

THE URGENCY FOR RATIFICATION OF THE 1970 ILO MINIMUM WAGE FIXING CONVENTION IN THE TIME OF FOURTH INDUSTRIAL REVOLUTION

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Abstrak

Pengaturan pengupahan minimum terhadap tenaga kerja di Indonesia sebelumnya diatur melalui Peraturan Pemerintah Nomor 78 Tahun 2015 dimana pengaturan pengupahan terhadap hak penerima upah yang dirasakan oleh tenagakerja. Namun, yang terbaru pada Peraturan Pemerintah Nomor 36 Tahun 2021 tentang pengupahan bahwa "setiap Pekerja/Buruh berhak memperoleh Upah yang sama untuk pekerjaan yang sama nilainya". Arti secara perkembangan pengaturan pengupahan terus dilakukan demi mampu menerima pembaruan baik aspek sosial maupun ekonomi. Indonesia hingga saat ini tidak meratifikasi ILO Convention Number 131, 1970 tentang Pengupahan minimum. Standar penetapan upah sesuai konvensi 131 adalah kebutuhan dari pekerja dan keluarganya, dengan mempertimbangkan tingkah upah secara umum di negara bersangkutan, biaya hidup, jaminan perlindungan sosial, dan standar kehidupan relatif dari kelompok sosial lainnya. Ancaman dari era revolusi industri 4.0 memiliki dampak yang cukup signifikan terhadap tenaga kerja minim kemampuan atau terkalahkan dengan tenaga automasi. Pemerintah Indonesia dengan momen ini di saat revolusi industri 4.0 terjadi untuk membuat suatu kebijakan cepat dalam memberikan pengupahan secara batas minimum untuk diratifikasi pada ILO Convention 131, 1970 tentang pengupahan minimum sehingga prinsip dari minimum wages mengalami perubahan menjadi living wages di sistem pengaturan pengupahan di Indonesia.

Kata kunci: pengupahan; revolusi industri 4.0; tenaga kerja

Abstract

Minimum wage arrangements Workers in Indonesia were previously regulated through Government Regulation No. 78 of 2015 where wages were set on the rights of wage recipients felt by workers. However, the latest in Government Regulation Number 36 of 2021 concerning states that "Wages every Worker/Labourer has the right to receive the same Wage for work of the same value". In terms of development, wage arrangements continue to be made in order to be able to receive updates in both social and economic aspects. Indonesia has not yet ratified the ILO Convention Number 131, 1970 concerning Minimum Wages. The standard for setting wages according to Convention 131 is the needs of workers and their families, taking into account the general behavior of wages in the country concerned, the cost of living, social protection insurance, and the relative living standards of other social groups. The threat from the industrial revolution 4.0 era has a significant impact on a workforce with minimal capabilities or is defeated by automation. The Indonesian government at this moment when the industrial revolution 4.0 occurred to make a quick policy in providing minimum wages to be ratified at the ILO Convention 131, 1970 regarding minimum wages so that the principle of *minimum wages* changed to *living wages* in the wage regulation system in Indonesia.

Keywords: industrial revolution 4.0; labor; standard of living

Introduction

Employment is anyone who is able to do work that produces goods or services and can be useful for the public as well as for himself. The role of the workforce has a need in the development process both socially and economically. Indonesia adheres to the legal system civil law, which prioritizes written legal regulations known as the rule of law.⁴ Indonesia regulates labor law in Law Number 11 of 2020 concerning Job Creation and Law Number 13 of 2003 concerning Manpower. In the arrangement that all matters relating to labor at the time

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⁴ Wayne Palmer and Antje Missbach, 'Enforcing Labour Rights of Irregular Migrants in Indonesia', *Third World Quarterly*, 40.5 (2019) <<https://doi.org/10.1080/01436597.2018.1522586>>.

before, during, and after work.⁵ Of the substances regulated through the Manpower Act, one of them is to provide protection, realize equity, empower and utilize, and improve the welfare of the workforce. Indonesia has a legal arrangement on the protection of human rights related to the quality of the workforce that "*Everyone has the right to fulfill his basic needs to grow and develop properly*". This means that the workforce has been explicitly regulated for survival both physically and spiritually which is a key to the development of human resources.

