefore the minimum wage of workers will increase in 2024.[3] Likewise, GR No. 51 of 2023 is the basis for determining the minimum wage for 2024 and beyond. Meanwhile, the opinion of workers seems to be the opposite, according to a workers union leader, Said Iqbal, the new regulation has the potential to prevent workers from getting a wage increase in 2024. He further argues that the government's statement that the minimum wage

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[2] Arrista Trimaya, *Pemberlakuan Upah Minimum Dalam Sistem Pengupahan Nasional Untuk Meningkatkan Kesejahteraan Tenagakerja*, Jurnal Aspirasi Vol. 5 No. 1, Juni 2014.

[3] Ferry Sandi, *Aturan Upah Diubah, Kenapa Buruh Tetap Ancam Mogok Nasional? https://www.cnbcindonesia.com/news/20231113154110-4-488633/aturan-upah-diubah-kenapa-buruh-tetap-ancam-mogok-nasional*. Accessed August 10, 2024.

will certainly increase is a form of public lie, a number of articles contained in GR No. 51 of 2023, shows that increase in the minimum wage may be difficult.[4]

The ever-changing formulation policies implemented by the government and the pros and cons of the parties in industrial relations as described above in determining the minimum wage certainly have the potential to create uncertainty in determining the minimum wage for workers, which is a safety net in the labor market so that wages cannot be optimally implemented. Therefore, this article will compare the regulations applicable to the determination of the minimum wage in Malaysia to find differences and similarities in the variables used in determining the national minimum wage. It will also examine the advantages or benefits and disadvantages in determining and implementing the national minimum wage in both Indonesia and Malaysia.

2. Methodology

This article is carried out using normative legal research. It is research commonly carried out in the development of legal science which is generally also called dogmatic legal research. Legal science or legal dogmatic is a science whose scientific activities include activities to inventory, explain, interpret and systematise and also evaluate all positive laws that apply in a particular society or country using concepts, categories, theories, classifications, and methods that are formed and developed specifically to carry out all these activities, all of which are directed at preparing efforts to find legal solutions to the given legal problems that may occur in society.[5] Peter Marzuki stated that Legal Research is carried out to solve the legal issues faced. Therefore, the ability to identify legal problems, conduct legal reasoning, analyses the problems faced, and then provide solutions to the problems is needed.[6]

Statute approach, conceptual approach, and comparative approach. The statute approach is carried out by examining all laws and regulations related to the problem (legal issues) being faced, the conceptual approach starts from the views and doctrines that develop in legal science. By studying the views and doctrines in legal science, researchers will find ideas that give birth to legal concepts, legal concepts and legal principles that are relevant to the legal issues in this study, and the comparative approach, this approach is used to explore the background, variables used, and the objectives of the application and determination of the wage law system, especially in determining the minimum wage in force in Malaysia, then it will be compared with the wage determination regulations in force in Indonesia.

3. Minimum Wages Setting

3.1. Overview of Minimum Wages in Indonesia

Adam Smith, in *The Wealth of Nations*,[7] failed to put forward a definitive theory of wages, but he anticipated some of the theories developed by others. Smith argued that wages were determined in the market by the laws of supply and demand. Workers and employers

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4 *Ibid.*

5 Bernard Arief Sidharta," *Penelitian Hukum Normatif: Analisis Penelitian Filosofikal dan Dogmatikal*", Metode Penelitian Hukum konstelasi dan Refleksi, Yayasan Obor Indonesia, Jakarta 2009, p. 142.

6 Peter Mahmud Marzuki, *Penelitian Hukum Revised Edition,* Kencana Prenadamedia Group, Jakarta 2005, p. 60.

7 Adam Smith, 1776, *The Wealth of Nations*, work of Scottish economist and philosopher Adam Smith, first published in 1776, which became a foundational study in economic history and the first formulation of a comprehensive system of political economy.

would naturally follow their self-interest; labor would be attracted to the jobs where labor was most needed, and the resulting conditions of employment would ultimately benefit the society as a whole.

Although Smith discussed many elements that are important to employment, he did not provide a precise analysis of the supply and demand for labor, nor did he find them to be consistent theoretical patterns. However, he foreshadowed important developments in modern theory by arguing that the quality of workers' skills is a major determinant of economic progress. Furthermore, he noted that workers would need to be compensated with higher wages if they were to incur the costs of acquiring new skills. An assumption that is still held in contemporary human capital theory. Smith also believed that in the case of a developed country, wage rates would need to be higher than the subsistence level to spur population growth, since more people would be needed to fill the additional jobs created by a growing economy.

