



EMPLOYMENT PROTECTION IN THE CONSTRUCTION SECTOR IN WAGE DISPUTES FROM THE MAQASID SYARI'AH PERSPECTIVE

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ABSTRACT

*Informal workers in the construction sector are a vulnerable group of workers, particularly in fulfilling their rights to wages. The absence of written employment contracts, employer dominance, and weak oversight mechanisms lead to the frequent occurrence of unilateral wage deductions and late payments. This study aims to analyze the effectiveness of legal protection for informal workers in the construction sector in wage disputes based on Indonesian positive law and to examine it from the perspective of Maqasid Syari'ah. This study uses an empirical legal research method with a sociological approach through in-depth interviews with workers, employers, and related parties. The results show that although legal protection is normatively regulated in labor regulations, its implementation has not been effective due to low worker legal literacy, weak supervision, hierarchical work relations, and the absence of clear work agreements. From the perspective of Maqasid Syari'ah, the practice of wage deductions and delays contradicts the principles of *hifz al-māl* and *hifz al-nafs* and reflects injustice in employment relations. This study emphasizes the importance of synergy between positive law and Maqasid Syari'ah values in formulating policies for the protection of informal workers that are fairer, more humane, and more welfare-oriented.*

Keywords: *Maqasid Syari'ah, informal workers, wage disputes, legal protection, construction sector.*

1. INTRODUCTION

The construction sector is a key driver of national development, employing a large workforce, both in formal and informal settings. In Indonesia, small- to medium-scale construction projects—such as residential construction and renovation—rely heavily on informal workers, including construction laborers, carpenters, and painters. Despite their significant contribution to physical development, informal construction workers often find themselves in vulnerable working conditions due to a lack of legal protection, particularly regarding their right to wages (Harahap, 2020; Suryahadi, 2021).

This vulnerability is reflected in various labor practices that are detrimental to workers, such as unilateral wage deductions, late payments, and the lack of written employment agreements. Employment relationships, which are verbal and based on personal trust, severely weaken workers' bargaining power in the event of disputes. Project owners or homeowners retain full control over the assessment of work results and the disbursement of wages, while workers often lack formal evidence to claim their rights (Hidayat, 2018; Prasetyo, 2020). This situation demonstrates the structural power imbalance within the informal construction sector.

Normatively, Indonesian positive law guarantees workers' rights to receive fair and decent wages. Law Number 13 of 2003 concerning Manpower, in conjunction with Law Number 11 of 2020 concerning Job Creation, affirms that every worker has the right to an income that meets a decent standard of living for humanity (Republic of Indonesia, 2003). However, various studies indicate that these regulations are more effectively applied to formal employment relationships, while informal workers often fall outside the reach of oversight and available legal protection mechanisms (Samsudin, 2021; Rahadian, 2022). As a result, there is a gap between legal norms and the reality of employment practices on the ground.

In addition to normative issues, low legal literacy among informal workers contributes to worsening wage protection. Many workers lack an understanding of basic employment rights and tend to accept detrimental practices as a work risk or a consequence of economic necessity (Samsudin, 2021). Fear of losing their jobs and dependence on their supervisors or employers discourage workers from pursuing formal dispute resolution, even though they legally have the right to do so (Prasetyo, 2020). This demonstrates that wage disputes are not only juridical but also social and structural.

From an Islamic legal perspective, fulfilling workers' wages is a moral and normative obligation with a strong theological basis. The principle of *Maqasid Syari'ah* places the protection of property (*hifz al-māl*) and the protection of life (*hifz al-nafs*) as the primary objectives of sharia, which must be upheld in all *muamalah* (religious) relationships, including employment (Shāṭibī, 1991; Kamali, 1996). The practice of unilateral wage deductions, delayed payments, and unclear employment contracts can be categorized as forms of injustice (*ẓulm*) because they harm workers' economic rights and threaten their livelihoods. Thus, *Maqasid Syari'ah* offers an ethical and normative framework for assessing the fairness of employment relationships more substantively, rather than solely from a legal perspective.

To date, studies on the protection of informal workers in the construction sector have been dominated by positive law and socio-legal approaches, while the integration of empirical labor analysis with the *Maqasid Syari'ah* perspective is relatively limited. This integrative approach is crucial for providing a more comprehensive understanding of wage equity and strengthening normative legitimacy in the context of a society with strong religious values. This gap underlies the importance of this research.

