

Employment: The Root of The Problem and the Solution in an Islamic Perspective

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Abstract

Employment is everything related to labor at the time before, during and after the completion of the employment period, both in the work that produces goods and work in the form of. From the aspect of labor law is a private legal field that has a public aspect, because although the working relationship is made based on the freedom of the parties, but there are a number of provisions that must be subject to the provisions of the government in the sense of public law Almost in all countries today, employment or labor problems always grow and develop, both in developed and developing countries. Indonesia is also facing a variety of serious issues in employment issues. The root of employment problems lies in the fulfillment of life's needs. The responsibility of the state is to provide guarantees of fulfillment of basic needs to the people, and Islam has set clearly and in detail about the laws related to *ijārat al-ajār* (employment contracts).

Keywords: *employment, ijārat al-ajār, Islamic Solutions*

INTRODUCTION

When viewed in terms of labor law (which was originally known as labor), it is regulated in the provisions of Law No.14 of 1969 concerning the Principles of Labor Provisions, which was later replaced in 1997 by Law No.25 of 1997 concerning Manpower. The law was later replaced by Law No.13 of 2003 concerning Manpower (State Gazette of 2003 Number 39, Supplement to the State Gazette of 2003 Number 4279), hereinafter abbreviated as Law No.13 of 2003. When examined based on terms, labor law consists of two words, namely law and labor. Law and labor are two legal concepts, which from both concepts have different meanings. Law can be interpreted as legal norms, namely norms made by authorized power holders. Legal norms can be in the form of written or unwritten legal norms (Aksin, 2018). Manpower development is carried out on the principle of integration through central and regional cross-sectoral functional coordination (Indriani, 2016).

Some labor terms that must be understood as a basis for understanding these problems in Indonesia include the following:

1. The labor force participation rate which is an indicator that can describe the state of the population aged 15 years and over who participate in economic activity,
2. Open unemployment rate,
3. Absorption of labor is those who are absorbed in various jobs in a period (Syairozi and Susanti, 2018).

Various national problems faced by Indonesia are increasing day by day and tend to increase in terms of the intensity of the problem and the depth of the problem faced. In addition to problems in the fields of politics-government, economy, social society, law and legislation, education, and health services, Indonesia is also facing various serious problems in labor issues. Various labor problems continue to arise and have never been resolved. High unemployment rate, problems of job availability, low quality human resources (Permanent Lecturer of the Faculty of Economics UNISBA Department of IESP, 2003).

Labor is the main resource for the sustainability of a production in a company and in the structural

organization. The workforce is a population that is of working age. According to Law No. 13 of 2003 Chapter I Article 1 paragraph 2 it is stated that labor is everyone who is able to do work to produce goods or services both to meet their own needs and for the community (Syahrial, 2020). Viewed from a positive point of view, labor is one of the most important resources in encouraging the growth and economic progress of a country (Syahrial, 2020). Labor is a key factor that can encourage and accelerate the rise and fall of the competitiveness of an economy. Several empirical studies including (Uzik, 2007) do show that there is a fairly strong correlation between labor competitiveness and economic competitiveness. The higher the competitiveness of labor in a country, the higher the competitiveness of the country's economy, or vice versa.

The complexity of productivity improvement efforts makes some countries fail to encourage increased labor productivity (World Bank, 2010). The existence of labor in a production activity is very necessary, especially for those whose productivity level requires a level of efficiency in the process. The more the number of workers in a production, the greater some things that need to be considered in it, namely about their guarantees as labor. It is undeniable, if in a productivity activity of a company or organization, there are various events that are beyond the calculation of the productivity scale. In addition to work accidents that can cause losses in productivity, there are also things related to poor financial processing of production, which has an impact on reducing the number of workers, namely the action of Termination of Employment (PHK).