The minimum wage is the lowest amount of money that an employer is legally required to pay its workers and employees for their work. By the late 20th century, most countries had enacted laws to set minimum wages.[8] Because minimum wages increase labor costs, companies often try to get around these laws by hiring freelancers, moving labor to locations with lower or no minimum wages, or automating certain job functions.[9] Minimum wage policies can vary widely between countries, as well as within a country, with different regions, sectors, or age groups having their minimum wage rates. These variations are often influenced by factors such as cost of living, regional economic conditions, and industry-specific considerations.

The minimum wage movement was first motivated as a way to stop the exploitation of workers in exploitative factories by employers who were perceived to have unfair bargaining power over them. Over time, the minimum wage came to be seen as a way to help low-income families. The first modern national law enforcing compulsory union membership that set a minimum wage for its members was passed in New Zealand in 1894.[10] Although minimum wage laws now exist in many jurisdictions, there is disagreement about the benefits and drawbacks of minimum wages. In addition, minimum wage policies can be implemented through a variety of methods, such as setting a specific wage rate, establishing a formula that adjusts the minimum wage based on economic indicators or having a wage board that sets the minimum wage in consultation with representatives from employers, workers, and the Government.

The supply and demand model suggests that minimum wages can lead to job losses. However, they can improve labor market efficiency in scenarios where individual employers have wage-setting power over the market (monopsony). There are two perceptions about minimum wages: those in favor of minimum wages and those against minimum wages. Proponents of minimum wages argue that minimum wages improve workers' living standards, reduce poverty and inequality, and boost morale. Opponents, on the other hand, claim that minimum wages increase poverty and unemployment because some low-wage workers may have difficulty finding work and end up unemployed. While minimum wages are typically set through legislation mandated by a central authority in a given country, it is important to

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8 ILO 2006, Minimum Wage Policy, from the original on 29 December 2009.

9 Larsson, Anthony; Teigland, Robin (2020). *The Digital Transformation of Labor: Automation, The Gig Economy and Welfare,* Routledge, London: Routledge Studies in Labor Economics.

10 Sophie Bateman, *A brief history of the minimum wage in New Zealand* ". *Newshub*. https://www.stuff.co.nz/money/350599471/a-brief-history-of-the-minimum-wage-in-new -Zealand. Accessed 19 July 2024.

recognize that these wages are usually determined through a political process, rather than data-driven judgment. While some data can inform these decisions to some extent, they primarily reflect political considerations, rather than a comprehensive understanding of the true cost of living. As a result, these minimum wages tend to be lower and often fail to meet the thresholds necessary to maintain a decent standard of living for households.

In 2023, the Government issued GR No. 51 of 2023 which amends GR No. 36 of 2021 concerning Wages. One of the objectives of establishing this regulation is to realize harmonious, dynamic, and equitable industrial relations. The wage policy includes, among others, the policy of setting minimum wages by the governor every year and the policy of compiling and implementing the structure and scale of wages in companies. The enactment of Law Number 6 of 2023 concerning the Stipulation of Law Number 2 of 2022 concerning Job Creation into Law[11] has changed several wage provisions, especially those related to minimum wages. The main change in the minimum wage provisions is the formula used to calculate the minimum wage. Law Number 6 of 2023 stipulates that the formula for calculating the minimum wage which takes into account the variables of economic growth, inflation, and certain indexes. The Government claims that these three variables can maintain the purchasing power of workers and on the other hand can also provide opportunities for the business world to remain competitive.

The implementation of the minimum wage is regulated to apply to workers with a work period of less than 1 (one) year at the company concerned. However, this provision is not intended to close opportunities for workers with a work period of less than 1 (one) year who have certain qualifications required in a job, or position so that they get wages above the minimum wage. Some of the considerations of the Government in issuing this regulation include:

1. To implement the provisions of Article 88C and Article 88D of Law No. 6 of 2023 concerning Stipulation of Law No. 2 of 2022 concerning Job Creation Law, it is necessary to make changes to the provisions on the minimum wage.
2. to maintain the purchasing power of workers and national economic stability, and to consider the dynamics of industrial relations development.
3. The provisions regarding minimum wages as regulated in GR No. 36 of 2021 concerning Wages need to be changed.
4. In addition to the above, considering the current developments and along with the formation of several new regions and the development of the Indonesian Capital City Nusantara, and to accommodate regions that do not yet have a minimum wage and will determine a minimum wage. Therefore, there is a need for laws and regulations that serve as the legal basis for government policy in calculating, determining, and implementing minimum wages in these regions.

