

## Legal Political on Worker Protection in The Provision of Religious Holiday Allowances

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### Abstract

The Religious Holiday Allowance (THR) represents a normative right that employers are legally obligated to fulfill as part of fair labor practices. Nevertheless, violations and legal ambiguities persist, particularly following the enactment of Law Number 11 of 2020 on Job Creation, which altered the structure of labor protection in Indonesia. This study employs a doctrinal (normative juridical) research method, combining statutory and conceptual approaches, supported by a comparative analysis of Malaysia, Saudi Arabia, and the Netherlands to examine convergences and divergences in THR regulation. Data were drawn from primary, secondary, and tertiary legal materials and analyzed descriptively and analytically. The results show that Indonesian law, especially the Job Creation Law, does not explicitly regulate THR but delegates it to subordinate instruments such as Government Regulation No. 36 of 2021 and Ministerial Regulation No. 6 of 2016, resulting in weak legal protection and the absence of criminal sanctions for non-compliance. In contrast, Malaysia and Saudi Arabia apply policy-based holiday bonuses grounded in administrative and cultural frameworks, while the Netherlands integrates holiday pay into its statutory wage system (*vakantiegeld*), ensuring stronger legal certainty. The legal-political analysis highlights a continuing tension between worker protection and employer flexibility within Indonesia's investment-oriented legal reforms. Strengthening THR governance through clearer statutory mandates and enforceable sanctions is essential to reaffirm THR as a constitutional right consistent with the 1945 Constitution and ILO standards.

**Keywords:** legal politics; worker protection; religious holiday allowance; Job Creation Law; comparative law.

### Abstrak

*Tunjangan Hari Raya (THR) merupakan hak normatif yang wajib dipenuhi oleh pemberi kerja sebagai bagian dari praktik ketenagakerjaan yang adil. Namun demikian, pelanggaran dan ketidakpastian hukum masih sering terjadi, terutama setelah berlakunya Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja yang mengubah struktur perlindungan tenaga kerja di Indonesia. Penelitian ini menggunakan metode yuridis normatif (doctrinal) dengan menggabungkan pendekatan perundang-undangan dan konseptual, serta dilengkapi analisis komparatif terhadap Malaysia, Arab Saudi, dan Belanda untuk mengidentifikasi titik temu dan perbedaan dalam pengaturan THR. Data diperoleh dari bahan hukum primer, sekunder, dan tersier, kemudian dianalisis secara deskriptif dan analitis. Hasil penelitian menunjukkan bahwa hukum Indonesia, khususnya Undang-Undang Cipta Kerja, tidak secara eksplisit mengatur THR melainkan mendelegasikannya kepada peraturan pelaksana seperti Peraturan Pemerintah Nomor 36 Tahun 2021 dan Peraturan Menteri Ketenagakerjaan Nomor 6 Tahun*

2016, yang berakibat pada lemahnya perlindungan hukum dan ketiadaan sanksi pidana bagi pelanggaran. Sebaliknya, Malaysia dan Arab Saudi menerapkan bonus hari raya berbasis kebijakan administratif dan budaya, sementara Belanda memasukkan tunjangan hari raya ke dalam sistem pengupahan (vakantiegeld) yang memberikan kepastian hukum lebih kuat. Analisis politik hukum menunjukkan adanya ketegangan antara perlindungan pekerja dan fleksibilitas pemberi kerja dalam kebijakan hukum pro-investasi di Indonesia. Penguatan tata kelola THR melalui pengaturan yang lebih tegas dan sanksi yang efektif sangat penting untuk menegaskan bahwa THR merupakan hak konstitusional pekerja yang dijamin oleh UUD 1945 dan sejalan dengan standar ILO.

**Kata kunci:** politik hukum; perlindungan pekerja; tunjangan hari raya; Undang-Undang Cipta Kerja; hukum perbandingan..

## Introduction

A higher standard of living can only be achieved when citizens have access to employment that provides adequate income to sustain their households and ensure a dignified life. However, in practice, these ideal remains challenged by persistent disparities in wage structures and the inconsistent fulfillment of workers' rights. Although Article 27(2) of the 1945 Constitution of the Republic of Indonesia guarantees every citizen the right to work and to a livelihood consistent with human dignity (Adrian Sutedi, 2011), the implementation of such constitutional ideals often encounters normative and institutional gaps. One recurring issue concerns the provision of religious holiday allowances (Tunjangan Hari Raya or THR), which, despite being recognized as a non-wage entitlement intended to uphold workers' welfare and social justice, continues to face problems of compliance, enforcement, and legal certainty (Wayan, 2022).