Various labor problems that arise do not arise solely due to the portrait of the world of employment alone. However, these problems arise and are also caused by various basic problems in the fields of politics-government, socio-economic society, education and so on. The problem of high unemployment, the problem of job availability; The problem of wage levels and labor welfare, social benefits, the problem of women workers and underage workers cannot be separated from the political-governmental conditions and socio-economic conditions of the nation. As a result of wrong policies in the political and economic fields, the Indonesian nation faces various serious economic problems. One of them is the high unemployment rate. Various government policies and measures are unable to encourage a healthy investment climate in the real sector, so as to create new jobs. On the contrary, the government is more partial and encourages the growth of *non-real* sectors such as the banking and ribawi financial sectors which actually results in Indonesia's entry into the trap of the monetary crisis that continues to the economic crisis. As a result, companies in the real sector were disrupted and some even had to go out of business. Unemployment is undesirable, but a disease that continues to spread in several countries, including Indonesia due to many factors that influence it (Franita, 2016). Of course, this adds to the long list of unemployment in Indonesia.

Such is the description of labor conditions in Indonesia and various problems related to it. If we look closely, then the labor problem is not a stand-alone problem and is independent of other problems. It is not only a matter of labor contact between employers and workers, but it is also a problem related to political, economic, socio-cultural policies, and so on.

METHOD

This research is qualitative research that is a library research that uses books and other literature as the main object (Saifuddin Azmar, 2001). The data collection methods used are library and documentation methods. Library and documentation methods are data collection techniques using library and document sources. Documents can be writing, drawings, or monumental works of a person (Sugiyono, 2014). Data sources used in research are the results of previous research, regulations, policies, and theories from various journals and textbooks. Data analysis techniques use Miles and Huberman's theory, namely data reduction, data presentation, and drawing conclusions. Data reduction is defined as the process of selection, focusing on simplifying, abstracting, and transforming rough data that arises from written records in the field. Miles & Huberman limits a presentation of data as an organized set of information that allows for

conclusions and action. Miles & Huberman concludes that it is only part of one activity of a complete configuration. These conclusions were also verified during the study (Miles and Huberman, 1994).

RESULTS AND DISCUSSION

1. Main Labor Issues

Looking more deeply at the various existing labor issues, the problem stems from the main problem of "efforts to meet the needs of life" and efforts to improve the welfare of life. The issue of meeting basic needs, both the need for goods such as food, clothing, and shelter; As well as services such as education, health, and security are the main root causes as well as driving factors for labor problems. The scarcity of employment causes some members of the community to be unemployed. Unemployment is a macroeconomic problem that affects humans directly and is the most severe (Probosiwi, 2016). And this has an impact on their inability to make ends meet. The plunge of women and children into the world of employment is inseparable from their efforts to be able to meet the needs of their lives and their families as well as in order to improve the welfare of life.

Likewise, the issue of low salaries has an impact on meeting needs; demands for salary increases in order to better meet needs; Demands for social benefits in the form of education and health so that the needs for education and health can be met. Even in every employment relationship will enter a stage where the employment relationship will end or be terminated by one of the parties who will be influential and very closely related to the issue of meeting basic needs (Silambi, 2019)

Because the root of the problem lies in meeting the needs of life. Thus, in order for labor issues to be resolved thoroughly, the issue of meeting the needs of the community should also be the focus of attention. In addition, solving various labor problems needs to be done while still finding the most beneficial solution for both parties. No one is wronged, neither workers nor employers. Therefore, an important step taken is to categorize, by separating labor problems that are closely related to meeting needs and problems that are directly related to employer and worker employment contract issues. For the first category, namely labor problems that are closely related to the problem of meeting needs, for example, the issue of job availability; unemployment, weak human resources, demands for wage increases, demands for social benefits, problems with women workers, and underage workers. As for the second category, namely employment contract issues between employers and workers, this includes issues of termination of employment, settlement of labor disputes, and so on.

The first issue, namely labor issues related to meeting the needs of people's lives, is closely related to the function and responsibility of the state to improve the welfare of its people. This problem must be resolved through state policy and implementation and not leave the solution solely to employers and workers. While the second problem, namely the issue of employment contracts, can be solved by employers and workers themselves. The government in this case only functions as a supervisor as well as an intermediary if there are problems that cannot be resolved by employers and workers.