Indonesia has issued a universal sweeping regulation (*Omnibus law*) which regulates investment provisions as well as drivers of the nation's economic growth and of course relates to the wages of workers in Indonesia. According to Article 23 paragraph (3) of the Universal Declaration of Human Rights that "*Everyone who works has the right to just and favorable remuneration, which guarantees a life with dignity for himself and his family, and if necessary supplemented by other social protections*". This is because Indonesia has been committed from the start to provide welfare for its workforce as field actors in the development of a country. After Indonesia made amendments to the 1945 Constitution of the Republic of Indonesia that has created new regulations related to manpower such as the Industrial Court which is regulated by Law Number 2 of 2004. The provisions of Law Number 2 of 2004 that types of Industrial Relations Disputes include *disputes over rights*, *conflicts of interest*, *disputes over termination of employment*, and *disputes between trade unions/labor unions in only one company*. The Industrial Revolution has been passed by countries in the world 4 (four) times. Where at this time has undergone changes after the development of technology and digital. The author sees a relationship from the existence of workers in carrying out the world of work. In fact, it has experienced a defeat between manpower (*humans*) and technology (*robots*) which threatens massive unemployment. The Constitution of the Republic of Indonesia stipulates that "*Every person has the right to work and to receive fair and proper remuneration and treatment in an employment relationship*".

The chairman of Apindo for the field of Manpower, Harijanto, saw the pattern of work relations that developed in the era of the industrial revolution 4.0, namely partnerships.⁶ The author sees this will experience a change in the provision of wages to workers with employers in paying wages on an hourly, daily, weekly, and monthly basis. In negotiating the salary restructuring, both parties shall endeavour to reach an agreement with the win-win spirit so that both parties know the impact on themselves if the restructuring of the salary cannot be made before the dates concerned.⁷ The importance of the workforce to adapt to developments in the era of the industrial revolution 4.0 by applying technology as an auxiliary tool in the work process. In the first ILO convention (no. 131) that all groups of people who receive wages whose terms and conditions of work are covered by the regulations.⁸ In general, the indicators of the creation of the Wage measure are based on the regional minimum wage, GDP per capita, GDP per worker, and average tax. One component of setting the minimum wage is the rate of

⁵ Mohamad Anwar, 'Dilema PHK Dan Potong Gaji Pekerja', *Adalah*, 2020.

⁶ a. Setya Marsudi and Yunus Widjaja, 'Industri 4.0 Dan Dampaknya Terhadap Financial Technology Serta Kesiapan Tenaga Kerja Di Indonesia', *Ikraith Ekonomika*, 2.2 (2019).

⁷ Siti Marshita and Binti Mahyut, 'Minimum Wage in Malaysia: The Challenge on the Implementation of the Law', *International Journal of Business, Economics and Law*, 3.3 (2013), 30-37.

⁸ Agustina Agustina and David Flath, 'Agglomeration and Location Decision of Foreign Direct Investment (FDI) in Indonesia', *Jurnal Ekonomi Dan Kebijakan Publik*, 10.2 (2020) <<https://doi.org/10.22212/jekp.v10i2.1477>>.

inflation in each province. Article 23 paragraph (1) that "*Entrepreneurs conduct regular Wage reviews to adjust prices for living necessities and/or increase work productivity by considering the Company's capabilities*". In correlation, Indonesia needs to update the wage standards so that a decent life is felt by the workforce. can be achieved as best as possible.⁹

After the Government and Parliament stipulated the Draft Law into the Job Creation Act, there was a change in wages from the regulation through manpower to the regulation in job creation. In Article 88C the government states that the UMK requirements include economic growth and inflation in the district/city concerned. In the provisions of Article 88 paragraph (4) that "*The government sets the minimum wage as referred to in paragraph (3) letter a based on the needs of a decent living and taking into account productivity and economic growth*". When compared from the two arrangements, wages between job creation and employment have the same goal of paying attention to productivity and economic growth. In fact, this is the problem with the movement of the nation's economy which has the potential to increase or decrease a wage from the work. Workers/Laborers view wages as a source of income to meet the needs of Worker/Laborers and their families.¹⁰