Referring to Article 1 of GR No. 51 of 2023 which amends Article 25 of the GR No. 36 of 2021 concerning Wages, the minimum wage consists of the provincial minimum wage and the district/city minimum wage with certain conditions. According to the Ministry of Manpower and Transmigration, the minimum wage in Indonesia increased to IDR 5.07 million/month in 2024 from IDR 4.90 million/month in 2023. The Minimum Wage in Indonesia is averaged at IDR 3.56 million/month from year 2012 to 2024, reaching an all-time high of IDR 5.07 million/month in 2024 and a record low of IDR 1.68 million/month in 2012. Likewise, minimum wages in Indonesia increased to 5.40 IDR Million/Month in 2025 from 5.07 IDR Million/Month

[11] See General Explanation, Government Regulation No. 51 of 2023.

in 2024. Minimum Wages in Indonesia averaged 3.69 IDR Million/Month from 2012 until 2025, reaching an all-time high of 5.40 IDR Million/Month in 2025.[12]

The following is a list of the 2024 UMP in all provinces in Indonesia along with their increases:

No	Province	Percentage Increase	Amount of Increase (IDR)
1	Aceh	1.38 percent	From IDR3,413,666 to IDR3,460,672
2	North Sumatra	3.67 percent	From IDR2,710,493 to IDR2,809,915
3	West Sumatra	2.74 percent	From IDR2,742,476 to IDR2,811,449
4	Riau islands	3.76 percent	From IDR3,279,194 to IDR3,402,492
5	Bangka Belitung	4.04 percent	From IDR3,498,479 to IDR3,640,000
6	Riau	3.2 percent	From IDR3,191,662 to IDR3,294,625
7	Bengkulu	3.38 percent	From IDR2,418,280 to IDR2,507,079
8	South Sumatra	1.55 percent	From IDR3,404,177 to IDR3,456,874
9	Jambi	3.2 percent	From IDR2,943,000 to IDR3,037,121
10	Lampung	3.16 percent	From IDR2,633,284 to IDR2,716,497
11	Banten	2.5 percent	From IDR2,661,280 to IDR2,727,812
12	Jakarta	3.8 percent	From IDR4,900,798 to IDR5,067,381
13	West Java	3.57 percent	From IDR1,986,670 to IDR2,057,495.
14	Central Java	4.02 percent	From IDR1,958,169 to IDR2,036,947
15	Special Region of Yogyakarta	7.27 percent	From IDR1,981,782 to IDR2,125,897
16	East Java	6.13 percent	From IDR2,040,244 to IDR2,165,244
17	Bali	3.68 percent	From IDR2,713,672 to IDR2,813,672
18	West Nusa Tenggara	3.06 percent	From IDR2,371,407 to IDR2,444,067
19	East Nusa Tenggara	2.96 percent	From IDR2,123,994 to IDR2,186,826
20	West Kalimantan	3.6 percent	From IDR2,608,601 to IDR2,702,616
21	Central Kalimantan	2.53 percent	From IDR3,181,013 to IDR3,261,616
22	South Kalimantan	4.22 percent	From IDR3,149,977 to IDR3,282,812

[12] Trading Economics, “Indonesia Minimum Monthly Wages”, <https://tradingeconomics.com/indonesia/minimum-wages>. Accessed 12 January 2025.

23	East Kalimantan	4.98 percent	From IDR3,201,396 to IDR3,360,858
24	North Kalimantan	3.38 percent	From IDR3,251,702 to IDR3,361,653
25	Central Sulawesi	5.28 percent	From IDR2,599,546 to IDR2,736,698
26	Southeast Sulawesi	4.6 percent	From IDR2,758,984 to IDR2,885,964
27	North Sulawesi	1.67 percent	From IDR3,485,000 to IDR3,545,000
28	South Sulawesi	1.45 percent	From IDR3,385,145 to IDR3,434,298
29	Gorontalo	1.19 percent	From IDR2,989,350 to IDR3,025,100
30	West Sulawesi	1.5 percent	From IDR2,871,794 to IDR2,914,958
31	Maluku	4.88 percent	From IDR2,812,827 to IDR2,949,953
32	North Maluku	7.5 percent	From IDR2,976,720 to IDR3,200,000
33	Papua	4.14 percent	From IDR3,864,696 to IDR4,024,270
34	West Papua	3.38 percent	From IDR3,282,000 to IDR3,393,000
35	Central Papua	4.13 percent	from IDR3,864,700 to IDR4,024,270
36	Papua Mountains	4.14 percent	From IDR3,864,696 to IDR4,024,270
37	Southwest Papua	4.14 percent	From IDR3,864,696 to IDR4,024,270
38	South Papua	4.14 percent	From IDR3,864,696 to IDR4,024,270