By examining in depth the laws of Islam, we find that Islam as an ideological principle has tried to overcome various problems that arise in employment fundamentally and comprehensively. In solving these problems, Islam understands that the solution needs to pay attention to the main causal factors for the emergence of labor problems. For problems that arise due to State policies in the field of political economy, according to Islam it is the state that is responsible for solving them. While labor problems that arise due solely to the relationship between employers and workers, this should be solved by employers and workers themselves. Islam has explained in detail how employer-worker employment contracts through laws concerning *ijārat al-ajīr*. By adhering to Islamic provisions in employer-worker relations, it is hoped that existing problems

can be better resolved.

2. State Responsibility to Address Labor Issues

With regard to meeting the needs of the people's lives, Islam requires the State to carry out macro policies by carrying out what is called **Islamic Political Economy**. Political economy is the goal to be achieved from the implementation of various policies to regulate and solve various problems of human life in the economic field. Islamic political economy is the implementation of various policies that ensure the fulfillment of all the basic (primary) needs of each individual of society as a whole, accompanied by guarantees that allow each individual to meet complementary needs (secondary and tertiary) according to their abilities.

In order to meet the various needs of human life, Islam pays attention to meeting the needs of every member of society with the focus of attention that humans are considered as individuals (individuals), not just as a community living in a state. This means that Islam places more emphasis on meeting needs individually rather than collectively. In other words, how can each individual community meet all basic needs while improving their welfare so that they can meet complementary needs (secondary and tertiary). It is not just improving the standard of living collectively as measured by the average welfare of all members of society (GNP). Thus the distribution aspect is very important, so that it can be guaranteed with certainty that each individual has met the needs of his life.

When proclaiming laws concerning economics to humans, Allah Almighty has decreed these laws for individuals, society, and the state. Whereas while seeking the guarantee of life and the guarantee of achieving prosperity, Islam has stipulated that all guarantees must be realized in a country that has a certain *way of life*. Therefore, the Islamic system pays attention to the demands of individuals and society in realizing the guarantee of life and the guarantee of achieving prosperity.

3. The Islamic Way of Resolving Employment Problems

Labor is an important issue in the industry and determines the business continuity of a company. The employment contract between employers and workers is a cooperation contract that should be mutually beneficial. The entrepreneur benefits because he obtains the services of workers to carry out certain jobs that employers need. On the contrary, the worker benefits because he earns income from the rewards provided by the employer because he provides services to the employer. That is why employment relations in the Islamic view are partnership relationships that should be mutually beneficial. One party must not be tyrannical and feel wronged by the other.

In order for the partnership relationship to run well and all parties involved benefit from each other, Islam regulates it clearly and in detail with laws related to *ijārat al-ajīr* (employment contract). The arrangement includes the establishment of Islamic provisions in employment contracts between employers and workers; Establishment of provisions governing the resolution of disputes occurring between employers and workers. Including provisions governing how to overcome acts of tyranny committed by one party (employers and workers) against the other party. For this reason, there are several steps offered by Islam to be able to overcome and solve labor problems related to employment contracts between employers and workers. These steps are:

a. Require an employment contract between employers and workers in accordance with Islamic provisions in the *contract ijārat al-ajīr*

One form of work that is halal to do is what is called *ijārat al-ajīr*, which is working in order to provide services (in the form of labor and expertise) to certain parties in exchange for a certain amount of remuneration. *Ijārat* is the granting of services from an *al-ajīr* (one who contracts his labor) to an *al-musta'jir* (one who contracts energy), as well as the granting of property from the

part of *al-musta'jir* to an *al-ajir* in return for services rendered. (Finance et al., 2008). Therefore, *ijarah* is defined as a transaction of certain services accompanied by compensation (compensation).

In *ijarat* transactions there are two parties involved, namely the party who provides services and gets wages for the services provided called *al-ajir* workers and the recipient of services or employers, namely the party who provides wages called employers / employers (*al-musta'jir*). According to Islam, an *ijarat* transaction to be carried out must meet the basic principles of *ijarat* transactions. The main principles of transactions according to Islam are:

- 1) The services transacted are halal services and not haram services. So it is permissible to carry out *ijarat* transactions for expertise in producing halal daily necessities such as to produce food, clothing, household appliances and others. However, *ijarah* transactions are not allowed for the skill of making liquor (*khamr*), making narcotics and illegal drugs or any activities related to usury.
- 2) Fulfilling the requirements for the validity of *ijarat* transactions are: (a) those who make transactions (*al-ajir* & *al-musta'jir*) must be *mumayyiz* i.e able to distinguish good and bad. So it is not legal to make *ijarat* transactions if one or both parties have not *been mumayyiz* like a child who has not been able to distinguish good and bad, mentally weak people, crazy people, and so on; (b) The transaction ('contract') must be based on the pleasure of both parties, not because there is an element of coercion.
- 3) The transaction ('*akad*') *ijarat* must meet clear rules and conditions that can prevent disputes between the two transacting parties. *Ijarat* is to avail himself of the services of something contracted. If the transaction relates to an *al-ajir*, then what is used is his energy. So to contract an *al-ajir* must be determined the form of work, time, wages, and energy. Therefore, the type of work must be explained, so that it is not vague. Since *ijarat* transactions are still vague, the law is *fāsīd* (broken). And the time must also be determined, such as daily, monthly, or yearly. In addition, the wages of his work must also be fixed. Therefore, in *ijarat* transactions, the provisions that must be clear are concerning: (a) the form and type of work, (b) the length of service; (c) wages for work; (d) energy devoted while working (Yazid Afandi, 2009)

With the clarity and detail of the provisions in the *ijarat al-ajir* transaction, it is expected that each party can understand its rights and obligations. The worker on the one hand is obliged to carry out the work that is his duty; in accordance with existing transactions; On the other hand, he is entitled to a reward according to the existing agreement.

Similarly, employers are obliged to pay workers' wages and respect work transactions that have been made and cannot act arbitrarily against workers. For example, unilaterally conducting layoffs; forcing workers to work outside of working hours. However, employers are also entitled to services in accordance with transactions from workers; has the right to reject workers' demands outside the agreed transaction such as demands for salary increases, demands for benefits, and so on

b. The state will prevent no *zaliman* from being done to the other.

Tozaliman in an employment contract can be done by the employer against the worker and vice versa can be done by the worker against the employer. Including *Kez* the belief of employers towards workers is the actions of those who do not pay workers wages properly, force workers to work outside the agreed employment contract, carry out arbitrary termination of employment including not giving workers rights such as the right to be able to carry out worship obligations, the right to rest if he is sick, and so on. It is related to the businessman that *zalim* the apostle has

warned in his hadith. Imam Bukhari narrated from Abu Hurairah (may Allah be pleased with him) that: The Holy Prophet (peace be upon him) said.

The three whom I am hostile to on the Day of Judgment, are those who have given (allegiance to the Caliph) for Me's sake, and then betrayed; the one who sells (as a slave) a free man, then he eats the price (proceeds) of his sale; and the one who contracts the worker and then the worker fulfills his work, while that person does not give his wages (HR Ahmad, Bukhari, and Ibn Majah of Abu Hurayrah, see Fathul Bari, 4/447).

Meanwhile, the faith that workers do to employers is if workers do not fulfill their obligations that are the right of employers such as working according to specified working hours, not damaging assets owned by employers, and so on. In order to prevent ke zaliman from occurring in the employment contract, Islam imposes strict laws on anyone who commits kezaliman, be it a businessman or a worker. These laws are enacted so that there can be no tyranny between one party and another.

c. Establish and regulate the settlement mechanism in the employment contract

Although Islam has anticipated everything that can cause conflict between employers and workers, namely by establishing very detailed provisions as stated above, the opportunity for employer-worker disputes still exists. To overcome disputes that occur between employers and workers both in salary issues, workload determination problems, and other problems, Islam provides solutions by establishing a forum for resolving labor disputes.

This forum can be in the form of individuals or institutions appointed either by the two parties to the dispute, or provided by the state to resolve various labor disputes. This container or body is a kind of "arbitral body" whose decision is expected to be binding and final. The people who sit in this body are fair people and those who are experts in labor matters. It is these experts called خبراء (khubarāu) who are expected to resolve the dispute.

CONCLUSION

Such is the view and way of Islam to overcome and solve existing labor problems. The solution offered by Islam is not a patchy solution, but a fundamental, comprehensive solution to society's problems including labor problems. It is time for the Indonesian people to turn to Islam to solve various national problems including labor problems.

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