Based on Population Data for Semester I of 2020 of the Ministry of Home Affairs, the total population of Indonesia in 2020 is 268,583,016 people (as of June 30). Indonesia as a developing country with a high population has the largest market for labor suppliers. Indonesia is characterized by a dualistic structure of employment and economy, namely the traditional (informal) sector and the relatively small modern sector. In the provisions of Article 92 paragraph (2) that "*Entrepreneurs conduct periodic wage reviews by taking into account the company's capabilities and productivity*". The author sees that with the regulation of labor wages in the Job Creation Law, it has not been implemented due to factors from the Draft Government Regulation (RPP) which has not been completed until now. Minimum wage arrangements for workers in Indonesia are still regulated through Government Regulation No. 78 of 2015 where the existence of wage arrangements in work creation has the potential to cause inequality problems and even injustice to the rights of wage recipients felt by workers. Since the time of President Soekarno until now, Indonesia has not ratified even one of the three minimum wage conventions. In the provisions regarding the minimum wage regulated through the *International Labor Organization*, there is no such thing as a single wage *an sich*. However, in terms of wages in the Manpower Law, it is stated that "*The minimum wage can consist of a minimum wage based on a province or district/city area and a minimum wage based on a sector in a province or district/city area*". Even after being regulated through the Manpower Act, it is still the same as that stipulated in the Manpower Act regarding wages. In the ILO provision that "*either by fixing a single minimum wage of general application or by fixing a series of minimum wages applying to a particular group of workers*". This application will be better based on sectoral rather than layered so as to avoid gaps and differences in the provision of wages

⁹ Jiancai Pi and Yu Zhou, 'Rural Property Rights, Migration, and Welfare in Developing Countries', *B.E. Journal of Economic Analysis and Policy*, 15.3 (2015) <<https://doi.org/10.1515/bejeap-2014-0062>>.

¹⁰ Tanti Kirana Utami, 'THE SOCIALIZATION OPTIMIZATION OF MINIMUM WAGE REGULATION IN LAW NUMBER 11 OF 2020 CONCERNING JOB CREATION RELATED TO THE LEGAL FICTION PRINCIPLE', 11, 2021, 6.

and of course apply to the *fairness of wages*. Therefore, Indonesia as a developing country like Malaysia as a country in Southeast Asia has ratified convention 131 regarding ILO wages and is the 53rd country in the world.

Research Method

This research was conducted through a juridical-normative method (doctrinal research) with an analytical approach and comparative approach.¹¹

Discussion

Of The Urgence Of Indonesia In Ratifying The Provisions Of Convention 131 Year 1970 As Minimum Wage Arrangements

The form of a country ratifying an international regulation is binding itself to an international treaty. Indonesia in ratifying an international agreement is carried out through a Law (UU) or a Presidential Decree (Keppres). Specifically for a country to ratify an international agreement is to implement national development in a global and harmonious manner. In Indonesia, minimum wage increases occur every year. That means that the costs to be paid by employers to the labor they use also increase which will eventually increase production costs.¹² One of the uses of the ratification of an international treaty is the benefit to human rights and the environment. In the concept of national interest, it is explained that for the survival of a country, the state must meet the needs of the state.¹³ Of course, the existence of national interest in Indonesia regarding wages for workers from the ILO Convention 131, 1970 will create a more humane human resource development. The problem also has something to do with when Indonesia in 2013 had not ratified the ILO Convention No.189 regarding the protection of the basic rights of domestic helpers (PRT). In wages, the convention requires the minimum wage to refer to the existing minimum wage rules for workers (Article 11).¹⁴ In addition, payment of wages must be made in cash, directly to workers, on a regular basis not exceeding one month. However, Indonesia has ratified the *ILO Convention Number 81 Concerning Labor Inspection In Industry And Commerce* regarding labor inspection in industry and trade. It should ratify the related ILO Convention Number 131 regarding minimum wages.

Standards for setting wages according to convention 131 are the needs of workers and their families, taking into account the general wage behavior of the country concerned, the cost of living, social protection insurance, and the relative living standards of other social groups. Indonesia has ratified 19 ILO Conventions which consist of the core and 11 other Conventions. This Convention includes Convention No. 29 1930 concerning Forced or Compulsory Labor, Convention No. 98 1949 concerning Right to Organize and Collective Bargaining, Convention No. 100, 1951 concerning Equal Remuneration for Women and Men for Work of Equal Value, Convention No. 87, 1948 concerning Freedom of Association and Protection of the Right to Organize, Convention No. 105, 1957 concerning Abolition of Forced Labour, Convention No.

