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Reconstruction of the Obligation to Pay Minimum Wages for Financially Incapable Companies

Efendi, Francis Maryane Pattynama, Rizal Haliman
Universitas Maarif Hasyim Latif Sidoarjo, Indonesia
efendi80.kspi@gmail.com

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Abstract

When companies face financial difficulties, enforcing minimum wage obligations raises questions about how to protect workers' statutory wage rights while preserving business continuity. This study examined minimum wage payment obligations under Indonesian law and proposed a compliance mechanism for companies unable to meet them. It used doctrinal legal research with statutory and conceptual approaches, supported by library research and descriptive legal analysis. The analysis found that minimum wage payment is a binding statutory duty that remains in force during financial hardship and that financial hardship alone provides no grounds for employers to pay wages below the statutory minimum unilaterally. The proposed mechanism begins with an external audit to verify the company's financial condition, followed by negotiations between the employer and workers to agree on a compliance plan. The governor would then review and decide on the plan in accordance with applicable law. The mechanism also requires documented wage shortfalls, a defined period for paying arrears, and oversight of implementation. The study provides a basis for designing a transparent, verifiable process that addresses employer financial hardship while safeguarding workers' right to the minimum wage and payment of outstanding wages.

Keywords: Employer Financial Distress; Employer Obligations; Legal Reconstruction; Minimum Wage; Workers' Rights

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INTRODUCTION

National development is essentially directed toward achieving public welfare, as mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia. The attainment of this objective cannot be separated from the role of the workforce, which constitutes one of the essential elements of development activities and economic growth. Workers not only serve as the executors of production processes but are also entitled to receive the benefits derived from the work they perform (Pratomo & Saputra, 2021). This position establishes the protection of workers' rights as an essential component of industrial relations. Such protection encompasses the right to employment, fair treatment, and decent remuneration, as guaranteed under Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia. One form of protection directly related to workers' welfare is the regulation of wages. Wages constitute workers' rights and, at the same time, their primary source of income for meeting the living needs of themselves and their families. For companies, wage payments form part of the obligations that must be taken into account in operational activities and production processes (Noviana et al., 2022). These differing interests demonstrate that wage-related issues are not merely matters of economic calculation but also concern the balance of the parties' positions within employment relationships. Given that workers generally occupy a relatively weaker social and economic position than employers, state intervention is necessary to establish legal boundaries and provide protection. Wage regulation therefore serves as an essential instrument to ensure that the determination of remuneration does not entirely depend on individual agreements that may potentially disadvantage workers (Bahar & Susanto, 2022).

The minimum wage is one form of state protection intended to ensure that workers receive income at least equivalent to the established standards. The determination of minimum wages cannot be separated from considerations of decent living needs, economic conditions, inflation rates, economic growth, and the financial capacity and business sustainability of companies (Hidayah et al., 2021). This policy reflects the need to reconcile workers' interests in obtaining a decent livelihood with companies' interests in maintaining the sustainability of their business activities. Constitutionally, the guarantee of fair and decent remuneration provides the basis for the state to establish binding wage regulations. Minimum wage provisions are stipulated, among others, in Law Number 13 of 2003 concerning Manpower, as subsequently amended through legislation relating to Job Creation, including Law Number 6 of 2023. These regulatory developments are also associated with

Constitutional Court Decision Number 168/PUU-XXI/2023 and amendments to wage regulations through Government Regulation Number 51 of 2023 and Government Regulation Number 49 of 2025. This series of regulations demonstrates that minimum wage policies continue to undergo adjustments in response to developments in employment conditions and the economy. Although the minimum wage determination mechanism takes companies' financial capacity into consideration, such consideration does not automatically grant employers the freedom to pay wages below the applicable minimum standards (Lazuardi & Rahayu, 2019). Article 88E paragraph (2) of the Manpower Law, as amended, expressly prohibits employers from paying wages lower than the minimum wage. This provision establishes the minimum wage as a mandatory protective threshold that must be observed in employment relationships. The legal status of the minimum wage also limits the contractual freedom of the parties, since a worker's agreement to receive wages below the prescribed standard does not, in itself, extinguish the employer's statutory obligations (Eneh et al., 2024).

In practice, the implementation of the obligation to pay minimum wages does not always proceed in accordance with applicable regulations. Companies may face various circumstances that affect their financial capacity, such as declining revenues, reduced market demand, increasing operational costs, economic instability, and disruptions to corporate cash flow. Such circumstances may cause companies to experience difficulties in fulfilling their operational obligations, including the payment of wages to workers. Legal problems arise when these financial conditions are used as grounds for paying wages below the prescribed minimum standards or unilaterally changing wage amounts without following a legally established mechanism. On the one hand, employers are obligated to fulfill workers' normative rights as stipulated in legislation. On the other hand, companies also have an interest in maintaining their business operations to prevent greater financial losses or even the cessation of their business activities (Noviana et al., 2022). These difficulties may encourage companies to reduce their workforce through termination of employment (PHK), including on efficiency grounds as regulated under Government Regulation Number 35 of 2021. Termination of employment is not a simple matter because it affects workers' sources of income, family livelihoods, and the stability of industrial relations. Large-scale workforce reductions may also generate broader social and economic consequences. These circumstances demonstrate the need for solutions that take companies' financial capacities into account while ensuring the fulfillment of workers' rights. A company's financial

difficulties cannot automatically be used to justify unilateral reductions in minimum wage payments. Employers must continue to comply with applicable legal provisions, while workers are entitled to certainty regarding the amount of wages to which they are entitled. The issue becomes increasingly complex when there are no clear parameters for determining a company's financial incapacity, establishing the means of proving such incapacity, and identifying mechanisms for settling wage payment obligations without undermining worker protection.

