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Editorial Office: postgraduate at Riau Islamic University, Riau Islamic University, Pekanbaru, Indonesia.

Phone: +62 85234073707, +62 85329106484

E-mail: law_s3@uir.ac.id

Website : <https://pps.uir.ac.id/icls2024/>

Analysis of Labor Law Regarding Protection Labor Wages Under the Law Number 13 Year 2003 on Manpower

Lidia Febrianti, Syafrinaldi, Efendi IbnuSusilo, Thamrin

^alidia_febrianti@student.uir.ac.id

Abstract

One of the protections in labor issues is a decent wage for workers. Because wages are the goal of workers in doing work. Every activity carried out by workers contains aspects of social relations, legal relations, and inter-organizational relations that give rise to rights and obligations, and are carried out based on the values contained in Pancasila. In labor relations, the rights and obligations of various parties are regulated through Law No. 13 Year. 2003 regarding employment, one of the core regulations is regarding wages. Wages are the right of workers to be compensated for work performance determined by convention and payment is made in accordance with the agreement. Wages are also a constitutional right for citizens which is also explained through the 1945 Constitution Article 27 paragraph 2, which states that every citizen has the right to work and a decent livelihood. The constitutional right was explained in the regulation of Law No. 13 of 2003 related to employment (Law No. 13 of 2003) in Article 1 paragraph 30 reveals that wages are the rights of workers who are obtained and expressed in the form of money which is a reward. Then what is meant by using wages to fulfill the needs of life with feasibility, it will cause the welfare of workers. This is also stated in Article 1 paragraph (31) of Law No. 13 of 2003, which states that worker welfare is a fulfillment of physical and spiritual needs and needs. Thus, wages are a component of work interaction based on an agreement, which has a work component of wages and instructions. This research is a normative legal research using literature review to obtain secondary data, in the form of laws and regulations and various legal documents, as well as other relevant references.

Keywords: Protection, Wages, Labor

I. Introduction

The problem of labor has never been solved, from the problems of protection, wages, welfare, industrial relations disputes, guidance, and

supervision of labor. This is more due to the weakness of the government in implementing labor laws, and even tends to have irregularities, another problem is that the coordination and

performance between government institutions is not optimal and is still very alarming.¹

In this life humans have various needs, to be able to meet all these needs humans are required to work. Both self-employed work and work for others.²

Employment relationship is a relationship between a worker and an employer. The employment relationship shows the position of the two parties, which basically describes the rights and obligations of the worker towards the employer and the rights and obligations of the employer towards the worker.³

This employment relationship shows the position of both parties (workers and employers), which basically describes the rights and obligations of workers towards employers and also describes the rights and obligations of employers towards workers made in an employment agreement which broadly includes elements of work, wages, time and orders, where workers have an obligation to carry out work and are also

entitled to receive wages and employers are obliged to pay wages and have the right to give orders to workers.

The employment relationship basically covers issues relating to:

1. Making a work agreement, because it is the starting point for an employment relationship.
2. The obligation of the laborer to perform work for or under the direction of the employer, which is also the employer's right to the laborer's work.
3. The employer's obligation to pay wages to workers is also the workers' right to wages.
4. End of employment relationship.
5. The way in which disputes between the parties concerned are resolved in the best possible way.⁴

In the employment relationship, there are three elements, among others:

1. Work, namely in the employment relationship there must be certain work in accordance with the

¹ Andrian Sutedi, *Labor Law*, Sinar Grafika, Jakarta, 2009, p.142.

² Zainal Asikin et al, *Basics of Labor Law*, PT Raja Grafindo Persada, Jakarta 2008, pp. 1.

³ Iman Soepomo, *Labor Law in the Field of Employment Relations*, Djambatan, Jakarta, pp. 1.

⁴ *Ibid*, p. 9.

agreement, that's why this relationship is called employment relationship.

2. Wages, namely every employment relationship always gives rise to rights and obligations between the two parties in balance. In labor relations, wages are one of the main elements that mark the existence of labor relations.
3. Orders, namely in the employment relationship there must be an element of orders, which means that one party has the right to give orders and the other party is obliged to carry out orders.⁵

In accordance with some of the elements in the employment relationship above, it can be seen that in the employment relationship there are several elements of work, wages and orders, but of the three elements above, the most important element is the

element of wages, because wages are the basis of a person's willingness to carry out work, and wages are also a guarantor of the survival and future of the family.