¹¹ Sugeng Hadi Purnomo, 'PEKERJA TETAP MENGHADAPI PEMUTUSAN HUBUNGAN KERJA', *Jurnal Hukum Bisnis Bonum Commune*, 2019 <<https://doi.org/10.30996/jhbbc.v2i2.2493>>.

¹² Ujianto Murgianto, 'Effect of Minimum Wages on Inflation and Unemployment in East Java - Indonesia', *Journal of Economics and Sustainable Development*, 12.8 (2021), 18-23 <<https://doi.org/10.7176/jesd/12-8-04>>.

¹³ Yusman Yusman, Anissa Rezki, and Nur Rohim Yunus, 'The Role of Workers Unions in the Effort to Fight for the Rights and Obligations of Workers in Companies Declared Bankrupt In Indonesia', *JOURNAL of LEGAL RESEARCH*, 3.2 (2021) <<https://doi.org/10.15408/jlr.v3i2.20513>>.

¹⁴ Yusman, Rezki, and Yunus.

111, 1958 concerning Discrimination in Employment and Occupation, Convention No. 182.199 concerning Offenses and Immediate Action for the Elimination of the Worst Forms of Work for Children, other conventions related to employment activities. ILO Conventions are *soft law*, which means that if they have been ratified by Indonesia and incorporated into legislation.¹⁵

The position of national legal ratification regulations has a weakness if it is not recognized. It is as if Indonesia recognizes the existence of a dualistic legal system and prioritizes national needs over those outside the national needs. In the provisions of the ILO Convention No. 131 that "*The determination of the minimum wage must follow the principle of non-discrimination in accordance with ILO Conventions No. 100 and 111, and in the process of its determination it is necessary to heed ILO Conventions No. 87 of 1948 and No. 98 of 1949 on freedom Association and the Right to Negotiate*". In Brazil and the Russian Federation, the national minimum wage set by central government serves as a lower limit for the minimum wages set by regional governments¹⁶. In the provisions through the regulation of minimum wages, it is divided into types of wages, namely the Provincial Minimum Wage (UMP) and Regency/City Minimum Wage. After the government launched Law No. 13 of 2003 on manpower, it was stated that the standard of Decent Living Needs (KHL).

The urgency of Indonesia to ratify ILO 131, 1970 is to provide the feasibility of setting wages in accordance with global standards. The constitution of the Republic of Indonesia that "*states every citizen has the right to work and a decent living for humanity*". Imbalance is still a crucial issue concerning with employment condition in Indonesia where the growth of labor/work force keeps increasing from year to year while at the same time its demand is not in line with the number of job availability.¹⁷ As in Singapore, for example, according to the Singapore Ministry of Manpower, there are three types of workers' income apart from salary apart from benefits. Comparing with the bonus provisions in the Job Creation Act, it is quite limited in giving rewards these. The relevance of the importance of Indonesia ratifying the minimum wage from the ILO provisions is a form of salvation and as a basis for providing wages and in accordance with the spirit of human rights.

The Impact Of Indonesia Implementing The Ratification Of Convention 131 Of 1970 On Regulation Of Minimum Wages In The Era Of The Industrial Revolution 4.0

The regulation of minimum wage protection in Indonesia is regulated through Government Regulation Number 8 of 1981 that "*Entrepreneurs are required to pay the wages normally paid to workers who cannot do their jobs because they are working perform the duties of the State, if the obligations of the state workers do not receive wages or other benefits from the government but not exceeding one (1) year*". Indonesia recognizes the system of legal dualism between international law and national law on the condition that if it can have a full impact on human

¹⁵ 'ANALISIS HUKUM RATIFIKASI DAN IMPLEMENTASI KONVENSI-KONVENSI INTERNASIONAL LABOUR ORGANIZATION (ILO) DI INDONESIA', *Diponegoro Law Review*, 5.2 (2016).

¹⁶ Alessia Forti (OECD) and Marieke Vandeweyer (KU Leuven) Stijn Broecke (OECD), 'THE EFFECT OF MINIMUM WAGES ON EMPLOYMENT IN EMERGING ECONOMIES: A LITERATURE REVIEW Stijn Broecke (OECD), Alessia Forti (OECD) and Marieke Vandeweyer (KU Leuven)', 2012, 1-53.

