

# URGENCY OF CRIMINAL LIABILITY FOR CORPORATIONS PAYING WAGES BELOW THE MINIMUM WAGE BASED ON JUSTICE VALUES

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## Abstract

Workers who receive wages below the minimum wage standards do not reflect a sense of justice for employees. This study aims to analyze the current regulation of corporate criminal liability for companies paying below minimum wages, the reasons behind differences in the application of criminal sanctions against corporations in minimum wage cases in Indonesia, and the ideal regulatory framework for corporate criminal liability in such cases based on justice values in the future. To achieve these objectives, this research employs a normative legal method, supported by Lawrence M. Friedman's legal system theory and theories of justice. The result of this study is the regulation of corporate criminal liability in Indonesia is considered the most comprehensive and repressive, particularly after being strengthened through Law No. 6 of 2023 and the Criminal Code, which recognize corporations as subjects of criminal law and impose sanctions in the form of imprisonment, fines, and additional penalties for violations of minimum wage provisions. Although this regulatory framework serves as an instrument for worker protection, its effectiveness heavily depends on supervision and consistency in law enforcement. Therefore, stronger implementation is required to ensure that sanctions are not merely normative but also provide a deterrent effect and real restitution of workers' rights. The ideal regulation based on justice values in the future includes: the imposition of sanctions oriented toward restoring workers' rights; the application of criminal restitution in the form of compensation for workers' losses, and the implementation of a double track system combining criminal sanctions and enforcement sanctions to enhance effectiveness and deterrence.

**Keywords:** *Corporation, Minimum Wage, Dignified Justice*

## 1. INTRODUCTION

Violations of labor laws are often related to inadequate wage payments, despite the existence of explicit provisions in Law Number 6 of 2023 concerning Determination of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, which prohibit the payment of wages below the minimum wage and affirm the right to wages from the commencement to the termination of the employment relationship. However, these norms have not been fully implemented in practice, resulting in a discrepancy between regulations and implementation. This raises legal issues related to the effectiveness of corporate criminal enforcement and accountability, as well as the fair protection of workers' rights.

The determination of wages by companies/corporations must follow government policies related to Minimum Wages, although there are work agreements that regulate the

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wage system in each corporation, but they must not conflict with legislation. The minimum wage essentially constitutes the lowest standard that employers are obligated to pay workers within a specific region in accordance with applicable regulations.<sup>1</sup> Its determination is not merely administrative in nature but reflects a balance between fulfilling workers' decent living needs and considering productivity as well as economic conditions, as regulated under Government Regulation Number 49 of 2025 concerning the Second Amendment to Government Regulation Number 36 of 2021 on Wages.<sup>2</sup> Therefore, the minimum wage serves both a normative and protective function in ensuring workers' welfare while maintaining business sustainability.

The government establishes wage policies through the issuance of Government Regulation Number 49 of 2025, one of which is to realize harmonious, dynamic, and equitable industrial relations. The wage policy includes, among others, the policy of determining the minimum wage by the governor every year and the policy of compiling and implementing the structure and scale of wages in the Company. Article 24 of Government Regulation Number 49 of 2025 stipulates that the minimum wage is intended for workers with less than one year of service as a form of basic protection in the employment relationship. However, this regulation still allows for the provision of wages above the minimum for workers with certain qualifications, thus constricting representation and potentially creating disparities in wage practices.

Regulators of laws and regulations in the field of employment still leave problems in concentrating on resolving various industrial relations disputes that occur in Indonesia. In reality, these regulations are not effective in their implementation because the regulations that regulate in detail the process of non-litigation dispute resolution are still incomplete, thus creating uncertainty in the applicable law. The problems between workers and employers resulting from payment of wages below the minimum standard are fundamentally a matter of non-fulfillment of workers' normative rights as guaranteed by law. This situation is caused not only by direct violations but also by differences in interpretation and application of norms derived from laws and regulations, employment agreements, and internal company regulations. Thus, this issue reflects a broader legal challenge related to the certainty of norms and the consistency of their implementation in industrial relations practices.

One example of a company that paid wages below the minimum wage and was resolved through litigation is PT. Karunia Makmur, located at Jalan Batang Kuis Gang Harapan Number 88, Dusun X, Bangun Sari Baru Village, Tanjung Morawa District, Deli Serdang Regency. The company, as decided by the Lubuk Pakam District Court in Decision Number 1661/Pid.B/2015/PN Lbp, was proven to have paid wages by

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<sup>1</sup> Jeremy Nicholas and Ade Adhari, "Pemidanaan terhadap Delik Pembayaran Upah di Bawah Upah Minimum dalam Rangka Mencapai Tujuan Pemidanaan di Indonesia," *Jurnal Hukum Adigama* 4, no. 2 (2021): 1089, <https://doi.org/10.24912/adigama.v4i2.17006>.

<sup>2</sup> Jon Nedi Piliang, Suhaidi, and Mustamam, "Pertanggungjawaban Pidana terhadap Pengusaha yang Membayar Upah Lebih Rendah dari Upah Minimum (Studi Kasus Putusan Nomor 1662/PID.B/2015/PN.LBP)," *Jurnal Hukum Kaidah: Media Komunikasi dan Informasi Hukum dan Masyarakat* 17, no. 2 (2018): 151, <https://doi.org/10.30743/jhk.v17i2.3952>.

determining workers' wages based on skill levels, which was contrary to the sectoral minimum wage of Deli Serdang Regency.