The reconstruction of minimum wage payment obligations is important to examine as an effort to establish a settlement mechanism capable of reconciling the interests of workers and companies within the boundaries of the law. Such reconstruction is not intended to grant employers the authority to unilaterally reduce wages or disregard workers' normative rights. Rather, the proposed reconstruction is directed toward establishing a more measurable mechanism for addressing circumstances in which companies genuinely experience financial difficulties. Potential measures include examining a company's financial condition on the basis of verifiable evidence, ensuring transparency of information to workers, conducting bipartite negotiations, and formulating agreements concerning the mechanism for fulfilling wage payment obligations. Such agreements must provide clarity regarding the amount of outstanding obligations, the settlement period, and the payment of any remaining wage arrears. The development of regulations through Law Number 27 of 2026 concerning Employment Protection, particularly Article 140 paragraphs (6) and (7), which serves as the legal basis for the discussion in this study, also creates a need for further examination of the mechanism for applying for minimum wage exemptions for companies that are financially incapable. The existence of such a mechanism must be accompanied by clear requirements to prevent differing interpretations among employers, workers, and the government. The assessment of a company's financial condition must be based on objective financial circumstances rather than merely on an employer's declaration of inability to pay wages. The authority of the government, particularly the governor in the process of determining exemptions, must also be positioned as part of the supervisory mechanism to ensure that agreements between the parties do not conflict with labor law protections. Provisions concerning time limits, evidentiary requirements, verification, supervision, and the settlement of outstanding wage payments are essential elements that require further clarification. Without such mechanisms, claims of financial incapacity may potentially be

exploited to evade employers' obligations and place workers in an increasingly disadvantaged position (Noviana et al., 2022).

Issues concerning the obligation to pay minimum wages by companies that are financially incapable ultimately demonstrate the need to establish legal certainty that can protect the interests of all parties in employment relationships. Existing studies on wage regulation have discussed the determination of minimum wages, the protection of workers' rights, and labor supervision. However, the legal construction of minimum wage payment obligations when companies experience financial incapacity still requires further examination. Several aspects deserve particular attention, including the scope of employers' obligations, objective criteria for determining financial incapacity, the validity of agreements between workers and employers, mechanisms for applying for exemptions, and legal accountability for outstanding wage payments. Legal protection for workers also requires examination, particularly with regard to their right to receive payments in accordance with applicable regulations, government supervision, and legal remedies available when employers fail to fulfill their obligations. This study aims to analyze companies' obligations to pay minimum wages under applicable legislation and to identify an appropriate legal construction for companies experiencing financial incapacity. The discussion is expected to provide an overview of settlement mechanisms that continue to position workers' rights as a form of protection that must be fulfilled, while simultaneously providing companies with opportunities to maintain business continuity through lawful and supervisable procedures. A balance between these two interests cannot be established solely through agreements between the parties but must be supported by clear legal provisions, objective assessment criteria, and firm accountability mechanisms. Based on these issues, this study is entitled "Reconstruction of the Obligation to Pay Minimum Wages for Financially Incapable Companies." This study aims to analyze the obligation to pay minimum wages under applicable legislation and to reconstruct the mechanisms for fulfilling such obligations for companies that are financially incapable.

METHODS

This study employs a normative legal research method, focusing on the examination of legal norms, principles, and doctrines governing the obligation to pay minimum wages by companies experiencing financial incapacity. This study aims to analyze the compatibility

between employers' obligations to comply with minimum wage provisions and the objective financial capacity of companies, while also identifying weaknesses in the existing legal framework that may potentially result in injustice for both workers and employers. The research approaches employed consist of the statutory approach, which examines the Manpower Law, its amendments, and implementing regulations concerning wages, and the conceptual approach, which examines the principles of legal certainty, justice, the protection of workers' rights, and employers' responsibilities. As explained by (Marzuki, 2017), normative legal research is conducted through an examination of relevant legal rules, legal principles, and doctrines to develop legal arguments for addressing legal issues.

The legal materials used in this study consist of primary legal materials, namely legislation and court decisions relating to wage regulation and employment, as well as secondary legal materials in the form of law books, scientific journals, academic articles, and relevant previous research findings. Legal materials were collected through library research by inventorying, classifying, and examining various legal sources based on their relevance to the research issues. Subsequently, the legal materials were analyzed qualitatively using prescriptive legal reasoning, namely by interpreting applicable legal provisions, identifying legal gaps and normative inconsistencies, and evaluating the relationship between minimum wage payment obligations and companies' financial incapacity. The results of this analysis are used to formulate an appropriate legal construction or reconstruct the regulatory framework governing minimum wage payment obligations in a manner that upholds justice while ensuring the protection of workers' normative rights, legal certainty, and the continuity of companies' business operations (Disemadi, 2022).