The State bears an obligation to secure decent work and protect workers by maintaining fair and safe labor conditions. Indonesia's Law No. 13 of 2003 concerning Manpower expressly provides that worker protection must guarantee fundamental rights and ensure equal opportunity and treatment without discrimination, to promote workers' welfare (Law, 2003). Within this normative framework, protective labor regulation plays a constitutive role in preventing discriminatory practices, particularly in determining and paying remuneration. Employers and workers collectively shape industrial productivity and, by extension, national economic performance as mutually interdependent economic actors. Accordingly, wage-setting practices must conform to applicable legal requirements and meet the district/municipal minimum wage (*upah minimum*) to uphold both statutory compliance and the broader principles of equality and human dignity in employment (Nurmaida et al., 2023).

The employment relationship between an enterprise's owner or operator and its workers is a *sui generis* legal bond governed by labor law and public policy. Its distinctiveness arises

from structural asymmetries in bargaining power and access to resources: employers typically occupy stronger economic positions as capital holders, while workers depend on wages for subsistence and face labor market constraints, particularly when the labor supply exceeds available jobs. Such imbalances render the relationship susceptible to inequality and potential exploitation, thereby justifying the State's protective interventions (Shubhan, 2020). In this context, "legal protection" denotes a comprehensive regime of safeguards afforded to legal subjects, encompassing preventive (*ex-ante*) measures, such as standard-setting, licensing, and oversight, and repressive (*ex post*) measures, such as inspection, adjudication, and sanctions, embedded in statutes, regulations, and enforceable norms and administered by competent enforcement institutions (Harianto, 2021).

"Normative" workers' rights are statutory entitlements designed to safeguard employees and impose corresponding duties on employers; as such, they constitute non-derogable minimum standards established by legislation and subordinate regulation. Therefore, the law's role in securing these protections is foundational: it seeks to rectify structural asymmetries in the employment relationship and advance a dignified standard of living by defining enforceable rights and correlating them with corresponding obligations. Despite this normative architecture, the material realization of a decent life remains elusive for many workers. In practice, labor market volatility and weak compliance or enforcement can erode protections, leaving even workers currently in employment vulnerable to job loss through employment termination (PHK), thereby highlighting the persistent gap between legal guarantees and economic security (Khair, 2021).

A notable inconsistency in the realization of workers' entitlements is the religious holiday allowance (THR). Although the entitlement is codified in the Minister of Manpower Regulation No. 6 of 2016, which delineates general definitions, the parties (employers and workers), the quantum and timing of payment, as well as supervisory mechanisms, fines, administrative sanctions, and closing provisions, compliance remains uneven in practice (Sukadana & Affifah, 2025). The persistence of delayed or partial payment, selective exclusion of eligible workers, and other forms of noncompliance underscores a pronounced gap between the regulation's *de jure* guarantees and their *de facto* implementation. This gap reflects not only deficiencies in employer adherence but also constraints in oversight capacity and remedial pathways, thereby raising concerns about legal certainty and the effectiveness of administrative sanctions as instruments for securing workers' rights. For example, consider Anwar Bessie, a worker at Indomaret. He demanded a religious holiday allowance, which was one of his rights. Instead of receiving this benefit, Anwar was charged with making demands (Winata et al., 2023).

The incident sparked protests by labor unions and human rights groups. This article presents observations on the political economy of law as it examines and considers the cases mentioned earlier. This phenomenon demonstrates the existence of a contradictory political-economic relationship, which has undesirable consequences for workers (Winata et al., 2023).

The provision of the Religious Holiday Allowance (THR) or “Eid bonus” is not specifically regulated by law; however, in practice, many companies provide it as a form of financial assistance prior to religious holidays. In Malaysia, both the government and private companies offer special assistance such as half a month’s salary or cash bonuses ahead of Eid al-Fitr. In Saudi Arabia, the culture of granting holiday bonuses is very strong, and labor law requires compensation for overtime work on public holidays, including Eid al-Fitr. Meanwhile, in the Netherlands, the holiday allowance, known as *vakantiegeld*, is paid at a minimum rate of 8% of the employee’s annual income as an additional payment separate from the basic wage.