Another example is several court decisions that show that even though companies are proven to pay wages below the minimum standard, the sanctions imposed tend to be minimal and do not fully reflect applicable legal provisions. For example, in the case of PT Rakuda Furniture in 2022, through Surabaya District Court Decision Number 714/Pid.Sus/2022/PN SBY, the defendant was sentenced to 1 year and 6 months in prison and a fine of IDR 100 million. This was later reduced to 8 months in prison on appeal through Surabaya High Court Decision Number 1135/Pid.Sus/2022/PT SBY. Furthermore, in the case of PT Intan Kreasi Jaya in 2023, through Cibinong District Court Decision Number 31/Pid.Sus/2023/PN Cbi, the defendant was sentenced to 1 year in prison and a fine of IDR 100 million. This situation indicates a weak deterrent effect and potential legal uncertainty in enforcing corporate criminal liability for subminimum wage violations.

Criminal liability for corporations is important because, in cases of economic or fiscal crimes, the scale of profits earned by companies and losses suffered by workers can be so substantial that punishments imposed solely on management or directors are insufficient to restore justice or offset these losses. Furthermore, imposing sanctions solely on individuals within the leadership ranks does not guarantee that corporations will stop violations, such as paying wages below the minimum wage. Therefore, it is important to demand criminal liability from corporations with types and severity that are in accordance with the nature of the corporation itself, so that it is hoped that the corporation can be forced to comply with the relevant regulations,<sup>3</sup> especially regarding the provision of minimum wages for its workers.

Workers who receive wages below the minimum wage provisions are not enough to meet a decent life, meaning that the amount of the wage does not reflect the value of justice for workers according to Aristotle's theory of legal justice, that seen from distributive justice, low wages for workers do not reflect the balance between the amount of income or company profits and the amount of wages that are decent for workers' lives.<sup>4</sup> On the other hand, the choice of a case resolution model for companies that pay wages below the minimum wage provisions through litigation (criminal court) as in the three cases above, shows that there is no value of justice for the company or other workers who are still working at the company. This is because the company will find it difficult to continue the business because the entrepreneur is serving a prison sentence even though there are still many workers who depend on the company for their livelihood. Therefore, the court's decision to sentence the entrepreneur to prison will hamper the company's operations which will ultimately lead to mass layoffs.

Imprisoning employers in this context further highlights the ineffectiveness of upholding justice, as it fails to restore violated wage rights but instead has further impacts on the company's sustainability. Within the framework of a corporation as an economic

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<sup>3</sup> Dwidja Priyatno, *Kebijakan Legislasi tentang Sistem Pertanggungjawaban Pidana Korporasi di Indonesia* (Bandung: CV Utomo, 2017), 27.

<sup>4</sup> Lamijan and Mohamad Tohari, "Rekonstruksi Pengaturan Pengupahan bagi Pekerja Perusahaan Berbasis Nilai Keadilan," *Jurnal Kosmik Hukum* 18, no. 2 (2018): 12, <https://doi.org/10.30595/kosmikhukum.v18i2.3440>.

entity, imprisoning management can lead to economic death, meaning the company's operations cease due to the loss of management functions. Consequently, other workers not involved in the violations are potentially subject to mass layoffs. Imprisonment not only fails to redress the losses suffered by the affected workers but also creates new forms of injustice in industrial relations as a whole.

Based on the above background, the regulation of criminal acts for corporations that pay below the minimum wage in existing regulations or laws must be reconstructed based on the value of justice for the company, workers who receive wages below the minimum wage provisions and other workers who still work at the company. Therefore, the formulation of the problem is how to regulate and implement corporate criminal liability for the payment of wages below the minimum wage in Indonesia currently and what the ideal regulation based on the value of justice in the future. The objectives of this study are to review and analyze (1) comparison of criminal liability regulations for corporations that pay wages below the minimum wage in Indonesia; (2) why are there differences in the application of criminal sanctions against corporations in minimum wage cases in Indonesia; and (3) the ideal regulation regarding criminal liability for corporations that pay wages below the minimum wage based on the value of justice in Indonesia in the future.

## 2. RESEARCH METHODS

This research method uses a normative juridical legal approach by utilizing secondary data, including laws and regulations, court decisions, legal theories, and opinions of legal experts, so that the research is focused on normative studies and contextual analysis of legal material.<sup>5</sup> This research uses three approaches: conceptual, statute, and comparative.<sup>6</sup> A contextual approach is used to formulate a theoretical framework regarding corporate criminal liability for the payment of wages below the minimum wage, based on doctrine, legal principles, and national regulations, international law, and criminal law, thus enabling a comprehensive understanding of the legal issues studied. Statute approach is applied to assess the harmony and consistency between labor law provisions and the Criminal Code, while a comparative approach is used to compare corporate criminal liability practices in other countries, such as Malaysia and Singapore, to gain a broader perspective on the effectiveness of law enforcement. The data in this study is secondary, collected through literature and official document studies to ensure the completeness and relevance of the information. Analysis was conducted after all data was collected, using qualitative methods that utilize legal frameworks, theories, and principles as analytical tools, allowing for a deep understanding and systematic interpretation of the legal issues under study.

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<sup>5</sup> Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: PT RajaGrafindo Persada, 2019), 27.

<sup>6</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2021), 93.

### 3. ANALYSIS AND DISCUSSION

#### 3.1. Comparison of Regulations on Criminal Liability for Companies Paying Wages Below the Minimum Wage in Indonesia with Singapore and Malaysia

Workers who receive wages below the minimum wage provisions are not enough to meet a decent living while corporations profit from low wage burdens that do not reflect the value of justice for workers. Therefore, there are laws and regulations regarding criminal liability of corporations that pay wages below the minimum wage. In general, corporate criminal liability is regulated under Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law. Meanwhile, specific provisions are contained in Government Regulation Number 49 of 2025 concerning the Second Amendment to Government Regulation Number 36 of 2021 on Wages. Enforcement of these regulations is crucial to ensure companies are held legally accountable and to provide real protection for workers.