RESULTS

The obligation to pay minimum wages constitutes a form of legal protection for workers, intended to ensure that they receive a decent income within the framework of employment relationships. The findings of this study, based on an examination of labor legislation, establish that the minimum wage represents a statutory right of workers that employers are legally required to respect and fulfill. This obligation is constitutionally grounded in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which guarantee the right to employment, a decent standard of living, and fair remuneration and treatment in employment relationships. These

constitutional guarantees are further implemented through legislation governing employment and wage regulation. The minimum wage functions as a legally prescribed wage floor that cannot be set aside through agreements between employers and workers. Consequently, a company's financial losses or economic difficulties do not, in themselves, release the employer from the obligation to pay at least the applicable minimum wage. Employers therefore remain legally bound to ensure that workers' wage entitlements are fulfilled in accordance with prevailing statutory requirements.

However, legal complications arise when a company genuinely faces financial difficulties that prevent it from meeting its minimum wage payment obligations. In this regard, it is essential to distinguish between demonstrable financial incapacity and situations in which employers invoke financial difficulties merely to reduce operational expenditure and preserve corporate profitability. Accordingly, any claim of financial incapacity must be subject to an objective verification process involving an examination of the company's financial statements, cash flow, revenue, operating expenses, outstanding liabilities, and overall capacity to maintain its business operations. The findings of this study indicate that an employer's unilateral assertion of financial incapacity is insufficient to establish the company's actual financial condition. Such a claim must instead be substantiated by adequate financial documentation and the findings of an independent external audit. Furthermore, before applying for an exemption from minimum wage payment requirements, the company must demonstrate that it has undertaken reasonable measures to restore its financial position.

Table 1. Legal Framework for Reconstructing Minimum Wage Payment Obligations for Companies Experiencing Financial Difficulties

Aspect	Proposed Regulatory Framework
Financial verification	Verification based on the company's financial statements and independent external audit findings.
Bipartite negotiations	Negotiations involving the employer and workers or their trade union representatives.
Government supervision	Examination and assessment of the application by the governor.
Settlement of outstanding obligations	Recording wage arrears and establishing a repayment schedule.
Corporate recovery	Formulation of a financial recovery plan.
Worker protection	Monitoring wage payments and providing accessible complaint mechanisms.

Source: Research Findings

As presented in Table 1, the reconstruction of minimum wage payment obligations should focus on establishing a regulatory mechanism that ensures legal certainty for workers while taking into consideration the continuity of business operations. Verification of the

company's financial condition constitutes the initial stage in determining whether an application for an exemption is genuinely justified by objective financial circumstances. This process should subsequently be followed by bipartite negotiations to ensure that workers receive transparent information concerning the company's financial condition and are given the opportunity to participate in determining how outstanding wage obligations should be settled. An independent external audit serves to establish the reliability of the company's financial information, while the governor is responsible for examining and assessing the eligibility of the application for an exemption in accordance with applicable legal provisions. Where wage arrears arise, the company must continue to recognize and record those outstanding obligations and establish a clear repayment plan. Accordingly, any agreement reached between the parties must not be construed as a waiver or extinguishment of workers' statutory wage entitlements.

Furthermore, the reconstruction of the regulatory framework must establish effective supervision over the implementation of decisions and agreements concerning minimum wage payment obligations. Such supervision should not be confined to the initial examination of an exemption application but should continue throughout the implementation of the company's financial recovery plan and the fulfillment of its outstanding wage obligations. This ongoing oversight is necessary to ensure that the commitments undertaken by the company are effectively implemented. If the company fails to fulfill its obligations, workers must retain the right to file complaints and pursue the available mechanisms for resolving industrial relations disputes. Accordingly, the reconstruction of minimum wage payment obligations should incorporate several interconnected elements, namely the verification of financial incapacity, bipartite negotiations, independent external audits, examination by the governor, repayment plans for outstanding wages, and continuous government supervision. This framework is expected to establish a fair balance between the protection of workers' statutory rights and the sustainability of business operations, without allowing financial difficulties to become a justification for disregarding employers' legal obligations.

DISCUSSION

1. Companies' Obligations to Pay Minimum Wages under Applicable Laws and Regulations

Employment and wages are two inseparable elements of industrial relations. Workers contribute their labor, expertise, time, and abilities to perform the work required by a company, while employers are obliged to provide compensation for such work in the form of wages. This reciprocal relationship is not merely based on an agreement between the parties but also operates within a legal framework governing their respective rights and obligations. In practice, the positions of workers and employers in an employment relationship are not always equal. Employers have the authority to manage business activities, determine company policies, and regulate the performance of work, whereas workers generally depend on the wages they receive to earn an income and meet their living needs. This situation makes wage regulation an essential component of labor protection. The state must establish certain limits and standards to ensure that employment relationships do not depend entirely on the bargaining positions of the parties. One form of such protection is implemented through minimum wage policies, which function as the lowest threshold for wage payments to workers in accordance with applicable laws and regulations. The existence of these standards provides protection for workers while also creating certainty for employers regarding their wage payment obligations (Hamid, 2021).