Meanwhile, the limitations of wages according to the Wage Research Council are as follows:

"Wages are receipts as compensation from the employer to the recipient for work or services that have been and or will be performed, which serve as a guarantee of a decent life for humanity and production, expressed or valued in the form of money determined according to a statutory agreement or regulations and paid on the basis of an employment agreement between the employer and the recipient.⁶

Wages paid to laborers are basically in the form of money, however, wages may be given in other forms, as long as they are not liquor, drugs or medicinal substances.⁷

As for what is meant by wages in other forms is the production of products or goods that have economic value for

⁵ Yunus Shamad, *Industrial Relations in Indonesia*, Bina Daya Manusia, Jakarta, p. 52.

⁶ Gunawi Kartasapoetra (et al), *Labor Law in the Implementation of Employment Relations*, Armico Publishers, Bandung, 1983, pp. 71.

⁷ F.X. Djumaldji, *Labor Agreement*, PT Bina Aksara, Jakarta, 1992, pp. 51.

⁸ *Ibid.* p. 51.

laborers, except for liquor, medicines, or medicinal materials.⁸

For the laborer, a wage is the amount of money he receives at any given time or more importantly, the amount of necessities of life he can buy with that amount of money.⁹

In terms of value, wages are differentiated between nominal wages, which is the amount of money, and real wages, which is the amount of goods that can be purchased with that amount of money.¹⁰

Wages are an essential element in the employment agreement. Wages are often a polemic, due to differences in interpretation of the calculation which is considered not to meet the expectations of both workers, employers and even the government which is the referee in determining and monitoring wages.¹¹

Basically, the definition of wage adheres to what is contained in the ILO convention on the *Protection of Wage*. Indonesia also follows this reference with minor adjustments. The definition

of wage adopted by the State of Indonesia in accordance with Government Regulation No. 08 of 1981 concerning the Protection of Wages is "an acceptance as compensation from employers to workers for work or services that have been or will be performed, expressed or valued in the form of money determined according to an agreement or laws and regulations, and paid on the basis of a work agreement between employers and workers, including benefits for both the workers themselves and their families."¹²

The provincial minimum wage is the lowest wage determined in a provincial area based on a governor's decree, the provincial minimum wage is only intended for workers/laborers whose work period is at least one year.

The provincial minimum wage must be paid by the company in accordance with the provisions of the UMP itself and if there are companies that pay money below the UMP, the company can be summoned to pay the shortage of wage

⁹ Iman Soepomo, *Introduction to Labor Law*, Djambatan, Jakarta, 2003, p. 179. 179.

¹⁰ Ibid. p. 188.

¹¹ L Febrianti, S Syafrinaldi, E Ibnuususilo, S Thamrin, [Wage System for Workers in a Fixed Time](#)

[Work Agreement \(PKWT\) Based on Law Number 13 of 2003 concerning Manpower](#), Syntax Literate; Indonesian Scientific Journal, Vol 6 Number 1, 2021, p., 578

¹² Suwanto, *Basic Principles of Industrial Relations*, SMERU Research Institute, No. 03, JulSept/2002

payments and if it is still ignored, it can be reported to the Ministry of Manpower and the police to account for the company's mistakes.

This minimum wage must be adhered to by employers, except that employers who are unable to pay the minimum wage may be exempted from this obligation by submitting an application to the Minister of Manpower accompanied by a recommendation from the Head of the local Manpower Office. Based on the application, the Minister of Manpower may suspend the implementation of the minimum wage for a maximum of 12 months.

Living wage is a wage safety net in medium-sized, labor-intensive companies. A very decent wage is a wage safety net in large companies, BUMN or BUMD. The wage safety net that is adjusted to the feasibility of this company has not been regulated in the positive law in the field of Indonesian wages. Feasibility for employers is measured by the continuity of the company's business, meaning that there are profits that can meet the company's

costs, and additional reserve capital, although not too much. The wage scale or basic salary is arranged concordantly with the position structure and rank structure, it is necessary to maintain a balance between basic salary, allowances, and other guarantees¹³.