Source: CNN Indonesia[13]

3.2. Minimum Wage Variables and Formulation under GR No. 36 of 2021

GR No. 36 of 2021 concerning Wages as a derivative of Law Number 11 of 2020 concerning Job Creation, has changed the formula for calculating the minimum wage which applicable in year 2021. Previously, the regulation used was GR No. 78 of 2015 concerning Wages, which in accordance with the Law Number 13 of 2003 concerning Manpower. Then the government and the National Wage Council set the minimum wage starting in 2022, using the newest wage provisions stipulated in the Job Creation Law. The regulation used as a reference in compiling the 2022 minimum wage is GR No. 36 of 2021 concerning Wages as a derivative of Law Number 11 of 2020 concerning Job Creation.

The main objective of the government in regulating minimum wage policy is to improve workers' welfare. The government periodically adjusts the increase in minimum wage to reflect changes in employment opportunities, worker productivity, and per capita determination. Since the implementation of the era of decentralization and regional autonomy in 2001, local governments have been given the authority to determine the level of Provincial Minimum Wage (PMW). UMP and city minimum wage tend to show *a trend of* increasing UMP value which is quite significant. This policy on the one hand has improved workers' welfare, but on the other hand can also reduce the level of employment opportunities, especially in the formal

[13] CNN Indonesia, "Daftar Lengkap UMP 2024 di 38 Provinsi", <https://www.cnnindonesia.com/edukasi/20231124121146-561-1028435/daftar-lengkap-ump-2024-di-38-provinsi>. Accessed 4 January 2024.

sector of industry. This can hamper the prospects for growth in labor absorption in the long term.

Referring to the Regulation of the Minister of Manpower No. 15 of 2018 concerning Minimum Wage, Minimum Wage is the lowest monthly wage in the form of wages without allowances or basic wages including fixed allowances set by the governor as a safety net. In GR No. 36 of 2021, the minimum wage is the lowest monthly wage, namely:

a. Wages without allowances; or
b. Basic wages and fixed allowances.

This minimum wage applies to workers with a work period of less than 1 (one) year at the Company concerned. If the worker has a work period of one year or more than 1 year, the minimum wage refers to the wage structure and scale. In terms of the components of the Wage in the Company consisting of Basic Wage and non-fixed allowances, the Basic Wage is at least the Minimum Wage. However, in essence, the Employer as an employer is prohibited from paying Wages lower than the Minimum Wage.

There are two types of Minimum Wages, these are:

1. Provincial minimum wage. Provincial minimum wage is determined based on economic and employment conditions. Economic conditions or economic growth and employment data as referred to include variables such as purchasing power parity; labor absorption rate; and median wages, which are sourced from authorized institutions in the field of statistics.
2. District/city minimum wages. It is determined with certain conditions, including regional economic growth or inflation in the district/city concerned.

The adjustment of the minimum wage value is carried out annually. The adjustment of the minimum wage value is set at a certain range of values between the upper and lower limits of the minimum wage in the relevant region. It is stated in Article 26 paragraphs (3), (4), and (5) explaining the following:

1. The upper limit of the minimum wage as referred to is a reference for the highest minimum wage value that can be set and calculated using the following formula:
   a. UM = minimum wages;
   b. The upper limit of UMt = Average consumption per capita (t) x Average number of household members (t);
   c. Average number of household workers working in each household (t).
2. The lower limit of the minimum wage is a reference for the lowest minimum wage value that can be set and calculated using the following formula:
   a. Lower limit of UM(t) = Upper limit of UM(t) x 50%;
   b. The minimum wage value is calculated based on the minimum wage adjustment formula as follows:
      $UM_{(t+1)} = UM_{(t)} + \{Max(PE_{(t)}, Inflation_{(t)}) x (Upper\ limit_{(t)} - UM_{(t)} / Upper\ limit_{(t)} - Lower\ limit_{(t)}) \times UM_{(t)}\}$

Average per capita consumption, average number of household members, and average number of household members working in each household using data in the relevant region sourced from authorized institutions in the field of statistics. The value of economic growth or inflation used in the formula for adjusting the minimum wage value is the value of economic growth or inflation at the provincial level. Explanations of the terms and symbols used as the formula for calculating the above wages can be found in the general explanation of the GR No. 36 of 2021 concerning Wages.