The constitutional basis for workers' rights to a decent standard of living can be found in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which stipulates that every citizen has the right to employment and a livelihood that is decent for human dignity. This guarantee is further reinforced by Article 28D paragraph (2) of the 1945 Constitution, which grants everyone the right to work and to receive fair and proper remuneration and treatment in an employment relationship. These two provisions establish wages as part of workers' constitutional rights, which must be protected by the state. Further regulation concerning the right to decent income is reflected in Article 88 paragraph (1) of Law Number 13 of 2003 concerning Manpower, as amended through legislation in the field of employment. This provision emphasizes that every worker/laborer is entitled to receive income sufficient to meet a decent standard of living for human dignity. Decent income cannot simply be understood as the payment of a certain amount of money based on an employment agreement; rather, it must take into account the protection standards established

by the state. Consequently, wage regulation has a broader dimension than an ordinary contractual relationship because it concerns the fulfillment of the living needs of workers and their families. The state not only recognizes workers' right to obtain employment but also ensures that such employment provides adequate remuneration. The employer's obligation to pay minimum wages constitutes one form of implementing this guarantee within the employment relationship.

In principle, the minimum wage is the lowest wage standard established by the government as a safety net for workers. This standard is intended to prevent excessively low wage payments resulting from the imbalance in bargaining power between workers and employers. Minimum wage policies are also designed to protect workers' purchasing power, particularly in meeting their daily basic needs. This definition indicates that the minimum wage is not an amount that must automatically be received by all workers regardless of their qualifications and length of service. Rather, the minimum wage functions as a lower threshold that must be taken into account when determining wages, while payments above this standard may be adjusted according to the company's wage structure and scale. Workers with longer periods of service, higher positions, greater competencies, higher levels of education, or more substantial responsibilities may receive higher wages in accordance with applicable provisions. Constitutional Court Decision Number 168/PUU-XXI/2023 also provides an interpretation that the determination of wages above the minimum wage is based on an agreement between employers and workers/laborers or trade unions/labor unions within the company. This demonstrates that the minimum wage constitutes a basic level of protection rather than an upper limit restricting workers' rights to obtain better incomes. This distinction is important because the implementation of minimum wages must not be understood as the sole benchmark within the entire wage system. Employers must still establish a wage structure and scale by taking into account the company's circumstances and the characteristics of the work performed by employees (Bahar & Susanto, 2022).

The regulation of minimum wage categories has developed alongside changes in Indonesia's labor policies. Based on the provisions discussed in Law Number 27 of 2026 concerning Employment Protection, Article 137 regulates the types of minimum wages, which include the Provincial Minimum Wage (*Upah Minimum Provinsi*/UMP), Regency/Municipal Minimum Wage (*Upah Minimum Kabupaten*/Kota/UMK), Provincial Sectoral Minimum Wage (*Upah Minimum Sektoral Provinsi*/UMSP), and Regency/Municipal Sectoral Minimum Wage (*Upah Minimum Sektoral Kabupaten*/Kota/UMSK). The UMP is the

minimum wage standard applicable at the provincial level, whereas the UMK is established for a particular regency or municipality. Meanwhile, the UMSP and UMSK are minimum wage standards applied to specific business sectors at the provincial and regency/municipal levels, respectively. This classification demonstrates that minimum wage determination takes into account regional differences and the characteristics of economic activities. Living costs, economic development, industrial structures, and employment conditions are not necessarily the same from one region to another. The establishment of regional standards enables wage policies to be adjusted to local circumstances, while sectoral regulations provide room to consider the characteristics of particular business sectors (Yojania et al., 2026). The existence of several types of minimum wages does not eliminate employers' obligations to comply with the standards applicable to their respective regions and business sectors. Employers must ensure that they identify the appropriate minimum wage standard applicable to their companies before determining workers' wage levels. Errors in identifying the applicable standard may lead to inaccuracies in fulfilling wage payment obligations and potentially disadvantage workers (Fitriani et al., 2025).

Minimum wage determination is not carried out unilaterally by companies but through a mechanism involving the government and taking into account economic and employment conditions. Article 138 of Law Number 27 of 2026 concerning Employment Protection, as described in the research materials, stipulates that the determination of minimum wages must take into account decent living needs, economic conditions, and employment conditions. Furthermore, Article 139 regulates the minimum wage calculation formula by considering economic growth, inflation, and a particular index. Economic growth is used to assess developments in economic activities, while inflation serves as an indicator of changes in the prices of goods and services that affect workers' purchasing power. A particular index functions as an adjustment component in the wage formula so that minimum wage determination can take into account both workers' interests and the capacity of the economy. Decent Living Needs (*Kebutuhan Hidup Layak*/KHL) also constitute an important basis because they reflect workers' needs to maintain an adequate physical and social standard of living over a certain period. In addition, regional employment conditions, labor absorption rates, unemployment rates, and industrial structures are factors that need to be considered in determining wage policies. The use of official statistical data, particularly data from Statistics Indonesia (*Badan Pusat Statistik*/BPS), is necessary to ensure that minimum wage determination has an objective and accountable basis. These considerations demonstrate that

minimum wage policies are not determined solely by workers' needs or the individual financial capacity of companies, but through calculations that take broader economic and employment conditions into account.