In line with this framework, normative wage regulations are affirmed in Additional Article, namely Article 88A of Law Number 13 of 2003, as amended by Law Number 6 of 2023, which strengthens the prohibition on paying wages below standard. The provisions in paragraph (4) emphasize that wage agreements between employers and workers must not be lower than the provisions of statutory regulations, while paragraph (5) states that any agreement that contradicts this is declared null and void and must be adjusted to applicable provisions. This provision serves as an important normative basis in identifying violations and strengthens the basis for imposing criminal liability on corporations that do not meet minimum wage standards.

In relation to this normative basis, regulations regarding criminal liability for corporations are expressly accommodated in Law Number 1 of 2023 concerning the Criminal Code, recognizing that corporations can be subjects of criminal law. Article 45 emphasizes the expansion of the concept of subjects of criminal acts to include corporations, so that not only individuals can be held accountable. Furthermore, Article 49 broadens the scope of parties who can be held accountable, not only limited to the corporation itself, but also includes managers holding functional positions, those giving orders, those holding control, and the beneficial owners of the corporation. Thus, this provision demonstrates the continuity between wage norms and their law enforcement mechanisms through a collective and layered criminal liability approach to ensure the effective protection of workers' rights.

The form of criminal liability for corporations is the imposition of principal penalties as regulated in Article 118 of the Criminal Code in the form of fines and additional penalties that can be imposed according to the level of seriousness of the crime committed. These additional penalties can be in the form of compensation, reparations for the consequences of the crime, revocation of permits, closure of all or part of the business premises, freezing or dissolution of the corporation. In addition, Article 123 also regulates the actions that can be imposed on corporations, including:

takeover of the Corporation; placement under supervision; and/or placement of the Corporation under guardianship.

Corporations that commit violations in the field of wages, especially by paying wages below the minimum standard, are subject to specific criminal sanctions as regulated in Article 185 of Law Number 13 of 2003 as amended by Law Number 6 of 2023. This provision confirms that violations of Article 88A paragraph (3) regarding the obligation of employers to pay wages according to the agreement, as well as Article 88E paragraph (2) which prohibits the payment of wages below the minimum wage, can be subject to imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of at least IDR 100,000,000.00 (one hundred million rupiah) and a maximum of IDR 400,000,000.00 (four hundred million rupiah). Thus, this provision shows that general criminal sanctions in the Criminal Code have been concretized in labor law as a form of protection for workers' rights.

Based on the above description, it can be concluded that the regulation regarding criminal liability for corporations that pay wages below the minimum wage in Indonesia has been comprehensively regulated through a general and specific legal framework. Normatively, the prohibition on paying wages below the standard is affirmed in the employment provisions that serve as the basis for identifying violations, while the recognition of corporations as subjects of criminal law in the Criminal Code expands the scope of liability to include managers and parties in control. Furthermore, the form of sanctions that can be imposed is not only in the form of fines, but also additional penalties and other measures that are strategic to the sustainability of the corporation. Specific provisions in employment law then provide a concrete criminal sanction for wage violations, so that the overall regulation demonstrates the existence of an integrated legal system in upholding corporate accountability and providing effective protection for workers' rights.

The regulations regarding criminal liability for corporations in Indonesia, when compared with the legal regimes in Singapore and Malaysia, show similarities in the recognition of corporations as parties that can be held accountable for wage violations, but differ in the approach and effectiveness of enforcement. Since 1986, Singapore has implemented a flexible wage system (*Flexible Wage System*) which was later developed into a productivity-*Linked Wage System*. A *flexible wage system* is a wage system that is adjusted to the conditions of the company, if the conditions are good, then employees receive high wages, but conversely, if the company's condition is not good, then wages can be lowered.<sup>7</sup>

In Singapore, the regulation regarding wage payments is regulated in the Employment Act (Cap. 91), which serves as the primary basis for protecting workers' rights, including the employer's obligation to pay wages in accordance with the employment agreement and on time. Articles 12 to 14 of the Employment Act essentially emphasize that every employer is obliged to pay wages to workers in accordance with the terms of the employment contract, and any failure or delay in

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<sup>7</sup> Payaman Simanjuntak, *Teori dan Sistem Pengupahan* (Jakarta: UI Publishing, 2019), 161.

payment of wages is classified as an offense under the provisions. This provision is reinforced by the explanation in the Employment Act 1968 (Part 3: Payment of Salary), which states that late or non-payment of wages is an offense that can be prosecuted.

If an employer commits a violation in the form of paying wages below the agreement or not paying wages as they should, then this action can be subject to criminal sanctions in the form of fines and/or imprisonment according to the seriousness of the violation under the Employment Act. Law enforcement is carried out by the Ministry of Manpower (MOM) which is authorized to investigate and prosecute labor violations, including prosecuting employers in court with sanctions that can include fines, revocation of permits, and even imprisonment in certain cases (Ministry of Manpower Singapore). This approach shows that Singapore implements a firm and compliance-based law enforcement system to ensure effective protection of workers' rights in the payment of wages.

Singapore, although there is no national minimum wage provision that applies to all sectors, there are certain sectors that have minimum wage provisions. Violations of the minimum wage provisions in these sectors can be subject to criminal sanctions. One of them is the *Foreign Employee Dormitories Act* which regulates minimum wages for foreign domestic workers and workers in other vulnerable sectors. In addition, there are *Tripartite Guidelines*, Where Governments, trade unions and employer associations issue guidelines that encourage fair wage practices.