From the above comparison, it can be seen that each country adopts a different approach to providing religious holiday allowances to workers, either through government policy or company agreements. These differences indicate that the protection of workers’ rights largely depends on the legal framework and national policy governing such matters. In the Indonesian context, the provision of the religious holiday allowance (THR) has its own characteristics regulated within the national labor law system. Therefore, it is important to further examine how the Job Creation Law (*Undang-Undang Cipta Kerja*) regulates workers’ rights, particularly concerning the wage system and the granting of religious holiday allowances.

Examining workers’ entitlements more closely, the Job Creation Law provides that an employee’s remuneration is the subject of mutual agreement as outlined in the employment contract. Any deductions for taxes, social security contributions, or other lawful purposes must conform to the parties’ agreement and applicable legal norms. Although the statute does not prescribe a detailed formula for calculating wages, employers remain obliged to pay remuneration in accordance with prevailing regulations and minimum standards. Moreover, when labor is engaged through outsourcing arrangements, the principal or contracting employer is required to provide performance-contingent benefits, including bonuses and the religious holiday allowance (THR), when the worker’s results meet the stipulated criteria (Azhara & Dwi Agista, 2022).

These ideas constitute a worker protection program that ultimately benefits not only workers but also companies by ensuring continuity and productivity in production (Suhartoyo, 2019). Regulations regarding the provision of THR to workers were established to protect employees’ rights to THR as stipulated in the Minister of Manpower Regulation No. 6 of 2016.

However, these regulations have shortcomings, including a lack of clarity regarding the sanctions imposed on companies that neglect or fail to provide workers with THR. This opens up opportunities for employers to engage in THR irregularities (Hanifah & Koto, 2021).

This study is significant because it exposes the legal and socioeconomic gaps in Indonesia's labor protection framework, particularly regarding the enforcement of the Religious Holiday Allowance (THR). Although the Manpower Law and Job Creation Law acknowledge workers' rights to fair remuneration, their implementation remains weak and inconsistent. The analysis reveals that inadequate legal certainty and fragmented oversight reflect deeper structural tensions between economic liberalization and social justice in post-reform labor policy. Strengthening THR protection is therefore vital not only to uphold constitutional and human rights principles, but also to foster social cohesion and sustainable economic growth through fair and dignified labor governance.

## **Methods**

This study employs a doctrinal (normative juridical) methodology grounded in secondary sources and a focused comparative analysis of Malaysia, Saudi Arabia, and the Netherlands to identify convergences and divergences in the regulation of religious holiday allowances. The State (statute-based) approach is used to examine authoritative legal instruments, including statutes, regulations, and, where relevant, administrative guidelines, as the primary basis for analysis. This conceptual approach interrogates scholarly views, doctrines, and organizing concepts in labor law to clarify contested terms and resolve conceptual ambiguities. The inquiry is conducted through descriptive, analytical, and comparative interpretive techniques, which not only elucidate the normative meaning, underlying principles, and policy rationales of relevant rules but also illuminate the legal texts. In doing so, the research links positive law to its conceptual architecture, thereby providing a rigorous foundation for the study's arguments and for evaluating the coherence and effectiveness of the respective regulatory frameworks.

## **Legal Policy on Worker Protection in Indonesia's Holiday Allowance Provision and Distribution**

A religious holiday allowance is defined as non-wage income that employers must pay to workers or their families in advance of religious holidays (Asmara et al., 2022). Workers are entitled to receive income from the tasks they have performed. Employers can provide a religious holiday allowance in the form of money or other forms, in accordance with the workers' beliefs, on religious holidays. Every human being has absolute, inviolable, and

nonnegotiable rights. The elements of a right include the owner of the right, the area in which the right applies, and the parties involved in the exercise of that right. Rights are normative elements that are explicitly the rights of every individual, and their application encompasses the scope of equal rights and freedoms (Satya Arinanto, 2022).

Individuals must fulfill their obligations to obtain appropriate rights. Obligations are a form of responsibility that all parties must meet as part of mutually agreed-upon regulations and agreements. These obligations are fulfilled through tasks, defined as actions taken by a person who strives to take responsibility for specific moral and legal issues. Pudiano Marto Kusumo asserts that rights and obligations are authorities given to everyone based on the law, not rules or norms (Dalimunthe & Bintang, 2024).