The minimum wage determination mechanism is implemented through several stages, including data collection, assessment of economic conditions, formulation of recommendations, and final determination by the authorized official. The Wage Council conducts deliberations based on data and indicators relating to decent living needs as well as economic and employment developments. The results of these deliberations serve as the basis for formulating recommendations on minimum wage levels, which are subsequently submitted to the governor. The governor establishes the minimum wage through a gubernatorial decree, guided by the applicable provisions and calculation formula. Once determined, the minimum wage is officially announced and becomes a standard that employers must observe when implementing employment relationships. This mechanism demonstrates that the obligation to pay minimum wages is a consequence of public policy established by the state, rather than merely the result of individual negotiations between workers and employers. Companies do not have the authority to independently determine the applicable minimum wage on the grounds that their internal circumstances differ from those of other companies. Wage adjustments based on company conditions must still comply with the minimum threshold and applicable legal provisions. The establishment of standards by the government also provides certainty regarding the lowest wage amount that must serve as a reference in employment relationships. For workers, this certainty provides a basis for demanding the fulfillment of their wage rights, while for employers, it serves as a guideline for preparing labor budgets and company payroll policies.

The obligation of companies to pay minimum wages is closely related to the prohibition against paying wages below the standards established by the government. Under Law Number 13 of 2003 concerning Manpower, this prohibition was previously regulated under Article 90 paragraph (1), while Article 90 paragraph (2) provided for the possibility of postponement for employers who were unable to pay the minimum wage. Subsequent amendments under the Job Creation Law regime gave rise to questions concerning the legal status of this prohibition and the protection afforded to workers. Constitutional Court Decision Number 168/PUU-XXI/2023 constitutes an important basis for understanding the regulation of minimum wages following these amendments. The Court maintained the existence of minimum wage regulations through Articles 88C, 88D, 88E, and 88F as

stipulated in Law Number 6 of 2023. These provisions affirm that minimum wage protection remains an integral part of the national wage system. Furthermore, Article 140 paragraph (5) of Law Number 27 of 2026 concerning Employment Protection, as referred to in the research materials, also expressly prohibits employers from paying wages below the minimum wage. This prohibition is legally binding and therefore cannot be set aside merely through an agreement between workers and employers. Although an employment agreement serves as the basis for establishing an employment relationship, its provisions must remain subject to applicable laws and regulations. If an agreement contains a clause stipulating wages below the applicable minimum standard, such a clause cannot be used to eliminate workers' normative rights (Pakpahan et al., 2022).

The status of minimum wages as workers' normative rights entails that wage payment obligations cannot be separated from employers' legal responsibilities. Normative rights are rights derived from laws and regulations and must be fulfilled by the parties upon whom the relevant obligations are imposed. Within an employment relationship, employers are obliged to pay wages in accordance with applicable provisions, while workers are entitled to receive such payments in return for the work they have performed. Employment agreements, company regulations, and collective labor agreements must not contain provisions that reduce the minimum protection established by the state. This principle is related to limitations on freedom of contract under contract law. Article 1320 of the Indonesian Civil Code (KUHPerdata) establishes the requirements for a valid agreement, while Article 1338 stipulates that legally concluded agreements are binding as law upon the parties. However, the freedom to enter into agreements remains subject to mandatory legal provisions. Article 1337 of the Indonesian Civil Code provides that an agreement is unlawful if its underlying cause is contrary to legislation, morality, or public order. Therefore, a worker's consent to receive wages below the minimum standard does not automatically render such payment lawful. The parties' agreement cannot serve as a basis for disregarding rights guaranteed by laws and regulations. This provision also demonstrates that minimum wage protection does not depend solely on workers' ability to negotiate but is guaranteed through legally binding norms imposed upon employers.

The implementation of minimum wage payment obligations must also take into account exceptions specifically provided for under laws and regulations. Such exceptions cannot be interpreted as granting every company the freedom to independently determine the amount of wages to be paid. According to the research materials, Article 140 paragraph

(6) of Law Number 27 of 2026 concerning Employment Protection provides an opportunity for companies that are not yet capable of meeting the minimum wage requirements to submit an application for an exemption to the governor. Article 140 paragraph (7) stipulates that such an application must be based on a bipartite agreement and supported by an external audit that has been conducted. This provision demonstrates that an exemption must be pursued through procedures established by law and must involve the authorized party. A company cannot simply claim to be experiencing losses or financial difficulties and then unilaterally pay wages below the minimum standard. The company's financial condition must be substantiated through an accountable mechanism, while a bipartite agreement constitutes one of the requirements that must be fulfilled (Yojania et al., 2026). The authority to grant an exemption also rests with the governor, rather than with the employer or individual workers. The provisions concerning exemptions must therefore be understood as a special mechanism subject to specific requirements, rather than as an elimination of the principle requiring the payment of minimum wages. This distinction is essential to ensure that workers' rights remain protected and that companies do not use their financial circumstances as grounds for avoiding wage obligations without following the legally prescribed procedures.