The differential wage system causes the quantity of wage levels, especially in determining the minimum wage, to differ. Sectoral and regional policies are based on the selection of regions/areas and their potential economic sectors by considering several influencing aspects, among others, as follows:

1. Aspects of company condition

Through this aspect, criteria can be obtained for small, medium, and large companies, both within a sector or region/region and across sectors or regions/regions. These criteria have consequences for the ability of companies to provide wages to workers/laborers. This of course depends on the size of the capital and business activities of each company and the level of

¹³ Nur Hidayati, "The Dilemma of Overtime Wage Determination in Relation to Protection Efforts for Workers/Laborers and Company Development",

production and productivity of its workforce.

2. Aspects of labor skills.

Increasing production and work productivity is largely determined by the ability of company personnel, both at the lower level, namely skilled labor, and at the upper level, namely management leaders who are able to drive the workforce they lead to work productively. Labor is the basic capital for the development and economic growth of the company, if the workforce as an economic resource can be utilized effectively and efficiently.

The level of ability of labor and management leaders in a company plays a decisive role in changing the condition of the company to be better and more advanced. This condition has a positive impact on efforts to improve labor welfare through the provision of higher wages and other social guarantees.

3. Standard of living aspects

The increase in the wage level of workers/laborers is not only

influenced by the conditions of the company and the skills of its workforce, but also by the standard of living in the region or area where the company is located. The standard of living in urban areas is usually higher than in rural areas.

The increase in wage levels is based on the basic needs of the workers concerned in accordance with the level of economic and social development in a particular region. These basic needs are not only limited to the issues of clothing, food, and shelter, but also include education, health, social security, and so on.

4. Job type aspect

The difference in the type of work results in differences in wage rates, both in the same sector, and in different sectors. The wage rate in the industrial sector is not the same as the wage rate in the agricultural sector, nor is it the

same as the hospitality sector, and so on.¹⁴

Workers are entitled to wages which are an obligation for the employer to pay. Payment of wages is made in accordance with what has been agreed by both parties in the employment agreement.

II. Legal Materials and Methods

This research is part of legal research, namely by examining library materials or what is called normative legal research. So in this research the author uses the following methods:

1. *Library Research Method*, which is a method used by studying books of literature, legislation, court decisions and jurisprudence, other materials in magazines and newspapers, which are related to the subject matter which is then used to support the discussion of this Article.

2. *Comparative Research Method*, which is a method used by comparing opinions or theories.

The two methods and techniques of data processing mentioned above were

carried out alternately when necessary to support the discussion of this article. The two methods and data processing techniques mentioned above are carried out alternately when necessary to support the discussion of this article.

III. Result and Discussion

A. Protection of Labor Wages Based on Law Number 13 of 2003 concerning Manpower

Indonesia is a state of law and adheres to the Continental European legal system. Therefore, everything must be based on written law. The current source of labor law consists of laws and regulations. Law Number 13 Year 2003 on Manpower (hereinafter referred to as the Manpower Law) is the main legal basis in the field of

¹⁴ Saliman Sidik, *Perception of Minimum Wage*, in www.nakertrans.go.id, accessed on December 22, 2006.

employment. In addition to the 1945 Constitution and the Labor Law, there are other sources of law that serve as regulatory milestones for labor affairs.

The role of the Government is one of the important keys in many matters related to employment. Regulations as mandated in the 1945 Constitution of the Republic of Indonesia are further elaborated or regulated in laws and regulations issued by the government, one of which is Law Number 13 of 2003 concerning Manpower.

The significant development of wage provisions can be seen based on the fact that Law No. 13/2003 on Manpower has regulated in detail policies to improve labor relations conditions, especially in the aspect of wages which are regulated in Chapter X Part Two Articles 88 to 98 of Law

No. 13/2003, whereas the previous Labor Laws such as Law No. 12/1948 and Law No. 14/1969 did not regulate wages in detail, but only contained the right of workers to obtain a decent income. For example, Article 3 of Law 14 of 1969 on Basic Provisions Regarding Labor states that: "Every worker has the right to work and an income that is decent for humanity". This provision in Article 3 is the only wage provision stipulated in the law. This condition has been updated with Law Number 13 of 2003 concerning Manpower which regulates in detail about wages in a special section, which is listed in Articles 88 to 98.