Based on this description, this study aims to analyze the effectiveness of legal protection for informal workers in the construction sector in wage disputes under Indonesian positive law and examine it from the perspective of *Maqasid Syari'ah*. This research is expected to provide not only theoretical contributions to the development of Sharia-based labor law studies but also practical implications for formulating policies for

the protection of informal workers that are more just, humane, and oriented toward the welfare of the community.

2. RESEARCH METHOD

This study employed an empirical legal research method with a sociological approach, aiming to understand the gap between labor law norms and the wage protection practices of informal workers in the construction sector. This approach was chosen because it depicts law as a social behavior that exists within society, particularly in informal employment relationships that are not fully covered by formal regulations (Soekanto, 2014).

The research location focused on household-scale construction projects in urban areas, involving informal workers such as painters, builders, and day laborers. Subjects were selected through purposive sampling, with the criteria being informal workers who had experienced wage disputes, foremen acting as work intermediaries, and employers or homeowners acting as decision-makers. Furthermore, this study involved supporting informants from relevant government agencies, particularly the Department of Manpower, to gain perspectives on labor policy and supervision (Sugiyono, 2019).

Data collection techniques included in-depth interviews, non-participatory observation, and documentation studies. In-depth interviews were used to explore workers' subjective experiences regarding wage payment practices, the types of disputes that arise, and their resolution strategies. Observations were conducted to understand employment relationship patterns and power dynamics between workers, foremen, and employers in the informal work context. Meanwhile, a documentation study focused on exploring labor laws and regulations, policy documents, and literature relevant to the Maqasid Sharia (Islamic Principles) and the protection of informal workers (Creswell, 2014).

The data obtained were analyzed using thematic qualitative analysis, through the stages of data reduction, categorization, and conclusion drawing. Empirical findings from the field were first analyzed within the framework of Indonesian positive law to assess the effectiveness of normative protection for informal workers. Next, the results of this analysis were interpreted normatively using the Maqasid Sharia framework, specifically the principles of *hifz al-māl* and *hifz al-nafs* (the principle of self-determination), to assess the alignment of employment practices with the fundamental objectives of sharia (Miles, Huberman, & Saldaña, 2014; Shāṭibī, 1991).

To ensure the validity and legitimacy of the data, this study employed source and method triangulation techniques, comparing interview data between informants and matching them with observations and relevant legal documents. The analysis process was repeated until a consistent and in-depth understanding of wage dispute patterns and the legal protections available to informal workers in the construction sector was achieved (Denzin, 2012).

3. RESULT AND ANALYSIS

Problems with Informal Worker Wages in the Construction Sector

Informal workers in the construction sector face vulnerable working conditions due to the unstructured nature of employment relationships and the lack of formal regulations. Based on field interviews, wage issues are the most prevalent issue experienced by workers such as painters, construction workers, and day laborers. The absence of written employment contracts means wage agreements are verbal and highly dependent on the employer's unilateral interpretation. This weakens workers' bargaining power in disputes, often resulting in wages not matching the initial agreement (Hidayat, 2018; Prasetyo, 2020).

One of the most common problems is unilateral wage deductions by employers. Research findings indicate that home or project owners often reduce wages for subjective reasons, such as perceived performance not meeting expectations, even though the work has been completed according to the initial agreement. This practice places workers in a powerless position because they have no written legal basis to challenge such decisions. These unilateral deductions reflect the strong power imbalance between workers and employers in the informal construction sector (Sulaiman, 2019; Harahap, 2020).

Another problem frequently experienced by informal workers is late wage payments. Even when work is completed by the deadline, wage payments are often delayed for various reasons, such as insufficient funds or unspent payments from other parties. These delays directly impact the livelihoods of workers who depend on daily wages or project wages for their basic needs. Delayed payments not only cause economic losses but also psychological stress and uncertainty for workers and their families (Raditya & Hardjomuljadi, 2021; Suryahadi, 2021).

The absence of written employment contracts is the structural root of many wage problems. Oral employment relationships open up significant opportunities for breach of agreements and wage manipulation. When disputes arise, workers lack formal evidence to assert their rights, while employers can easily deny the existence of any agreement. This situation demonstrates the weak legal protection for informal workers operating outside the formal employment system (Samsudin, 2021; Rahadian, 2022).