Based on the research findings concerning labor legislation, particularly the provisions on wages and Constitutional Court Decision Number 168/PUU-XXI/2023, it can be established that the minimum wage constitutes a normative right of workers as well as the minimum wage threshold that employers are legally required to observe. This status derives from Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which guarantee every citizen's right to employment, a decent livelihood, and fair and proper remuneration and treatment in an employment relationship. These constitutional provisions are subsequently elaborated in Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023, which was subsequently updated through Law Number 27 of 2026 concerning Employment Protection and implemented through Government Regulation Number 36 of 2021 concerning Wages, as amended most recently by Government Regulation Number 49 of 2025.

The minimum wage functions as the lowest level of protection for workers and serves as a guideline for employers in implementing wage payments. Regulations concerning the types, basis of determination, calculation formulas, and implementation of minimum wages demonstrate that the national wage system is designed by taking into account decent living needs, economic conditions, and employment conditions. Employers are required to

comply with the applicable standards and cannot set them aside through agreements that contradict legal provisions. Constitutional Court Decision Number 168/PUU-XXI/2023 further reinforces the status of minimum wages as an integral component of worker protection within the employment system. The provisions concerning applications for exemptions under Article 140 paragraphs (6) and (7) of Law Number 27 of 2026 also demonstrate that a company's inability to meet minimum wage requirements must be addressed through the legal mechanisms established by law. In other words, employers' obligations cannot be eliminated merely because of internal financial problems within the company. The fulfillment of workers' rights to minimum wages remains the fundamental principle, while any possible exemption must be based on lawful requirements and procedures. This legal framework confirms that minimum wage payment is not merely a contractual obligation but also constitutes an employer's legal responsibility to ensure the protection and welfare of workers.

2. Reconstruction of Minimum Wage Payment Obligations for Companies Experiencing Financial Incapacity

The obligation to pay minimum wages constitutes part of the legal protection afforded to workers and must be fulfilled by every employer in accordance with applicable laws and regulations. Problems arise when a company experiences financial difficulties and consequently lacks sufficient capacity to fully meet its minimum wage payment obligations (Eneh et al., 2024). This situation creates issues relating not only to the fulfillment of workers' rights but also to the continuity of business operations and legal certainty for the parties involved in the employment relationship. Companies require room to restore their financial condition so that their operational activities can continue, while workers still need certainty regarding the income to which they are entitled. These two interests must be accommodated proportionately without undermining the status of the minimum wage as a protective standard. The reconstruction of minimum wage payment obligations is necessary to establish a settlement mechanism that can accommodate the company's circumstances while simultaneously guaranteeing the fulfillment of workers' rights. Such reconstruction is not intended to grant employers unrestricted discretion to determine wages below the minimum standard, but rather to establish a measurable procedure for addressing financial incapacity through legally accountable processes (Hidayah et al., 2021).

The reconstruction of the regulatory framework should begin by establishing a clear definition of a company's financial incapacity. Financial incapacity cannot be based solely on an employer's statement that the company is experiencing losses or declining revenue. Such circumstances must be substantiated by financial conditions that can be objectively examined so that companies genuinely experiencing financial difficulties can be distinguished from those merely seeking to reduce operational costs. The assessment may take into account financial statements, cash flow conditions, comparisons between revenue and operating expenses, obligations to creditors and suppliers, and the company's ability to maintain its business operations. Outstanding payments to other parties must also be assessed based on the amount of the obligations, their due dates, and their impact on the company's cash flow. The threat of production suspension, closure of business units, reduced operational capacity, and the loss of primary sources of revenue may serve as additional indicators, provided that they are supported by relevant documentation. A company's desire to maintain its profit margins or avoid a decline in profits cannot automatically be categorized as financial incapacity. Establishing these criteria is necessary to ensure that the exemption mechanism is not used as a means of avoiding wage payment obligations (Lazuardi & Rahayu, 2019; Atmari et al., 2023).

The assessment of financial incapacity must also take into account the recovery efforts undertaken by the company. Before submitting an application for an exemption from minimum wage requirements, employers should demonstrate that the company has taken reasonable measures to improve its financial condition. Such measures may include reducing expenditures that are not directly related to the fulfillment of workers' rights, collecting outstanding receivables, restructuring financial obligations, evaluating operational activities, increasing productivity, or seeking appropriate sources of funding. Assessing recovery measures does not mean that companies must always obtain new loans or sell their assets to fulfill wage payment obligations, since such actions must also take into account business feasibility and sustainability. Companies must also explain why the measures they have undertaken have not yet been sufficient to restore their ability to pay wages. This information is important to ensure that financial incapacity is not the result of management decisions that deliberately disregard workers' interests (Angelia & Lie, 2024). Through measurable verification, the government can obtain an accurate picture of the company's actual condition before assessing an application for an exemption. This mechanism also prevents companies

from unilaterally invoking financial difficulties without supporting evidence that can be independently verified (Ayuni et al., 2024).