3.3. Minimum Wage Variables and Formulation under GR No. 51 of 2023

The main objective of the government in regulating minimum wage policy is to improve workers' welfare. The government periodically adjusts the increase in the minimum wage to reflect changes in the level of employment opportunities, worker productivity, and per capita determination. Since the implementation of the era of decentralization and regional autonomy in 2001, local governments have been given the authority to determine the level of the provincial minimum wage (PMW). There is a trend to show that PMW is increasing quite significantly.

On the one hand, this policy has improved workers' welfare, but on the other hand, it can also reduce the level of employment opportunities, especially in the formal sector of industry. This situation may hinder the prospects for growth in labor absorption in the long term.[14] Through GR No. 51 of 2023, the government has prepared a new formula regarding the latest minimum wage using three variables: Inflation, Economic Growth, and Certain Index (as symbolized with α). The Certain Index is determined by the Regional Wage Council by considering the level of labor absorption and the average/median wage. In addition, other factors that are relevant to employment conditions are taken into consideration.

Article 26 paragraph (4) of the GR No. 51 of 2023 explains that the formula for calculating the minimum wage is UM (t+1) = UM (t) + Adjustment Value UM(t+1). Please note, that UM (t+1) is the minimum wage to be set, while UM (t) is the minimum wage for the current year. The minimum wage adjustment value stated in the minimum wage calculation formula is calculated as follows: Adjustment Value UM(t+1) = {Inflation + (PE x α)} x UM (t). The symbol α in question is a variable that represents the contribution of labor to the economic growth of a province or district/city, in the range of values 0.10 to 0.30.

Article 26 paragraph (9) of the GR No. 51 of 2023 explains that if the minimum wage adjustment value is less than or equal to 0 (zero), the minimum wage that will be set is the same as the current year's minimum wage. Meanwhile, Article 26 A paragraph (5) explains that if economic growth is negative, the following year's minimum wage value is set equal to the current year's minimum wage value. On this basis, ensuring that the minimum wage will not decrease but will instead increase every year unless the economic situation is under pressure or negative, then the following year's minimum wage will not increase but will not decrease either, meaning it is the same as the value or amount of the minimum wage in the current year.[15]

There are several differences in the formulation of determining the minimum wage from that previously stipulated in GR No. 36 of 2021 concerning Wages. Article 26 paragraph (2) of GR No. 36 of 2021 explains that the adjustment of the minimum wage value set in a certain range of values between the upper and lower limits of the minimum wage in the relevant region. The upper limit of the minimum wage is a reference for the highest minimum wage value that can be set and calculated using the formula stipulated in Article 26 paragraph 3. Meanwhile, the lower limit is a reference for the lowest minimum wage value that can be set and calculated using the formula stipulated in Article 26 paragraph 4.

Similar to GR No. 51 of 2023, economic growth and inflation have indeed been used as a formula for determining the minimum wage as stated in Article 26 paragraph 5. However, these variables are not the main variables because they are adjusted to the upper and lower

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[14] Lalu Hadi Adha, 2022, *Dinamika Hukum Ketenagakerjaan Di Indonesia*, Pustaka Bangsa, Mataram NTB.

[15] Statement by Indah Anggoro Putri, Director General of Industrial Relations and Social Security Development of the Ministry of Manpower, <https://www.bloombergtechnoz.com/detail-news/20611/bedah-rumus-baru-upah-buruh-ump-2024-tak-dijamin-selalu-naik>.

limits of the minimum wage. Thus, the difference between determining the minimum wage is the use of different variables, where the GR No. 51 of 2023 uses 3 variables, namely Inflation, Economic Growth, and Certain Indexes (symbolized in the form of α). Meanwhile, the variables in GR No. 36 of 2021 are adjustments to the minimum wage value set at a certain range of values between the upper and lower limits of the minimum wage in the relevant region by considering economic growth and inflation.