Corporations that pay workers below the minimum wage provisions in Singapore are subject to criminal sanctions in the form of fines and imprisonment. Employers who violate the minimum wage provisions for foreign domestic workers can be subject to a fine of up to SGD 10,000 and/or imprisonment of up to 12 months for a first offense. Repeated violations can be subject to higher fines and longer imprisonment. In addition, there is an additional sanction in the form of Wage Restitution, namely employers are also required to repay wages that are not paid to workers.

Besides Singapore, Malaysia's criminal justice system regarding wages shows significant differences, despite both prioritizing worker protection. In Malaysia, the wage system is not only regulated through normative minimum wage standards, but also developed through the Productivity-Linked Wage System (PLWS), which links the wage structure to worker productivity and company performance, as explained in the wage policy, which divides wage components into fixed and variable wages. Fixed wages are provided as basic security for workers regardless of company conditions, while variable wages are incentives that are only provided if productivity increases and the company is in good condition.

In Malaysia, minimum wages are regulated by government regulations and violations of minimum wage provisions can be subject to severe criminal sanctions. The law as the legal basis for the national minimum wage in Malaysia and also regulates the criminal penalties for corporations that pay wages below the minimum wage provisions is the *National Wages Consultative Council Act 2011*. *The National Wages Consultative Council Act 2011* is the legal basis in Malaysia that regulates the

provisions of workers' wages and the criminal penalties for corporations that pay workers below the minimum wage provisions. Criminal sanctions for corporations that violate are (1) Fines and Imprisonment: In accordance with Article 43 of the *National Wages Consultative Council Act 2011*, employers who pay wages below the minimum wage can be subject to a fine of up to RM 10,000 per worker. If there is a repeat violation, the employer can be subject to a higher fine and/or imprisonment. (2) Additional Legal Actions, namely fines and employers can also face other legal claims, including repayment of wages underpaid to workers, and administrative actions such as suspension of business licenses.

Based on the description of criminal regulations against corporations that pay wages below the minimum wage requirement in Indonesia, Singapore, and Malaysia, it can be seen that there are different approaches in interpreting corporate criminal liability for substandard wage payments. Indonesia has established a normative-repressive regime by establishing a minimum wage as a mandatory standard whose violations are explicitly criminalized, accompanied by the expansion of criminal liability to corporations and controlling organs, and a variety of sanctions that include fines, imprisonment, and actions that have implications for the existence of the corporation. In contrast, Singapore does not rely on a national minimum wage regime, but rather on contractual obligations in the Employment Act that qualify late or non-payment of wages as an offense, with more administrative-efficient enforcement through the Ministry of Manpower. Thus, Indonesia emphasizes wage standardization through criminalization of violations, while Singapore is more oriented towards contractual compliance with focused and supervisory law enforcement.

A comparison between Indonesia and Malaysia reveals similarities in recognizing the minimum wage as a legal standard, accompanied by criminal sanctions for corporations, but differs in their policy orientation. Indonesia tends to use a repressive approach, classifying minimum wage violations as a criminal offense, immediately punishable by imprisonment and fines, and extending corporate liability under the Criminal Code. Meanwhile, Malaysia, in addition to implementing criminal sanctions through the National Wages Consultative Council Act 2011, also integrates productivity-based wage policies through the Productivity-Linked Wage System (PLWS), which combines fixed and variable wage components. This demonstrates that Malaysia does not rely solely on criminal instruments but also builds preventive mechanisms through wage structure flexibility, while Indonesia places greater emphasis on normative protection through the enforcement of criminal sanctions to ensure compliance with the minimum wage.

The effectiveness of criminal law enforcement against corporations through imprisonment or fines imposed on directors remains relatively low, indicating a weak law enforcement mechanism in practice. Lawrence M. Friedman emphasized that the success of a legal system depends on three interrelated components: legal structure, legal substance, and legal culture. The legal structure includes law enforcement officials tasked with enforcing the rules, legal substance includes norms and regulations established by lawmakers, while legal culture reflects the acceptance and

internalization of law in everyday societal practice. The interaction of these three elements determines the extent to which the law can be implemented effectively, so weaknesses in any one element, particularly legal substance and legal culture, can reduce the legal system's ability to enforce corporate accountability.

The main weakness in criminal law enforcement against corporations in Indonesia lies in the substance of the law itself. Although corporations are normatively recognized as subjects of criminal acts, their practical application is often hampered by unclear and ambiguous regulations. The Criminal Code, which remains the primary reference, only recognizes humans as legal subjects, making criminal acts committed by corporations difficult to process directly through existing criminal mechanisms. This situation creates a mismatch between the theoretical recognition of corporations as criminal actors and the legal capacity available to effectively enforce criminal accountability against corporations

This situation is exacerbated by the lack of clarity and inconsistency in regulations regarding corporate criminal liability. Legislators' hesitation in classifying corporations as subjects or perpetrators of criminal acts is reflected in conflicting or inconsistent regulations, making it difficult for law enforcement officials to effectively hold them accountable. Consequently, violations, such as underpayment of wages, often go unpunished, resulting in the law failing to provide the desired deterrent effect on corporations.

In addition to regulatory constraints, obstacles to law enforcement against corporations also arise from structural and operational factors. Corporations, as potential perpetrators of criminal acts, often have strong lobbying networks that influence the formulation of legal policies and strategies for handling violations, thus hampering law enforcement efforts. Furthermore, determining corporate criminal liability and identifying specific wrongdoing is a complex process, as corporate actions are often collective in nature and managerial decisions cannot always be directly attributed to specific individuals, thus making it difficult to clearly establish legal accountability.