¹⁷ Robert Tua Siregar and others, 'The Impact of GRDP and RWP on Regional Minimum Wage', *Jejak*, 13.2 (2020), 292-306 <<https://doi.org/10.15294/jejak.v13i2.23398>>.

rights community development. As an implementation of constitutional rights, Act Number 13 of 2003 on Labour Law and Government Regulation Number 78 of 2015 concerning Wages regulate wages nationally¹⁸. In terms of social and economic appearance, workers have a weak position compared to employers as job providers. In the case of Tjio Christine Chandra, a businessman from Surabaya who pays his employees below the minimum wage. This will certainly experience a strong protection if Indonesia ratifies Convention 131, 1970 regarding minimum wages. As a country that imports a lot of industrial raw materials, Indonesia experiences the impact of exchange rate instability, which can be seen from soaring production costs, causing the prices of Indonesia goods to increase.¹⁹ Therefore, that's would be formula for Indonesia worker wages to attention by government.²⁰

According to the theory of wages, natural law is the basis for providing restoration and maintenance of labor that has been used previously. The author analyzes that the range of wages that are not in accordance with the expectations of the workforce in the form of the ability to pay to the employer or the lack of a strong supply and demand process on the part of the job recipient. In order to realize an income that can fulfill a decent living for humanity, through laws and regulations, the government adopts a wage policy system that protects workers/labourers. The issue of wages in Indonesia today was spearheaded by the demonstration of the Anti-Debt Coalition-Indonesian Labor Movement with the intention of demanding the revocation of PP No. 78 of 2015 concerning wages with indications of inflation and economic growth. Referring to the provisions of the ILO Convention 131, 1970, it is more focused on providing wages based on justice and proportionately based on the eligibility of family life. While the impact of the increase in the minimum wage on employment opportunities tends to be negative and the greatest impact on workers who have low wages, while in absolute terms the wages of workers in the formal sector are lower than workers with low wages in the informal and self-employed sector.²¹

The development of the regulation of wages through PP No. 36 of 2021 towards a change in the quality of the workforce in terms of the quality of their life values. Referring to Article 4 paragraph (1) that "*The Central Government establishes a wage policy as one of the efforts to realize the rights of Workers/Labourers to a decent living for humanity*". The author analyzes the elements in Article 4 paragraph (1) providing an increase in the level of the goal of wages that were previously based on *Minimum Wages* to *Living Wages*. According to GS Becker (1976) that individual satisfaction can be obtained through consumption or enjoying leisure time (*leisure*). Comparatively, the wage arrangements from 1981, 2015 and 2021 are increasingly able to answer all the problems felt by the workforce in terms of satisfaction with these benefits.

¹⁸ Sugeng Prayitno, Budi Drajat Budiman, and Magister Notary Program, 'Implementation of Fairness Theory in Minimum Wages Policy for Small and Medium Enterprise in Indonesia', 2.3 (2020), 184-97.

¹⁹ A Mahendra and Tohap Parulian, 'Analysis of the Effect of Exchange Rates , Economic Growth and Minimum Wages on Unemployment with Inflation as a Moderating Variable in Indonesia', 8. February (2021).

²⁰ Peter Chen, *Animal Welfare in Australia: Politics and Policy*, *Animal Welfare in Australia: Politics and Policy*, 2016 <<https://doi.org/10.30722/sup.9781743324738>>.

²¹ Izzun Nafiah, 'Minimum Wages and the Fate of Indonesian Young Workers', *Jurnal Ekonomi Pembangunan*, 18.2 (2020), 105-18 <<https://doi.org/10.29259/jep.v18i2.11929>>.