The purpose of minimum wages is to protect workers from excessively low wages. Minimum wages help ensure a fair and equitable distribution of the fruits of progress for all and a minimum living wage for all those who work and need that protection. Minimum wages can also be one element of a policy to address poverty and reduce inequality, including between men and women. Minimum wage systems should be established and designed in such a way as to complement and strengthen other social and employment policies, including collective bargaining, which are used to set terms of employment and working conditions. Historically, the purpose of minimum wages has evolved from a policy tool used selectively in a few low-wage sectors to an instrument with a much broader scope.

3.4. Minimum Wage Variables and Formulation in Malaysia

The main legislation relating to minimum wages in Malaysia is *the National Wage Consultative Council Act 2011* (Act 732), Minimum Wage Order 2022. Malaysia's minimum wage policy is determined under the National Wage Consultative Council Act 2011 (Act 732). There is a tripartite body called the National Wage Consultative Council which is established to recommend minimum wage levels to the government and after approval by the government, the Minister of Human Resources makes a minimum wage order. The criteria for determining the minimum wage are divided into two, namely *basic criteria and adjustments*. Basic criteria include *Poverty Line Income* (PLI) and *Median Wage*, while adjustment criteria include changes *in the Consumer Price Index* (CPI), *Productivity Growth* (P), and *Real Unemployment Rate* (UE).

There are several definitions on wages under the laws. Wages are defined under the Employment Act of 1955 as “basic wages and all other cash payments payable to an employee for work done in connection with his service contract”. Certain exceptions apply like wages do not include the value of house accommodation, traveling allowance, gratuity, annual bonus, etc. Wages have different meanings under different Acts and hence different explanations of wages are found under *the Employees Provident Fund Act,* 1991. Wages have different scopes under different Employment Acts, 1955*,* which means basic wages and all other cash payments payable to an employee for work done in connection with his service contract. The word wages have different references and purposes under the Employment Act 1955. Employment regulations in Malaysia are primarily governed by the Employment Act 1955. This Act oversees various aspects of employment, including working hours, holidays, rest periods, wages, overtime, and other employment provisions.

The 1955 Manpower Act also contains several regulations and laws regarding the payment of wages. The law stipulates that the period of wages shall not exceed one month and even when the employment contract (referred to as a service contract under the law) does not specify the period of wages, the period shall be deemed to be one month. The law allows employers to pay 7 days after the last day of the wage period and any wages for work done on rest days, public holidays and overtime shall be paid no later than the last day of the next wage period. If the Director General of Manpower is satisfied that payment within the said period cannot be made reasonably, then at the request of the employer, he may extend the payment period for as many days as he deems necessary.

Under *the National Wage Consultative Council Act* 2011, the Malaysian government reviews the minimum wage every two years to ensure that it remains fair and appropriate. Since the last minimum wage order was issued in 2022, the next review is expected to be conducted in June 2024. In addition, in November 2023, the Malaysian Minister of Economy also proposed a progressive wage policy where wage increases will be linked to the acquisition of new skills and productivity levels. A pilot program for this will begin in June 2024 and 1,000 companies will participate in the program. The Malaysian government reviews the minimum wage at least once every two years. The positive impact of implementing the minimum wage policy is expected to be healthy for the Malaysian economy.[16]

Malaysia's proposed Progressive *Wage* Policy (PWP) is being piloted with 1,000 employers from June to September 2024. The Malaysian government hopes to spend up to MYR5 billion in wage subsidies. This section briefly outlines the core elements of the PWP and how they compare to Singapore's Progressive Wage Model (PWM). One notable difference is the stricter enforcement with lower coverage in Singapore, where the PWM is mandatory in certain occupations in designated sectors. In contrast, Malaysia will start voluntarily, with micro, small, and medium enterprises (MSMEs) in any eligible sector eligible to participate. While the PWM operates without a minimum wage in Singapore, Malaysia will implement the PWP in conjunction with a minimum wage. Job specifications, training requirements, and appropriate minimum wages have been developed in greater detail in Singapore, while Malaysia only generally stipulates that employers must provide formal training programs for their workers. Citizenship or residency requirements are clearly defined: progressive wage schemes in both countries restrict beneficiaries to citizens only. Singapore also includes permanent residents, adding an advisory note: "Employers are encouraged to adopt PWM principles for their foreign workers by upgrading their skills and implementing productivity-based wage progression pathways.