Administrative sanctions for corporations that pay wages below the minimum wage include in the form of announcement of a judge's decision; dissolution followed by corporate liquidation; revocation of business licenses; freezing of business activities; confiscation of assets; takeover of the corporation by the state; and confiscation of the corporation. Corporations that pay below the minimum wage provisions may also be burdened with responsibility in the form of additional sanctions in the form of carrying out certain social activities, for example cleaning the environment, and building or financing the construction of projects related to the criminal acts committed.

Administrative sanctions for corporations that pay wages below the minimum wage in the form of dissolution followed by corporate liquidation; revocation of business licenses; freezing of business activities; confiscation of assets; takeover of corporations by the state; and confiscation of corporations show injustice to both workers and the corporations themselves. In fact, the law exists to be able to provide

justice for all parties as aspired to in the Pancasila principles, especially the Fifth principle, namely Social Justice for all Indonesian people.

The understanding of justice in Indonesian national law is rooted in the nation's philosophy and ideology, namely the values of Pancasila. Pancasila is seen as the fundamental philosophy of the state (*filosofische grondslag*) and a guideline for life that is always maintained because it reflects the diversity of Indonesian society and aligns with the nation's identity. From an axiological perspective, the Indonesian people collectively uphold and support the values of Pancasila, which emphasize divinity, humanity, unity, democracy, and social justice. These values are not merely normative principles, but also ideal conditions that are to be continuously realized in social life, governance, and state administration. Therefore, national law is expected to reflect and uphold justice based on Pancasila.

The Indonesian nation, as the holder and supporter of the values of Pancasila, has a responsibility to respect, acknowledge, and accept Pancasila as a foundation of high value. Recognition and respect for Pancasila are reflected through attitudes, behavior, and concrete actions in social, political, and state life. This is relevant to the issue of corporate criminal liability for the payment of wages below the minimum requirement, because the fair and effective application of the law must be based on the values of Pancasila, especially social justice for all workers. Thus, Pancasila is not only the nation's philosophy and ideology, but also the primary source of national values and laws that can serve as a basis for establishing ideal regulations for corporate criminal liability, so that the law is not only normative, but also reflects substantive justice for workers, companies, and society at large.

The view of justice in Indonesian national law is rooted in Pancasila, particularly the fifth principle, which emphasizes "Social justice for all Indonesian people." This concept of justice emphasizes the balance between rights and obligations, so that every individual, including workers, has the right to receive fair treatment without harming others. In the context of this research, the principle of justice serves as the basis for assessing corporate criminal liability for paying wages below the minimum wage. Workers' rights to receive a living wage must be recognized and protected, while companies are obligated to uphold their legal obligations. Therefore, effective law enforcement and adequate sanctions not only uphold legal certainty but also reflect the values of social justice that align with Pancasila, maintaining a balance between workers' rights, corporate responsibilities, and the interests of the wider community.

Recognition of the right to obtain a decent wage for life, we are automatically obliged to provide opportunities for others to obtain and maintain the right to a decent wage for the life of workers and their families. The concept of justice, when linked to the second principle of Pancasila as a source of national law, emphasizes the importance of maintaining harmonious relationships between individuals and groups, thus creating fair, civilized, and balanced interactions. In the context of "social justice," this principle demands that justice not only be individual but also be realized collectively within society. This principle is relevant to assessing the criminal liability of corporations that pay below-minimum wages, as this practice harms workers and

creates social injustice. Therefore, the implementation of laws that uphold workers' rights, prosecute corporate violations, and ensure fair treatment for all parties is a concrete reflection of social justice as mandated by Pancasila.

Justice and injustice are directly related to the practice of paying wages below the minimum wage by companies, as such actions harm workers and violate the principle of balance between rights and obligations. In everyday life, individuals or groups often tend to "take the law into their own hands" to uphold justice, but ironically, this can actually lead to injustice for the targeted parties. The principle of social justice emphasizes that the interests of the wider community must be prioritized, so that every socially just individual or corporation needs to place the rights and freedoms of others on an equal footing with their own. In the context of this research, the implementation of social justice requires an effective legal mechanism to ensure that companies are criminally liable for paying wages below the minimum wage, thereby protecting workers' rights and minimizing social inequality.

National law is designed to uphold justice for all parties. Therefore, justice, from a national legal perspective, can be understood as an effort to align individual interests with the public interest. In the context of social justice, the focus is on the balance between individual rights and collective obligations in community life. Based on the values of Pancasila, this principle emphasizes that the application of the law must ensure harmony between personal and collective interests. This concept is relevant to assessing the criminal liability of corporations that pay wages below the minimum wage, as this practice not only harms workers as individuals but also creates social injustice. Therefore, effective application of criminal law to corporations is necessary to uphold workers' rights, restore social balance, and realize the principles of justice mandated by Pancasila.

### **3.2. Differences in the Application of Criminal Sanctions to Corporations in Minimum Wage Violations in Indonesia**

The application of criminal sanctions against corporations in cases of minimum wage violations in Indonesia demonstrates variations in law enforcement practices that are not always consistent between decisions. Although it is normatively stipulated that violations of minimum wage provisions can be subject to criminal sanctions in the form of imprisonment, fines, or additional penalties, in practice, judges and law enforcement officers often face a dilemma between the purpose of punishment and the economic impact on the company's sustainability. This condition leads to differences in the application of sanctions, both in terms of the type and severity of the penalties imposed. Therefore, further analysis is needed to understand the factors influencing this disparity in labor law enforcement in Indonesia.