The following table compares the regulation of PP Number 8 of 1981, PP Number 76 of 2015, and PP Number 36 of 2021 concerning Wages:

PP Number 8 of 1981	PP Number 78 of 2015	PP Number 36 of 2021
Article 7 : "Thewages of workers during illness can be calculated with a payment received by the worker arising from a statutory regulation or company regulation or a fund that organizes social security or an insurance"	Article 4 : " Eligible income is the amount of receipts or income of Workers/Labourers from the results of their work so that they are able to meet the living needs of Workers/Labourers and their families fairly"	Article 4 paragraph (1) : " The Central Government establishes a wage policy as one of the efforts to realize the rights of Workers/Labourers to a decent living for humanity"
Article 12 : "Part of the wages may be given in other forms except liquor, drugs or medicinal ingredients, provided that the value may not exceed 25% (twenty five percent) of the value of wages that should be received"	Article 11 : "Every Worker/Labourer has the right to get the same Wage for work of the same value"	Article 11 paragraph (1) : Bonuses may be given by Employers to Workers/Labourers for the benefit of the Company"
Article 27 : "In the event that the entrepreneur is declared bankrupt, then the wages of the workers are the debts whose payment takes precedence in accordance with the prevailing laws and regulations concerning bankruptcy"	Article 37 paragraph (1) : "Entrepreneur who is declared bankrupt based on the decision of the bankruptcy declaration by the court, the Wages and other rights of the Worker/Labourer are debts which have priority in payment" Article 37 paragraph (3) : "Other rights of the Worker/Labourer as referred to in paragraph (1), the payment is prioritized after the payment of creditors holding material security rights."	Article 49 paragraph (1) : "Companies declared bankrupt or liquidated based on the provisions of laws and regulations, Wages and other rights that have not been received by the Worker/Labourer is a debt that has priority in payment" Article 49 paragraph (3) : "Other rights of the Worker/Labourer as referred to in p there is paragraph (1) that the payment is prioritized for all creditors except the holders of material security rights"

Source by : Government Regulation Number 8 of 1981, Government Regulation Number 78 of 2015, and Government Regulation Number 36 of 2021 concerning Wages

The minimum wage set by the government is only 80 percent of the real needs of workers, even workers in Indonesia work for eight hours and receive a minimum wage. only equivalent to one hour's wages. In the era of the industrial revolution 4.0, it caused the blurring of the boundaries of a country where the rise of multinational companies was established in Indonesia. Of course, this will affect the development of company standards that focus on looking for more profits and looking for cheap labor. This does not mean that foreign investment into Indonesia will create better economic growth of a country. Instead, there is a negative side to the presence of foreign companies in the country only because the labor is cheap and does not see the rights to the wages of these workers. Minimum wages increased throughout Indonesia, but they increased at different rates, both because the original levels differed and because of difference in living costs across provinces.²²

²² Fredrik Sjöholm, 'Minimum Wages and Firm-Level Employment in a Developing Country', *SSRN Electronic Journal*, 1329, 2020 <<https://doi.org/10.2139/ssrn.3681416>>.

Therefore, the Indonesian government at this moment when the industrial revolution 4.0 occurred to make a quick policy in providing minimum wages to be fixed through the ratification of the ILO Convention 131, 1970 regarding minimum wages through a law (UU) or a Presidential Decree (UU) Presidential Decree) in accordance with the laws and regulations. Indirectly, it can provide improvements to the protection of workers after the work creation law is passed to be implemented in Indonesia in order to facilitate the process of foreign investment entering.

Conclusion

Existence of national interest in Indonesia regarding wages for workers from the ILO Convention 131, 1970 will create a more humane human resource development. The problem also has something to do with when Indonesia in 2013 had not ratified the ILO Convention No.189 regarding the protection of the basic rights of domestic helpers (PRT). It is as if Indonesia recognizes the existence of a dualistic legal system and prioritizes national needs over those outside the national needs. In the provisions of the ILO Convention No. 131 that the determination of the minimum wage must follow the principle of non-discrimination in accordance with ILO Conventions No. 100 and 111, and in the process of its determination it is necessary to heed the ILO Conventions No. 87 of 1948 and No. 98 of 1949 on freedom of association. and the Right to Negotiate. In the era of the industrial revolution 4.0, it caused the blurring of the boundaries of a country where the rise of multinational companies was established in Indonesia. Referring to the provisions of the ILO Convention 131, 1970, it is more focused on providing wages based on justice and proportionately based on the feasibility of living a family. Therefore, the Indonesian government at this moment when the industrial revolution 4.0 occurred to make a quick policy in providing minimum wages for workers. right through the ratification of ILO Convention 131, 1970 concerning minimum wages through a Law (UU) or Presidential Decree (Keppres) in accordance with statutory regulations. Therefore, it will have a full impact on the protection of the minimum wage for workers in Indonesia.

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