The following table shows the adjustment of Malaysia's minimum wage from 2016 to 2023:[17]

Year	Minimum Wage Level (Monthly)
January 1, 2023	All States; RM 1,500
May 1, 2022	Business in Big Cities with 5+ Employees; RM 1,500
2019 and 2020	Rural Area; RM 1,100 Major Cities RM 1,200
2018	All States RM 1,050
2016-2017	Elsewhere; RM920 Peninsular Malaysia; RM. 1,000

Effective as of January 1, 2023, the national minimum wage in Malaysia for private sector employees is RM1,500 per month or RM7.21 per hour. This wage applies to all employees nationwide, regardless of their location or industry. The Minimum Wage Order 2022 introduced this new rate, which is a significant increase from the previous minimum wage of RM1,200 in major cities and RM1,100 in other areas. The minimum wage for employees paid daily varies, depending on the number of working days per week. Then Starting February 1, 2025, Malaysia will increase the national minimum wage from RM1,500 to RM1,700 per

[16] Siti Marshita Binti Mahyu, *Minimum Wage In Malaysia: The Challenge On The Implementation Of The Law*, International Journal of Business, Economics and Law, Vol. 3, Issue 3 (December).

[17] Winnie Lu, *Unveiling Malaysia's Minimum Wages: All You Need to Know Before 2025,* https://www.swingvy.com/blog-my/minimum-wage-in-malaysia. Accessed August 20, 2024.

month. This new minimum wage will apply to all workers without discrimination based on nationality, race, or gender for expatriate workers working in the private sector but excluding domestic workers and workers on internship contracts. This change was declared by Prime Minister Datuk Seri Anwar Ibrahim when presenting Budget 2025 to meet the cost of living and economic needs of workers across the country.[18]

Here is a brief overview of the daily minimum wage for employees in Malaysia based on working days per week:[19]

Working Days per Week	Daily Minimum Wage (RM / US$*)
6 days	RM57.69 / $12.17
5 days	RM69.23 / $14.61
4 days	RM86.54 / $18.26

The minimum wage in Malaysia is reviewed by the government every two years. This means there's a potential for an increase (or adjustment) at least biennially. The review process considers various factors, including:

1. Cost of living: Rising inflation and living expenses can prompt the government to raise the minimum wage to ensure workers can afford necessities.
2. Economic conditions: Overall economic growth and business sustainability are also factored in. The government aims to find a balance that protects workers while not hindering business development.
3. National Wages Consultative Council (NWCC): This council, established by law, plays a crucial role in advising the government on minimum wage revisions. They gather data and hold consultations with various stakeholders such as employers and worker unions.[20]

If a fixed-term service contract ends or if a service contract for an indefinite period is terminated due to notice by one of the parties, wages must be paid no later than the day of termination of the contract. Wages must also be paid on the last date of work if the employer terminates the contract by paying wages instead of notice, breach of contract by the employee, or dismissal due to misconduct. Meanwhile, if the contract is terminated by the employee by paying wages instead of notice, without notice due to default, and if the dependent is subject to violence or illness not mentioned in the contract, then wages are not paid no later than the third day after termination. Meanwhile, for the payment of wages, several payment periods apply in different circumstances at the time of termination of the contract:

Payment Period	Condition
One month	Normal cycle wage period. The service contract must specify the wage period or if not, must not exceed one month.
One Month and an additional 7 days	Employers have an additional 7 days to pay monthly salaries.
In the next month	The relevance of the additional period of 1 month for payment of wages about

[18] Hong Yuan, *Malaysia Minimum Wages Increase to RM1,700 from Feb 2025, https://www.ajobthing.com/resources/blog/malaysia-minimum-wages-increase-to-rm1700.*

[19] Sohaib Arshad , *A Guide to Minimum Wage in Malaysia in 2024* https://recruitgo.com/blog/minimum-wage-in-malaysia/ . Accessed August 18, 2024.

[20] Hong Yuan, *Op. cit.*

	overtime pay, rest day pay, and holiday pay.
On the day of the Termination of the Contract	A fixed-term service contract ends or a fixed-term service contract is terminated upon notice by either party.
On the last day of work	This applies when an employer terminates a service contract in certain cases such as: - Paying salary instead of notice for breach of contract by workers/employees. - Dismissal due to violation.
No later than 3 days after the employment contract is terminated	This applies when workers and employees terminate their service contracts if: - Paying salary instead of notice due to breach of contract by the employer. - When violence or exposure to diseases not mentioned in the Contract occurs.