Furthermore, most informal workers fear demanding their rights due to their dependence on employers or foremen for employment. Field findings indicate that workers tend to accept wage cuts or delays to maintain their employment relationship and avoid the risk of not being called back for future work. This hierarchical employment relationship places workers in a subordinate position and reinforces the recurring practice of wage injustice (Hidayat, 2018; Prasetyo, 2020).

The wage problems of informal workers in the construction sector are further exacerbated by low legal literacy and limited access to dispute resolution mechanisms. Many workers lack understanding of basic labor rights and available complaint procedures. Formal mechanisms, such as mediation at the Manpower Office, are considered complicated, time-consuming, and difficult for informal workers to access. As a result, most wage disputes end without a fair resolution and tend to favor the employer (Rahadian, 2022; Samsudin, 2021).

Effectiveness of Legal Protection for Informal Workers

Normatively, legal protection for informal workers in the construction sector has been accommodated in various labor regulations in Indonesia, particularly regarding the right to a decent wage and timely payment. Law Number 13 of 2003 concerning Manpower, in conjunction with Law Number 11 of 2020 concerning Job Creation, affirms that every worker has the right to receive an income that meets a decent standard of living. However, research shows that these normative provisions have not been fully implemented effectively in the informal construction sector, which is dominated by verbal and undocumented employment relationships (Republik Indonesia, 2003; Harahap, 2020).

The ineffectiveness of legal protection is primarily evident in the gap between legal norms and field practices. Informal workers are often not administratively registered, thus falling outside the reach of labor inspections. Household-scale construction projects are generally not formally registered and are short-lived, making it difficult for labor inspectors to monitor them. This situation results in various wage violations, such as unilateral deductions and late payments, being overlooked by legal enforcement mechanisms (Suryahadi, 2021; ILO, 2018).

Another factor contributing to the ineffectiveness of legal protection is the weak capacity and scope of labor inspections. The labor inspector ratio in Indonesia is still far from ideal, so inspections are focused more on large-scale formal companies. As a result, the informal sector, including small-scale construction, tends to be overlooked in inspection practices. This reinforces the situation where employers can unilaterally regulate wage payment systems without real risk of legal sanctions (ILO, 2018; Sulaiman, 2019).

In addition to structural aspects, low legal literacy among informal workers also contributes to the ineffectiveness of legal protection. Research findings indicate that most workers do not understand basic labor rights, including the prohibition on unilateral wage deductions and the right to timely payment. This lack of awareness leads workers to accept harmful practices as normal or a workplace hazard, thus preventing them from utilizing available legal protection mechanisms (Samsudin, 2021; Prasetyo, 2020).

The effectiveness of legal protection is also hampered by limited access to dispute resolution mechanisms. Although formal mediation channels are available through the Manpower Office and the Industrial Relations Court, these mechanisms are considered complex, require written evidence, and are time-consuming. For informal workers who depend on daily income, this process is considered unrealistic. Furthermore, fear of job loss and social pressures discourage workers from reporting violations (Rahadian, 2022; Prasetyo, 2020).

From the perspective of Maqasid Syari'ah (the principles of Sharia), this low effectiveness of legal protection indicates that the mere existence of regulations is insufficient to achieve substantive justice. Legal protection should ensure the fulfillment of the primary objectives of sharia, particularly the protection of property (*hifz al-māl*) and the protection of life (*hifz al-nafs*). When wages are deducted or paid late without an effective correction mechanism, positive law does not fully function as an instrument of public welfare. Therefore, increasing the effectiveness of legal protection requires an approach that is not only normative but also responsive to the social realities of informal workers (Shātibī, 1991; Kamali, 1996).

Analysis of Informal Worker Protection from the Maqasid Sharia Perspective

The Maqasid Sharia approach provides a comprehensive normative framework for assessing the fairness of protection for informal workers in the construction sector, particularly in the context of wage disputes. Maqasid Sharia views law not merely as a collection of formal rules, but as an instrument for realizing human welfare and preventing harm. In the employment context, this approach is relevant for assessing whether employment practices align with the primary objectives of sharia, particularly in maintaining the dignity and well-being of vulnerable workers (Shāṭibī, 1991; Kamali, 1996).