The President-approved Job Creation Law (Law No. 11 of 2020, State Gazette 2020 No. 245, Supplement No. 6573) will take effect by revising many provisions in the Manpower/Labor Law. Formally, the executive is still processing the Job Creation Bill while deliberations with the legislature continue, and the amendments cover, among others, Articles 13, 14, 37, 42, 45, 47, 49, 56, 57, 58, 59, 61, 66, 77, 78, 79, 88, 92, 94, 95, 98, 151, 153, 156, 157, 160, 185, 186, 187, 188, and 190. In addition, wage policy is governed by Article 4 of Government Regulation No. 36 of 2021 on Wages, which provides that the Central Government sets wage policy to help realize workers'/laborers' right to a humane, decent standard of living; that such wage policy constitutes a national strategic program; and that Regional Governments must follow Central Government policy in implementing wage policy. The regulation further divides wages into components (a) wages without allowances; (b) basic wage and fixed allowances; (c) basic wage, fixed allowances, and non-fixed allowances; or (d) basic wage and non-fixed allowances and requires that, where the components are as in (b) or (c), the basic wage be at least 75% of the sum of the basic wage and fixed allowances; the selected wage components be stipulated in the Employment Agreement, Company Regulation, or Collective Labor Agreement; and that the Employment Agreement, Company Regulation, or Collective Labor Agreement for specific positions or jobs may further arrange teenage of basic wage within the components referred to in those provisions (Cabanillas-Jiménez, 2024).

In the Job Creation Law, wages are calculated based on time and output units (productivity), as stipulated in Article 88B. Republic of Indonesia, "Law on Job Creation," Law Number 11 of 2020, LN Year 2020 Number 245, TLN Number 6573. The Government Regulation on Wages states that workers are entitled to THR if they have worked continuously for more than one month. Workers with permanent employment contracts ("PKWTT"), permanent workers, workers with fixed-term employment contracts ("PKWT"), or contract

workers are entitled to receive THR. Workers with PKWTT status who are laid off are also entitled to THR. This applies to the year the layoff occurs. However, this provision does not apply to workers whose PKWT expires before the religious holiday. Another criterion for a worker to be entitled to THR is that employees who are transferred to another company with continuous working hours can only be transferred to the new company if they do not receive THR from the old company (Munawaroh, 2023). From a human rights perspective, the provision of THR is a form of protection for workers' fundamental rights and a means of ensuring their welfare through the wages they receive. In line with the human rights perspective that "rights should be created and guaranteed by constitutions, laws, or contracts," fundamental human rights must be provided by law and the constitution (Satya Arinanto, 2001).

Employers that maintain an employment relationship for an indefinite period or a fixed term are obliged to pay THR under the prevailing legal framework in accordance with the employment contract and statutory regulations (Anwar & Rofiqoh, 2025). Government Regulation No. 36 of 2021 on Wages, together with the Minister of Manpower Regulation No. 6 of 2016 on Religious Holiday Allowances, establishes the duty to provide THR to workers/employees and articulates its basic entitlement and payment parameters.

### **Political Analysis of the Role of Law Number 11 of 2020 Concerning Job Creation in the Provision of Religious Holiday Allowances**

Law Number 11 of 2020 on Job Creation regulates many changes to labor regulations, including workers' rights, wages, working hours, and working conditions. Several political parties have argued that specific provisions in the JCL may limit workers' rights and violate constitutional rights. In this regard, comparing the provisions of the law on job creation with the constitutional provisions on workers' rights may raise questions about the constitutionality of these provisions (Rato et al., 2023).

Several provisions in the Job Creation Law raise questions that have implications for the protection of constitutional rights, particularly those relating to workers' rights and environmental protection. Several controversial articles require analysis to understand their impact. First, Article 6 on changes to employment agreements permits changes without the involvement of labor unions, thereby threatening the protection of workers' rights. Article 88 on fixed-term employment agreements is also controversial because it could reduce job security. Then, Article 59 contains a policy of removing criminal sanctions for violators of labor regulations, which could threaten the effectiveness of law enforcement against workers' rights violations. Articles 24 and 50 relate to environmental protection, with accelerated licensing and

incidental environmental adjustments that could reduce environmental protection standards (Law, 2020).