The Malaysian Employment Act has detailed instructions regarding deductions from employees' wages. It lays down the general rule that no deductions may be made by an employer from an employee's wages other than by the Employment Act. It then sets out the conditions under which an employer may make lawful deductions such as deductions for excess payments, deductions for damages due to the employer, deductions for the return of advances without interest, and certain conditions under which deductions may not be made except upon request within 7 days in writing to the employee, payments to a registered trade union, payments for any shares in the employer's business, payments into an employee's pension or welfare scheme, payments for the recovery of advances with interest, payments for accommodation and meals, etc. Generally, employers are not permitted to make deductions from employees' wages. The exceptions are lawful deductions and at the request of the employee after obtaining approval from the Director General of Taxation. Specifically, this refers to:

1. Legitimate deductions
2. Excess payment of wages
3. Workers or employees resign without giving notice.
4. Recovering the advance without interest This means that the employer has given a lawful advance, he can get it back without interest on the advance.
5. Legally valid deductions. That is, EPF, SOCSO, and Income Tax deductions, court orders under the Married Women and Children Act, 1968.
6. At the employee's request with DGL approval
7. Any reduction in funds, employee benefit schemes, namely, private savings funds.
8. Loans given to employees that are subject to interest, namely, car loans by employers and are subject to interest, installments can be deducted.
9. Payment to a third party on behalf of the employer, namely the employer pays a third party for the purchase of an employee's car.
10. Payment for the purchase of goods by the employer, namely a tire manufacturing company, makes deductions in connection with the tires purchased by its employees.

11. Rental accommodation and food and meal costs provided by the employer at the employee's request or service contract, namely additional house rent payments from the employee because the rental price is greater than that stated in the contract.

In addition to the above deductions, employers can only make deductions if the employer submits an application to the Directorate General of Taxes and has received approval. The law states that the amount of deductions in one month may not exceed 50% of the salary in that month. Employers are only allowed to provide loans of more than one month's salary if necessary or concerning matters such as:

1. Buy, build, renovate house/land.
2. Buying a car, motorbike, or bicycle.
3. Buying shares in the employer's business.
4. Allows employees to purchase computers.
5. Payment of medical expenses for employees/close family.
6. Payment of daily expenses pending receipt of temporary disability under the SOCSO Act.
7. Payment of educational expenses for yourself or immediate family members.

Employers are required to provide each employee with a pay slip (containing details of wages and other benefits received during each pay period as specified in the *Employment Act 1957* or before the date of payment of wages.

4. Conclusion

Contemporary minimum wage regulations aim to balance worker welfare and economic competitiveness. Recent adjustments in Indonesia's minimum wage policy reflect ongoing efforts to improve living standards while addressing the complexities of labor market dynamics. The government's evolving wage policy aims to build equitable and dynamic industrial relations, but recent changes in the minimum wage calculation formula have raised concerns about potential uncertainty and disparities in wage determination, particularly among vulnerable workers. This situation underscores the need for an effective regulatory framework that can adapt to global economic dynamics while ensuring adequate protection for all workers. Whereas in Malaysia, the minimum wage is set by the central government and applies throughout. However, there are differences between minimum wages in large cities and non-urban areas, Malaysia also adjusts the minimum wage periodically but is more centralized and does not involve the same tripartite process as in Indonesia. In Indonesia, monitoring and enforcement of minimum wages often face challenges, especially in the informal sector, while Malaysia has a more structured mechanism although there are still challenges in enforcement in some sectors.

There are recommendations that the author can put forward to determine a better and more sustainable minimum wage in Indonesia, these include: First, making adjustments based on inflation, so that the minimum wage is adjusted periodically based on the inflation rate. This will help maintain workers' purchasing power and ensure that wages remain relevant to the increasing cost of living. Second, the use of regional approach, and implementing different minimum wages based on region. Given the differences in the cost of living in various regions, this approach can be fairer and more appropriate to local conditions.

Thirdly, maximizing the role and involvement of stakeholders, this is by forming a wage council involving the government, employers, and trade unions. Participation of all parties will help achieve a fairer and more sustainable agreement. Fourth, carrying out supervision and law enforcement, this is by increasing supervision and law enforcement related to implementing the minimum wage. It is important to ensure that all companies comply with applicable provisions. Fifth, organizing training and development programs for workers, as by

improving their skills, workers can earn higher wages and increase productivity. Sixth, to conduct periodic evaluations of the minimum wage policy to assess its effectiveness and make adjustments if necessary. These evaluations may include an analysis of the social and economic impacts of the policy. Finally, incentives for employers, the government can provide incentives for employers who comply with the minimum wage policy and invest in worker welfare. These incentives may take the form of tax breaks or subsidies.

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