In labor relations based on Law Number 13 Year 2003 on Manpower as well as those regulated in Pancasila Industrial Relations (HIP), various policies are issued by the government to provide

wage protection for workers. Article 88 paragraph (1) of Law Number 13 Year 2003 states that: "Every worker/laborer is entitled to an income that meets a decent living for humanity". The meaning of a decent livelihood is the condition or amount of a worker's income from his or her work that is able to meet the reasonable living needs of the worker and his or her family, which include food and drink, clothing, housing, education, health, recreation, and old age security. These reasonable living needs are an increase from the minimum living needs and minimum physical needs.

One of the wage policies set by the government to achieve a decent living for humanity for every worker is the provision of minimum wages. The government sets the minimum wage based on the need for a decent living and by taking into account the

level of productivity and economic growth. This means that the determination of the minimum wage must also be proportional to the work productivity of workers, so that it will not cause a reaction from employers who feel that the determination of the minimum wage is unfair treatment, because it is considered too favorable to the group of workers, while for employers the minimum wage policy is not profitable.

Government intervention in determining minimum wages is a step forward in the wage system in Indonesia. In the past in labor relations in Indonesia, wages were only determined by agreements between employers and workers, without any intervention from the government. In conditions of sub-optimal economic growth, there are few opportunities and jobs available, so there is a lot of unemployment, so the

bargaining position of workers is low, and working wages are low. In these conditions, when wages are determined by agreement, workers are often willing to accept low wages, which are not enough to fulfill the needs of workers and their families.

In the wage system, there is a principle of 'no work no pay', which means that if workers do not work, their wages are not paid. This principle often causes injustice to workers, because sometimes workers do not do their work not because of their own desire, but for reasons beyond their ability or control. The government, therefore, established an exception policy to the "no work no pay" principle. According to Abdul Hakim ¹⁵ the exception is regulated in Law Number 13 of 2003 concerning Manpower and Government Regulation

Number 8 of 1981 concerning Wage Protection. Furthermore, in Government Regulation Number 36 of 2021 concerning Wages, Articles 34 to 31 also regulate the provisions of workers who do not work are still entitled to receive wages from employers, in the following cases:

1. If the worker is sick, including female workers who are sick on the first and second days of their menstrual period and cannot perform work.

2. If the worker is sick (meaning extraordinary illness, not due to work accident) continuously for 12 (twelve) months or more until the termination of employment by the employer, in accordance with Article 26 of Government Regulation No. 78/2015, the wages shall be paid by the employer, as follows:

¹⁵ Abdul Khakim. 2006. Legal Aspects of Wages based on Law Number 13 Year 2003, 1st Printing, Bandung: Citra Aditya Bakti

a. 100% (one hundred percent) of wages for the first 4 (months) months,

b. 75% (seventy-five percent) of wages for the second 4 (four) months,

c. 50% (fifty percent) of wages for the third 4 (four) months,

d. 25% (twenty-five percent) of the wage for the following month until the termination of the relationship by the employer.

3. If the worker is absent from work due to special reasons:

a. Employee's own marriage, for 3 (three) days,

b. Child marriage, for 2 (two) days,

c. Circumcision or baptism of children, for 2 (two) days,

d. Wife gives birth or miscarries, for 2 (two) days,

e. Death of a family member (husband/wife, parent/in-law, child/son-in-law), for 2 days, and

f. Death of a family member in the same house, for 1 (one) day.

4. If the worker is performing duties towards the state, (for example, serving as a polling organizer in a general election), in this case for a maximum of 1 (one) year.

5. If the worker fulfills a religious obligation, in this case for a maximum of 3 (three) months.

6. If the worker does not work due to the fault of the employer.

7. If workers exercise their right to rest.

8. If the worker carries out educational duties from the company.

The exception to the "no work no pay" principle is a development of the wage system in the days when Burgelijk Wetboek (BW) was still used, which regulates Labor Law. Article 1602 of the BW contains the provisions of the principle of "no work no

pay" by not clearly stating the exceptions as mentioned above, but everything depends only on the employer's discretion to continue paying wages or not if the worker does not work, because there is no legislation at that time that determines or determines the duration of the exception.