The application of criminal liability to corporations that pay wages below the minimum wage is carried out through the consideration of judges who assess the corporation's fault based on several factors, namely: (a) the corporation gains profits or benefits from the violation, or the action is carried out for the benefit of the corporation; (b) the corporation intentionally allows the violation to occur; and (c) the

corporation fails to take preventive measures to prevent the violation, minimize negative impacts, and ensure compliance with applicable legal provisions. The emphasis on these three factors shows that corporate criminal liability is not solely related to the behavior of individuals in management, but also includes weaknesses in internal systems, company policies, and a culture of legal compliance. Thus, the judge's evaluation of the corporation must consider the interaction between managerial actions, internal control mechanisms, and the social consequences of the violation, so that the application of criminal sanctions can uphold substantive justice for workers, minimize social losses, and reflect the principles of social justice as stipulated in the values of Pancasila.

The implementation of corporate criminal liability should be able to provide justice for all parties involved (corporations, managers and workers). This is because payment of wages below the minimum provisions provides great benefits for corporations and the losses suffered by workers are so great that it is unbalanced that the criminal penalty is only imposed on corporate managers. In addition, there is currently an assessment that by only punishing the managers/ Directors of the corporation does not guarantee that the corporation will not repeat the crime of paying wages below the minimum wage provisions.

The role of labor supervision is very important in realizing corporate compliance with the wage and employment system. Labor Supervisory Officers as the parties authorized to carry out supervision must carry out their functions properly, but if the corporation does not implement the rules properly, this crime must go to court, so that it has an impact on the company. The impact on the corporation by bringing the case to court according to the theory of combined punishment.

First, criminal sanctions for corporations can be seen as retaliation for crimes that have been committed. Criminal law is seen as a strong reaction to crime, which aims to show that the crime is unacceptable in society. This criminal law aims to provide punishment that is in accordance with the mistakes made by the corporation. Second, criminal sanctions for corporations can also be seen as a tool to enforce order (law) in society. This criminal law aims to prevent crime and influence people's behavior for the protection of society or for protection. Criminal law must have the aim of preventing the crime from happening again, and criminal law looks forward (prospective in nature).

The wage system for workers in Indonesia is manifested in a unique relationship system, namely Pancasila Industrial Relations. In this industrial relationship, the interests of employers and workers are formulated through negotiations to obtain an agreement or work agreement. This means that through Pancasila industrial relations, it provides a balanced position (*bargaining power*) between employers and workers. In this relationship, the position of employers and workers is a partnership that should understand and respect each other, considering that both have the same responsibility in the production process in the company. Pancasila industrial relations places the ideal relationship between employers and workers as a balanced relationship to realize the values of justice in the lives of citizens, especially for workers and their families.

Ideally, Indonesia as a country that adheres to the principles of the Pancasila state and the 1945 Constitution of the Republic of Indonesia, which has made the values of social justice a national consensus as the basis for the nation and state, should be able to feel and implement these values in real terms, not just mere rules in the process of socializing and implementing industrial relations. The industrial relations system is a formulation and strategy to synergize the strengths of the parties or actors in order to achieve optimal production of goods and services while simultaneously regulating conflicts of interest between actors in industrial relations.

Basically, Indonesia has had these values of justice since hundreds of years ago, but in its development it has failed to realize (social) justice because this nation still considers justice as an abstract problem that is far from down-to-earth reality. This statement further shows and confirms that in fact justice, especially social justice, is not something abstract that only exists in the world of values without concrete manifestation.

The value of social justice, which occupies the pinnacle of the Pancasila value system, serves as the primary objective of the entire value system of the Indonesian nation. Along with other core values of Pancasila belief in divinity, humanity, unity, and democracy social justice forms a legal political paradigm that serves as a reference for the formulation and implementation of national law. The substance of these values is universal and permanent, reflecting the nation's aspiration to achieve a concrete balance between individual and societal interests, both in social life and in state practice. In the context of this research, the principle of social justice emphasizes that the application of criminal liability to corporations that pay wages below the minimum wage not only requires legal compliance but also upholds a balance of rights and obligations between workers and companies. In other words, criminal sanctions for corporations must reflect the value of social justice, ensure worker protection, minimize social harm, and encourage companies to internalize the principles of justice in wage practices.<sup>8</sup>

The results of this study found that the wages received by company workers do not yet reflect the values of justice in Pancasila, especially social justice, thus it is necessary to organize the wage determination policy and the supervision and evaluation procedures for the provisions governing wages. wage policies can be changed according to the needs of both Workers and Employers so that the implementation of Pancasila industrial relations runs well. The provision of good wages is wages that are in accordance with the living needs of the workers themselves and their families which have a great impact on a better life for workers and their families to improve welfare.<sup>9</sup>

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<sup>8</sup> Lamijan and Jamal Wiwoho, *Upah kerja dan Keadilan: Suatu Tinjauan Teoretis* (Purwokerto: CV Pena Persada, 2021), 137.

<sup>9</sup> Mashari, "Model Penyelesaian Perselisihan Hubungan Industrial secara Nonlitigasi Berbasis Nilai Keadilan Sosial," *Jurnal MMH* 41, no. 4 (2012): 550, <https://doi.org/10.14710/mmh.41.4.2012.549-556>.

The wages of workers below the minimum wage do not reflect justice and welfare at all, resulting in the emergence of disharmonious or pseudo industrial relations, low and unfocused worker performance because workers are burdened by thoughts and efforts to find part-time work to earn additional income or wages, employer profits that are not allocated to improve worker welfare, and sometimes the effective working hours of workers are longer than normative provisions due to the employer's desire to increase productivity and greater company profits. The problem regarding company worker wages that do not reflect the values of justice and welfare will have an impact on the lives of workers and their families in socio-economic, socio-cultural, and socio-political aspects.