Another aspect requiring reconstruction is the bipartite negotiation mechanism as the basis for settlement between employers and workers or trade unions. Bipartite negotiations must be conducted transparently, providing workers with the opportunity to understand the company's financial condition underlying its application for an exemption. Employers must disclose relevant information concerning the company's financial circumstances, payment capacity, business recovery projections, and plans for fulfilling wage payment obligations. Workers must also be given the opportunity to express their views and consider the consequences of each proposed settlement put forward by the company. Such negotiations must not merely serve as a formality for obtaining workers' approval; rather, they must produce an agreement based on sufficient information and the genuine consent of the parties. The substance of the agreement may include the company's financial condition, the amount of outstanding wage obligations, the payment plan, the settlement period, and measures for restoring business operations. Article 7 of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes stipulates that the outcome of bipartite negotiations must be set out in a Collective Agreement (*Perjanjian Bersama*), signed by the parties and registered with the Industrial Relations Court at the competent District Court. The use of a Collective Agreement can provide legal certainty regarding the terms of the settlement and serve as a basis for assessing the fulfillment of each party's obligations.

Regulations concerning external audits must also be positioned as an important instrument in reconstructing minimum wage payment obligations. External audits are necessary to ensure that information regarding a company's financial incapacity is supported by its actual financial condition and does not merely reflect the employer's internal assessment. The examination may focus on financial statements, cash flow, revenue, operating expenses, corporate liabilities, and the company's ability to pay wages over a certain period. The audit results can subsequently serve as material for workers and the government when assessing the feasibility of an application for an exemption. Article 140 paragraph (6) of Law Number 27 of 2026 concerning Employment Protection provides an opportunity for companies that are unable to meet minimum wage requirements to submit an application for an exemption to the governor. Paragraph (7) requires that such an application be based on a bipartite agreement and supported by an external audit that has been conducted. These requirements demonstrate that an exemption cannot be granted solely on the basis of a

unilateral company decision. Nevertheless, regulations concerning audit standards, the scope of examinations, auditor qualifications, and the format of audit reports still need to be clarified so that the assessment process can be implemented consistently. Clear examination standards are necessary to prevent differences in the assessment of companies with similar financial circumstances (Ayuni et al., 2024).

The governor's authority to assess applications for exemptions must be accompanied by a transparent and measurable examination mechanism. The governor should not merely receive the application documents and bipartite agreement but must also ensure that all application requirements have been fulfilled and that the company's financial incapacity can be properly substantiated. Such an examination should at least cover the conformity of the external audit report, the results of bipartite negotiations, the number of affected workers, the company's payment capacity, and its financial recovery plan. The assessment must also consider whether the company still has the capacity to fulfill its wage payment obligations through cost-efficiency measures or the restructuring of business activities. Article 140 paragraphs (6), (7), and (8) of Law Number 27 of 2026 provide the legal basis for the mechanism through which companies may apply for exemptions to the governor. These provisions need to be supplemented with regulations concerning examination deadlines, document requirements, the form of decisions, the validity period of exemptions, and evaluations of their implementation. A gubernatorial decision should clearly state the considerations underlying the approval or rejection of an application. Such regulations can prevent exemptions from being granted without measurable standards and provide legal certainty for both workers and employers regarding the consequences of the decisions issued (Nugroho, 2021).

The subsequent reconstruction must explicitly regulate the status of wage arrears that have arisen before or during the period in which a company experiences financial difficulties. An agreement between employers and workers may be used to record the amount of unpaid wages, acknowledge the company's outstanding obligations, and establish a feasible repayment plan. For example, if the applicable Regency/Municipal Minimum Wage is IDR 5,000,000, while the company pays only IDR 4,000,000, there is an outstanding payment of IDR 1,000,000 for each monthly payment period. Such arrears must be recorded in detail according to the payment period and the number of workers entitled to receive them. The company may then prepare a settlement plan specifying the payment amount, repayment schedule, and stages for fulfilling its obligations. However, recognizing wage arrears as a debt

and agreeing on a repayment schedule do not automatically render payments below the minimum wage lawful. Article 88E paragraph (2) of the Manpower Law remains the legal basis for prohibiting employers who are required to apply the minimum wage from paying wages below that threshold. Constitutional Court Decision Number 72/PUU-XIII/2015 also affirms that the postponement of minimum wage payments does not eliminate employers' obligations to pay workers the difference between the wages received and the applicable minimum wage. Therefore, the reconstruction must ensure that outstanding wage payments remain obligations that the company must settle and cannot be extinguished merely because the parties have agreed to a postponement.