The current wage system regulated in labor law contains provisions governing the principle of limiting working time for workers (Law Number 13 Year 2003). In this context, Syaafi Syamsudin says that this provision of working time limitation is excluded for certain business sectors or occupations, such as work in offshore oil drilling, long-distance transportation drivers, long-distance flights, work on ships, and logging in the forest.¹⁶

2. Factors affecting wage rates

Marwansyah and Mukaram¹⁷ suggest that there are several factors or criteria that are generally used to measure feasibility, fairness, needs and contributions regarding wage determination. These factors or criteria are as follows:

- 1) Labor market conditions, meaning that the level of salary or wage can be influenced by the demand and supply of labor. For positions that have very limited availability of workers in the labor market because they require workers with high skills, high salaries/wages tend to be given. On the other hand, for positions where the supply of labor or workers is abundant, the salary/wage level tends to be low.
- 2) Laws and regulations, meaning various regulations issued by the Government, decisions of the Minister of Manpower or other regulations, must be considered by every company organization

¹⁶ Syaafi Syamsudin. Norms of Protection in Industrial Relations, Jakarta: Bhakti Persada, 2004

¹⁷ Marwansyah and Mukaram, Human Resource Management, Bandung State Polytechnic Publishing Center, Bandung, 2003, p.131

- that will design its wage and compensation provisions or systems. In Indonesia, one of the regulations followed is the regulation on the Regional Minimum Wage (UMR).
- 3) Work agreements, meaning that the existence of labor unions allows for negotiations between workers and management, both regarding the type, structure, and level of wages.
 - 4) Management attitude and appreciation, meaning management's strong desire to maintain or improve morale, attract high-quality workers, reduce turnover, improve work living standards, and influence salary/wage structures and levels.
 - 5) Ability to pay, meaning that the salary/wages paid to workers is a component of production costs that must be calculated carefully by each company. Therefore, the structure and level of salaries/wages must be adjusted to the ability to pay, if this is not done the company may experience losses or be unable to maintain its survival.
 - 6) The level of the cost of living needs, meaning that the provision of salaries/wages needs to consider the components of the cost of living needs in a region. The regional minimum wage (UMR) set by the government is usually a benchmark for the cost of living in a particular province or region.
- Today's economic structure, which shows symptoms of a stronger understanding or system of capitalism and liberalism, increasingly encourages everyone to produce in order to earn money, then with the money exchanged something to meet real needs. Thus, work and wages are two sides of a coin, each side of which has a different image but cannot be separated. Similarly, the importance of work and wages are inseparable in the lives of modern humans.
- As stated by Meiyer in Muhammad As'ad, that in general in providing wages for workers there are 4 (four) ways or models of wages, namely:

1. Wages according to the amount of production. Wages based on the amount of production provided can encourage employees to work harder and produce more. The production produced can be valued by calculating the cost. Actual wages can be sought using normal standards that compare basic needs with production results. Theoretically, this system of wages according to production will be filled by talented workers and on the contrary, old people will feel uncomfortable and cannot stand working in this kind of wage system.
2. Wages according to length of employment. Wages based on length of work are also called time-based wages, such as daily or monthly. This system is based on the assumption that work productivity is the same for the same working time. Another reason is that this system creates peace of mind because wages can already be calculated, regardless of the slowness of materials to work, damage to tools or machines, illness, and so on.
3. Wages according to seniority. This kind of wage system will encourage employees to be more loyal and faithful to the company and work institution. This system is very beneficial for senior employees and also junior employees or young people who are encouraged to continue working for a company. This is due to the expectation that when they are old (senior) they will get more attention. So this type of wage will give employees a feeling of security and comfort, however this wage system is less able to motivate employee work performance.
4. Wages according to need. Wages that are paid according to the needs of the employee and his or her family are called wages according to need. If all needs were met, the wage would equalize everyone's standard of living. One of the disadvantages of this system is that it does not encourage work initiative, so it is

the same as the wage system according to length of service and seniority. The good thing about this wage system is that it will provide a sense of security because the fate of employees is borne by the company.

From the various wage systems described, it shows that there are various types of wage methods formulated in different wording, but have the same substance, namely that the system aims to make the reward or reimbursement of services provided by the employer to the other party or person receiving work in a certain period reflect the value of justice and feasibility. Wages stimulate and encourage people to work. However, wages or salaries are not the only factor that motivates people to work, although initially wages were the main motivating factor for people to do a good job. However, the reality is that many people question the appropriateness of wages. This can be seen from the number of employees in several industrial companies holding various

demonstrations demanding improved welfare through the receipt of wages. One of the reasons is because the wages received are still far below the minimum standard so that they do not meet their physiological and social needs.