Based on the description above, the problem of workers' wages below the minimum wage provisions that do not reflect the values of justice and welfare along with the possible impacts that arise, it is necessary to seek efforts on how to construct legal arrangements or regulations regarding the wage system for company workers that can reflect the values of justice and welfare. This is where there is a need for revision and synchronization of laws that regulate the wage system that better reflect the values of justice and welfare. The problem of reconstructing the regulation of workers' wages can be seen from whether or not there is a need for synchronization of provisions in an effort to provide legal protection for workers and build Pancasila industrial relations in order to establish partnerships between workers and employers.

### **3.3. Ideal Arrangement Regarding Criminal Liability of Corporations Paying Wages Below the Minimum Wage Based on Justice Values in Indonesia in the Future**

Ideal regulations regarding criminal liability for corporations that pay wages below the minimum wage based on justice values in Indonesia in the future include:

First, the ideal arrangement should place the corporation as the party directly responsible for paying wages below the minimum wage provisions, alongside senior officials or leaders of the corporation. The ideal future policy for formulating fair corporate criminal liability is to place the corporation as the party directly responsible for paying wages below the minimum wage provisions and the ideal type of punishment imposed on the corporation is oriented towards the interests of workers, namely in the form of restoring the rights of workers who are victims because they receive wages below the minimum wage provisions. These findings support Teguh Prasetyo's<sup>10</sup> view on the theory of dignified justice, which emphasizes that the concept of justice should be rooted in the nation's identity and spirit. In the Indonesian context, Pancasila serves as a manifestation of the nation's spirit, so its principles serve as a benchmark for assessing the merits and sustainability of a legal system, including the application of criminal liability to corporations that pay wages below the minimum requirement.

The theory of dignified justice that is in accordance with the policy of formulating corporate criminal liability in the future is included in the positivism school. The

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<sup>10</sup> Teguh Prasetyo, *Keadilan Bermartabat: Perspektif Teori Hukum* (Bandung: Nusa Media, 2021), 101.

positivism school provides the view that justice is the main orientation of the law itself. Therefore, justice is a principle that becomes a rational textual policy in every law as implemented for the greatest possible welfare of society. From the perspective of legal philosophy, especially in the positivism school, the existence of the phenomenon of inequality that occurs in society must be protected so that regulations at least provide support to the powerless community.

Future policy formulation regarding corporate criminal liability must be based on the principle of dignified justice, which emphasizes the balance between rights and obligations. In the context of wage payments, recognition of workers' rights to a decent wage must be accompanied by fair protection of that right, so that workers can receive appropriate compensation without harming others. Thus, the principle of equality demands that every individual's right to a decent wage be exercised while respecting the rights of other workers, creating a balance that reflects social justice. This approach aligns with the values of Pancasila, particularly the principle of social justice, which serves as the foundation for the implementation of corporate criminal liability in the national legal system.

Recognition of the right to obtain a decent wage for life, we are automatically obliged to provide opportunities for others to obtain and maintain the right to a decent wage for the life of workers and their families. This concept, when linked to the second principle of Pancasila as the basis of Indonesian national law, emphasizes the importance of maintaining harmonious relations between individuals and groups in society, so that interactions are created that are just, civilized, and in harmony with the social values that are the foundation of national and state life.

Within the framework of social justice, the application of justice must be viewed within the context of society as a whole, including the restoration of lost rights to those entitled to them and the achievement of equality before the law between individuals, employers, and those who unjustly acquire wealth. The Pancasila perspective emphasizes that national law regulates justice for all parties, so that justice in the context of national law is an effort to align general justice with individual justice. Thus, the principle of social justice emphasizes the balance between individual rights and general obligations in collective life, ensuring that every action and policy, including those related to employment relations, reflects fair and equal treatment for all members of society. In cases of subminimum wage payments, this principle emphasizes that workers' rights to a living wage must be safeguarded and protected, while employers' obligations to comply with legal requirements must be upheld. Therefore, the application of social justice within national law demands fair and effective corporate criminal liability, ensuring that workers' rights are not violated and that corporate violations of the law are minimized.

Second, the application of criminal sanctions against corporations should be directed at upholding the rights of workers harmed by wage payments below the minimum wage, so that punishment serves not only as a form of punishment but also as a mechanism for restoring social justice. This approach emphasizes the need for a balance between corporate obligations and workers' rights, with workers' interests

being the primary focus in determining penalties. Therefore, synchronizing specific regulations governing corporate criminal liability outside the Criminal Code with provisions in the Draft Criminal Code is crucial to ensure legal consistency, clarify corporate responsibilities, and ensure effective legal protection for workers in accordance with the principles of social justice.

Third, implementing criminal restitution sanctions (compensation payments to workers) in an effort to resolve criminal cases outside the courts. Purpose of implementation restitution is For repairing the losses of workers caused by corporate crimes that pay wages below the minimum wage provisions. Corporations that pay below the minimum wage for their workers can be subject to sanctions in the form of compensation or restitution as regulated in PERMA Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. This regulation provides guidelines regarding the mechanism for claims for compensation and restitution in cases of corporate crimes (Corporations that pay workers below the minimum wage). The imposition of compensation and restitution in cases of corporate crimes basically causes enormous losses to society. Therefore, criminalizing corporations is not only intended to provide a deterrent effect or to scare *other* corporations so that other corporations do not commit crimes again.

Corporations that pay workers below the minimum wage provisions in Singapore are subject to criminal sanctions in the form of fines and imprisonment. Employers who violate the minimum wage provisions for foreign domestic workers can be subject to a fine of up to SGD 10,000 and/or imprisonment of up to 12 months for a first offense. Repeated violations can be subject to higher fines and longer imprisonment. In addition, there is an additional sanction in the form of Wage Restitution, namely employers are also required to repay wages that are not paid to workers.