Worker protection in implementing the reconstruction also requires effective supervision and dispute settlement mechanisms. Supervision should not be limited to the period when a company submits an application for an exemption but must continue throughout the period in which the agreement and the governor's decision are implemented (Ong et al., 2025). Companies should periodically report developments in their financial condition and the actual realization of wage payments so that the implementation of the recovery plan can be monitored (Atmari et al., 2023). Such supervision is important to prevent companies from using exemptions as grounds for continuously paying wages below the applicable standards without making any financial improvements. Workers must retain access to mechanisms for submitting objections or complaints if companies fail to fulfill their obligations in accordance with the agreement or applicable legal provisions. Disputes concerning wage payments essentially constitute rights disputes that can be resolved through bipartite negotiations. If the negotiations fail to produce an agreement, the dispute may proceed through mediation or conciliation and subsequently be brought before the Industrial Relations Court in accordance with the provisions governing the settlement of industrial relations disputes. The role of Labor Inspectors must also be strengthened through examinations of compliance with wage payment obligations and appropriate follow-up actions on workers' reports. Continuous supervision will ensure that the reconstruction process is not solely oriented toward maintaining business operations but also guarantees that workers' rights remain protected. (Pangestu, 2020)

Based on the foregoing discussion, the reconstruction of minimum wage payment obligations for companies experiencing financial incapacity should be established through a mechanism that combines objective verification, bipartite negotiations, external audits, gubernatorial examinations, financial recovery plans, and supervision of the company's

fulfillment of its obligations. This framework provides companies with an opportunity to maintain the continuity of their business operations without placing the entire burden of financial difficulties on workers (Yojania et al., 2026; Suhartini et al., 2022).

Under employment law, minimum wage provisions constitute mandatory legal norms. Article 88E paragraph (2) of Law Number 6 of 2023, as subsequently amended through Article 140 paragraph (5) of Law Number 27 of 2026, stipulates that employers are prohibited from paying wages below the minimum wage. If an employment agreement contains provisions that provide less protection than that afforded by laws and regulations, such provisions are null and void by operation of law, and the applicable legal provisions are those that provide protection to workers. Companies remain obliged to make efforts to fulfill minimum wage requirements, while the exemption mechanism may only be used if the requirements and procedures stipulated by laws and regulations have been satisfied. Bipartite agreements should be directed toward regulating the settlement of obligations in a measurable manner, including the recording of outstanding payments, the amount of obligations, the repayment period, and the stages of the company's recovery process. The governor plays an important role in examining the feasibility of an application and ensuring that the parties' agreement does not eliminate workers' normative rights. This reconstruction must also be accompanied by continuous supervision and dispute settlement mechanisms in the event that companies fail to fulfill their obligations. A balance between worker protection and business continuity can only be achieved if financial difficulties are addressed through legal procedures that are transparent, verifiable, and capable of providing certainty regarding the fulfillment of workers' rights. Through this framework, the reconstruction of minimum wage payment obligations does not become a means of legitimizing payments below the minimum standard but rather serves as a settlement mechanism that encourages corporate recovery while maintaining legal protection for workers.

CONCLUSION

Based on the foregoing discussion, it can be concluded that: (1) Companies' obligation to pay minimum wages constitutes a mandatory legal obligation and forms part of the protection of workers' normative rights to obtain a decent standard of living. Minimum wage determination is carried out in accordance with applicable laws and regulations by taking into account decent living needs, economic growth, inflation, and a particular index.

Agreements between employers and workers cannot be used to set aside minimum wage provisions because freedom of contract is limited by laws and regulations. A company's financial incapacity also does not automatically eliminate this obligation or authorize employers to unilaterally pay wages below the minimum standard. Companies that are not yet capable of meeting minimum wage requirements may only pursue an exemption mechanism as provided for under applicable legal provisions. (2) The reconstruction of minimum wage payment obligations for companies experiencing financial incapacity should be directed toward a settlement mechanism that balances the protection of workers' rights with business continuity. Such a mechanism should be based on objective verification of the company's financial condition through an external audit, followed by bipartite negotiations to formulate an agreement concerning a plan for fulfilling wage payment obligations, including the recording of outstanding wage payments and the repayment period. Pursuant to Article 140 paragraphs (6) and (7) of Law Number 27 of 2026 concerning Employment Protection, companies that are unable to meet minimum wage requirements may submit an application for an exemption to the governor, provided that a bipartite agreement has been reached and an external audit has been conducted. The governor must examine the agreement and audit results before issuing a decision. This reconstruction must be accompanied by supervision of its implementation and guarantees that outstanding wage payments remain obligations that companies must settle in accordance with applicable legal provisions.

This study contributes to the development of employment law, particularly in formulating a mechanism for fulfilling minimum wage payment obligations for companies experiencing financial difficulties. Its primary contribution lies in emphasizing that the protection of workers' rights and business continuity do not necessarily have to be placed in opposition to one another but can instead be balanced through a transparent, measurable, and accountable mechanism. This study also proposes a reconstruction framework that positions external audits, bipartite agreements, gubernatorial approval, and supervision as instruments for ensuring that a company's financial condition is assessed objectively without eliminating workers' rights to outstanding wage payments.

Future research is recommended to examine more comprehensively the implementation of exemption mechanisms from minimum wage payment obligations for companies experiencing financial incapacity through empirical studies involving companies and labor agencies. Such studies should focus on the effectiveness of external audits, the

bipartite negotiation process, the governor's authority to assess exemption applications, and the implementation of outstanding wage repayments. Furthermore, future research should formulate clearer standards concerning the criteria for financial incapacity, audit requirements, the duration of exemptions, and supervision mechanisms to ensure that their implementation does not create loopholes for employers to evade their minimum wage payment obligations.

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