As stated by Veithzal Rivai¹⁸ so that workers feel satisfied when receiving wages, it is necessary to pay attention to the principles of providing wages as follows:

- a. Wages must be sufficient for employees and their families. In other words, the amount of wages must meet the minimum basic needs.
- b. Providing wages must be fair and appropriate, meaning that the size of the wage depends on the severity of the obligations and responsibilities assigned to the employee.
- c. Wages should be given on time. Late wages can lead to feelings of dissatisfaction and trigger employee anger, which in turn will reduce employee productivity.

¹⁸ Veithzal Rivai, Resource Management for Companies, Remaja Rosda Karya, Bandung, 2005, p.372.

- d. The size of wages must follow economic development and market prices. This means that the progress of the company and the development of the national economy need to be taken into consideration in determining the amount of wages.
- e. Differences in wage levels should be based on objective job evaluation. This means that wages for educated and skilled *labor* must be differentiated from *unskilled* labor.
- f. The structure and scale of wages should be reviewed periodically, and if possible revised as conditions and levels of living change.

Islamic teachings say that employers who delay the payment of wages / salaries of workers or employees are included in the act of great sin, because in fact the employer is among the people who are well-off, but still do injustice to the rights of workers who live on average in deficiency. In this context,

the Prophet Muhammad SAW teaches and expects that employers immediately pay wages before the sweat of the workers is dry and does not reduce the amount to be paid. This indicates that paying wages on time and in the right amount means reflecting the values of obedience, justice and satisfaction for both workers and employers concerned.

According to the way wages are determined, there are various wage systems, namely as follows:¹⁹

1. Time period wage system

According to this wage system, wages are determined according to the period of time the laborer performs the work. Hourly wages, daily wages are given, weekly wages are given for a week of work. For a month of work, monthly wages are given and so on.

¹⁹ Imam Soepomo, *Introduction to Labor Law*, Djambatan, Jakarta, 2003, pp. 182-184.

2. Piece-rate wage system

This piece-rate system is often used to replace the time period wage system. Where or when work results are unsatisfactory.

Because this wage can only be determined if the work can be measured according to certain measures, such as the amount, weight, and area of what is done, this wage system cannot be used in all companies;

The benefits of this wage system are:

- a. Workers are encouraged to work hard because the more they produce, the more they will receive in wages.
- b. Labor productivity is raised as high as possible;

c. Capital goods such as tools and so on, are used intensively.

But on the contrary, this system allows the following evils:

- a. Excessive labor activities;
- b. Workers pay little heed to measures to maintain their safety and health;
- c. Lack of thoroughness in doing things;
- d. Wages are not fixed.

To accommodate these evils, there are times when this *payment by result* system is combined with the time period wage system into a minimum wage system.

In this combined wage system, it is determined:

- a) Minimum wage for a certain period of time

such as a minimum wage for a day.

b. The minimum amount of output for a day's work. If on any given day the worker produces only the minimum or less than the minimum, he will also receive only the minimum wage for the day. If he produces more than the minimum he receives wages according to the amount of work produced.

3. Settlement wage system

This wage system is basically a piece-rate, which is a wage for the results of certain work, for example in road construction, loading,

unloading and transporting goods and so on. But this wage is not given to each individual worker, but to a minimum group of workers who together do the work.

4. The wage scale system is changing.

In this *sliding scale* system, there is a link between wages and the sales price of the company's products. This method of wages can be implemented by companies whose prices for their products depend to a large extent or entirely on foreign market prices. Wages will rise or fall according to the rise and fall of the sales price of the company's products.

5. Index wage

Wages fluctuate according to the rise and fall of the cost of living index. These fluctuations do not affect the *real* value of the rupiah.

6. Profit sharing system

In addition to the wages that workers receive at certain times, at the close of the financial year, if the employer makes a substantial profit, a portion of that profit is given to the workers.

This profit-sharing system is generally not favored by the employer on the grounds that the profit is a payment for the risk borne by the employer. Workers do not share in the loss if the company suffers a loss.

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¹ Suwanto, *Basic Principles of Industrial Relations*, SMERU Research Institute, No. 03, JulSept/2002

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