Fourth, the implementation of *the double track system* idea (sanctions) criminal and sanctions action). The negative impact of criminalizing the CEO of a corporation that pays below the minimum wage, ideally in the future it is necessary to implement a policy to achieve justice for all parties, namely by implementing *a double track system*. With this implementation, workers do not need to lose their jobs or sources of income, get wages according to the Minimum Wage provisions, the CEO can run the company again and the company continues to operate.

*Double track system* to be used as an issue for criminal law reform in the future. Criminal law reform is known to be an effort to renew or make criminal law better and adjust the values of a nation where criminal law is located by carrying out a restructuring or reorganization, reconstruction or rebuilding and reformulation or reformulating. In carrying out criminal law reform, it is necessary to pay attention to its meaning and essence by applying approaches from a policy or value perspective. In terms of policy, criminal law reform that is oriented towards the formation or changes to various criminal law provisions cannot be separated from the background of policy or philosophical bases that encourage the implementation of criminal law reform.

The implementation of *the double track system* can be something that changes the pattern of punishment in Indonesia which is increasingly developing and eliminates

the colonial system of the past which linked the law as a gift that is retaliatory in nature against criminal acts.<sup>11</sup> The concept of this two-track system has similarities with the idea of the urgency of criminal law reform in Indonesia which is based on the idea of balance that adheres to the philosophy of social justice from Pancasila. Based on the philosophy of balance, the view of crime is seen as a disturbance to harmony, conformity, and harmony in the life of society which is damaged individually or communally.

The purpose of the *double track system concept* describes a goal of punishment that is politically or philosophically through the means of Indonesian criminal law based on the values of Pancasila. As Sudarto's statement above states "The use of criminal law must pay attention to the ability of the workforce and capacity of law enforcement agencies, where there must be no excess of the burden of duties (*overblasting*)."

The concept of *the double track system* supports this statement. Where we see the reality in the field today where there has been a lot of excess capacity, one of which is the Correctional Institution (LAPAS). It is known that one of the causes of the excess capacity of the LAPAS is where the imposition of criminal sanctions is still placed as a "prima donna" sanction in the current criminal law sanction system. Therefore, with the existence of the two-track system, it can equalize criminal sanctions with action sanctions where in the future it can slowly minimize the occurrence of excess capacity problems experienced by LAPAS Criminal sanctions as stipulated in the Criminal Code are considered ineffective in providing good impacts for both the perpetrators and the community (the Single Track System is not effective). Corporations proven to have committed crimes are often only subject to fines and aggravation, even though the turnover of the corporation's activities (including proceeds of crime) is more than enough to pay the sanctions. Crimes are repeated with the idea that the large profits from business crimes obtained are greater than the possible fines, even if they are revealed by investigators. In addition to only imposing fines, in practice it is very rare for judges to impose penalties on corporations but on corporate leaders, either in the form of imprisonment, fines, or detention. Corporations themselves are not subject to any punishment so they continue to operate, cover up the proceeds of crime and continue to commit crimes in secret.

Implementation of *the double tract system* idea (sanctions) criminal and sanctions action) according to relative/ objective theory criminalization Because criminalization No Again Enough only nature as a means of revenge only, but must aiming For protect workers For term length. The imposition of criminal sanctions as a form of effort to create a deterrent effect so that corporations comply with regulations, but also requires coaching/action sanctions so that corporations through their managers/directors realize their mistakes and return to the right path. Therefore, a balance is needed between

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<sup>11</sup> Ahmad Jamaludin, "Kebiri Kimia sebagai Sanksi Tindakan dalam Double Track System," *ADLIYA: Jurnal Hukum dan Kemanusiaan* 15, no. 2 (2021): 184, <https://doi.org/10.15575/adliya.v15i2.13910>.

providing a deterrent effect and coaching to the perpetrators or a balance between criminal sanctions and action sanctions.

#### **4. CONCLUSION**

The regulation of corporate criminal liability in Indonesia demonstrates the most comprehensive and repressive scope, especially after its strengthening through Law Number 6 of 2023, which stipulates the prohibition of substandard wages, and the Criminal Code, which stipulates that corporations are subjects of criminal law that can be held accountable along with managers and controllers. Violations of the minimum wage by corporations are subject to sanctions in the form of imprisonment, fines, and extensive additional penalties, making criminal law the primary instrument for worker protection. Malaysia also implements criminal sanctions in the form of fines and/or imprisonment and the obligation to pay shortfalls, but still balances a productivity-based approach, while Singapore emphasizes contractual compliance with administrative enforcement. In practice, this implementation serves as an instrument for law enforcement and protection of workers' rights, but its effectiveness still depends on the supervision and consistency of law enforcement officials. Therefore, strengthening implementation is needed so that sanctions are not merely normative but truly provide a deterrent effect and restore workers' rights. Ideal regulations based on values of justice in the future include restoration of rights in the form of payment of shortfalls, the application of restitution sanctions to compensate victims, and the use of a dual-track system that combines criminal sanctions and disciplinary action. This approach not only emphasizes corporate punishment, but also recovery and prevention so that wage violations do not recur.

The author's recommendations include strengthening the role of the Manpower Office through routine risk-based supervision and developing a responsive, easily accessible worker complaint system that guarantees whistleblower confidentiality to detect minimum wage violations early. Furthermore, the Attorney General's Office is expected to optimize law enforcement not only through criminal sanctions in the form of fines and/or imprisonment, but also by prioritizing the restoration of workers' rights through demands for restitution or payment of wage shortfalls as a form of substantive justice. Furthermore, data integration between the Manpower Office and the Attorney General's Office is needed to strengthen coordination, accelerate information exchange, and improve consistency in case handling, so that the law enforcement process can run more effectively and be able to provide real restoration of workers' rights.

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