From the perspective of property protection (*hifz al-māl*), wages are an economic right that must be safeguarded. Empirical findings indicate that unilateral wage deductions and late payments are common practices experienced by informal workers in the construction sector. These practices not only harm workers economically but also represent an unlawful usurpation of their rights. In the Maqasid Syari'ah (Islamic Principles), actions that eliminate or reduce a person's property rights without justification are viewed as a form of injustice that contradicts the principles of justice and trustworthiness in transactions (Kamali, 1996; 'Ashur, 2006).

In addition to protecting property, protecting the soul (*hifz al-nafs*) is also highly relevant in analyzing wage disputes involving informal workers. Wages are the primary source of basic needs for workers and their families, such as food, health care, and shelter. When wage payments are delayed or unilaterally deducted, workers face economic uncertainty that can threaten their survival and psychological well-being. From the perspective of the Maqasid Syari'ah, employment practices that create stress and social vulnerability contradict the goal of sharia to maintain a decent and dignified human life (Shāṭibī, 1991; Ramadhan, 2019).

The protection of the mind (*hifz al-'aql*) is also affected by unfair employment practices. Field findings indicate that informal workers often experience stress, fear of demanding their rights, and accept injustice as normal. Economic pressures and unequal power relations limit workers' ability to think critically and rationally in fighting for their rights. Within the framework of Maqasid Syari'ah, this condition contradicts the goal of maintaining human reason so that it can function optimally in making just and rational life choices (Shāṭibī, 1991; Aryet & Harahap, 2025).

The impact of wage injustice also extends to the protection of offspring (*hifz al-nasl*). Informal workers' income uncertainty directly impacts their ability to meet the educational, health, and nutritional needs of their children. In the long term, this condition has the potential to create an intergenerational cycle of poverty. Maqasid Syari'ah places offspring protection as a crucial goal that must be maintained through social policies and practices that support the sustainability and quality of life of future generations ('Ashur, 2006; Ramadhan, 2019).

In addition to the *dharuriyyat* dimension, informal worker protection practices can also be analyzed through the *hajiyyat* level, namely the sharia's efforts to alleviate hardships. The absence of written employment contracts, the absence of standard wages, and the difficulty of accessing dispute resolution indicate that the informal employment system does not provide convenience for workers. From the perspective of Maqasid

Syari'ah, this condition contradicts the goal of providing convenience and preventing excessive hardship in workers' social and economic lives (Shāṭibī, 1991; Kamali, 1996).

At the tahsiniyyat level, Maqasid Syari'ah emphasizes the importance of ethics, civility, and justice in employment relationships. Ideally, the relationship between workers, supervisors, and employers is built on deliberation, transparency, and respect for human dignity. However, research findings indicate that hierarchical and dominant employment relationships have eroded these ethical values. Therefore, the integration of Maqasid Sharia principles in the protection of informal workers not only functions as normative legitimacy, but also as a moral guideline for realizing work relations that are fair, humane and oriented towards mutual benefit (Shāṭibī, 1991; Kamali, 1996).

4. CONCLUSION

This research shows that informal workers in the construction sector remain highly vulnerable to fulfilling their right to wages. Issues such as unilateral wage deductions, late payments, the lack of written employment contracts, and workers' weak bargaining power reflect that normatively available legal protections have not been effectively implemented in practice. Informal and hierarchical employment relationships have exacerbated the power imbalance between workers and employers, leading workers to accept injustice as a consequence of economic necessity and work dependency.

From a positive legal perspective, this research confirms a significant gap between labor protection norms and the reality on the ground. Limited oversight, low worker legal literacy, and difficult access to dispute resolution mechanisms mean that existing legal instruments are unable to provide substantive protection for informal workers. This situation demonstrates the need for a more inclusive and responsive protection approach to the characteristics of the informal sector.

From the perspective of Maqasid Syari'ah, labor practices that harm informal workers contradict the primary objectives of sharia, particularly safeguarding property and human survival. Wage uncertainty and the practice of unilateral deductions are not only economically detrimental but also impact the dignity, well-being, and stability of workers and their families. Therefore, protecting informal workers is not only a legal obligation of the state but also a moral responsibility oriented towards justice and public welfare.

This study recommends strengthening regulations that are more adaptive to the informal construction sector, developing simple, easy-to-implement employment contracts, improving workers' legal literacy, and developing a fast, easy, and informal dispute resolution mechanism. The integration of positive law and the principles of Maqasid Sharia (Islamic Law) is expected to serve as a normative and practical foundation for realizing a more just, humane, and sustainable informal worker protection system.

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