**The Importance of Formal Legal Rules and Norms in Indonesian Workers' Protection:** It is undeniable that discrimination often occurs in the workplace. One example is the payment of wages by employers to workers/laborers. Employers and workers are essentially interrelated parties who are breadwinners and have a significant influence on a country's economic growth (Nurmaida et al., 2023).

The policy on THR regulations is not explicitly explained in either the Job Creation Law or the Manpower Law. However, it is included in the components of workers' rights as mandated that: *“..upah sebagai dasar perhitungan atau pembayaran hak dan kewajiban lainnya, serta Ketentuan lebih lanjut mengenai kebijakan pengupahan diatur dalam Peraturan Pemerintah.”* (Law, 2020). The Labor Law explains that THR is part of remuneration that describes the composition of basic wages and fixed allowances in workers' salaries. Minister of Manpower (Menaker) Ida Fauziyah, through Circular Letter (SE) Number M/2/HK.04/III/2024 concerning the Implementation of Religious Holiday Allowances for 2024 for Workers/Laborers in Companies, emphasizes that employers must provide full religious holiday allowances to their employees or laborers no later than 7 days before the religious holiday (Humas Setneg RI, 2024).

Changes to the THR regulations have both positive and negative impacts on society. Employers appreciate the flexibility in providing THR to workers because they can adjust THR payments based on the company's financial condition. However, labor unions and several community groups oppose the changes because they are considered to endanger workers' safety during the THR period. Not all economic sectors can fulfill their obligation to pay 100% of the THR in accordance with existing regulations. This is due to the industrial slowdown. This includes export-oriented labor-intensive industries that are still struggling against the impact of global uncertainty (Miftahudin, 2024).

Policies governing religious holiday compensation shape the legal-political landscape by mediating the State's commitment to social welfare, cultural pluralism, and distributive justice. For many workers, the religious holiday allowance (THR) is integral to observing faith practices with material adequacy and dignity; therefore, alterations to its scope, timing, or enforcement have economic and symbolic consequences. Because such rules intersect with religious norms and communal traditions, regulatory change can be sensitive, eliciting heterogeneous responses across constituencies and affecting perceptions of fairness, legitimacy, and State neutrality. Accordingly, the design and implementation of the THR policy should weigh not only fiscal

and administrative feasibility but also cultural salience, equity across sectors and contract types, and the credibility of sanctions and remedies, as these factors jointly determine societal acceptance and the effectiveness of the regulatory regime.

### **Political Implications of the Worker Protection Law on Religious Holiday Allowances**

The emergence of various worker protection regulations aims to guarantee workers' fundamental rights, such as equal opportunities and the ability to live prosperously in the workplace without discrimination. This involves evaluating the implementation of worker protection, which has become the basis of labor laws. The protection provided includes occupational safety and health. This protection is part of the law's function to regulate and protect society's interests, serving as a means to provide protection and regulate human relations. In addition to protecting workers, the government must also focus on job creation to achieve the goal of developing a prosperous, just, and equitable Indonesian society in all aspects. This requires mutually beneficial cooperation among the government, employers, workers, and other stakeholders involved in integrated labor development (Fabiola).

Based on "Article 5 of Labor Law Number 13 of 2003," all workers, regardless of gender, ethnicity, race, religion, or political beliefs, are entitled to employment and protection of equal opportunities and a decent livelihood. The interests and skills of workers, including equal treatment, must be taken into account (Srideviani & Dewi, 2024). Individual protection, as an implication, is a provision of the law that operates on legal events. It is explained that there needs to be a balance between rights and interests, so the law is appropriate for emphasizing social interests (Satya Arinanto, 2001).

Soepomo explained that there are three types of worker protection. Economic protection. This includes, among other things, sufficient income security if workers are unable to work due to specific reasons—such as social protection, including occupational health insurance, freedom of association, and organizational protection. Technical protection encompasses safety and security measures in the workplace designed to safeguard workers against risks and hazards they may encounter on the job (Abdul Hakim, 2003).

The objective of worker protection is to ensure that workers' fundamental rights are respected and treated fairly. Worker protection can be achieved through demands, sanctions, physical and socioeconomic protection, and recognition of workers' human rights in accordance with applicable laws. The role and function of law as a regulator and protector of common interests is always linked to legal protection and the function of law to regulate relationships and resolve common problems. The government must intervene in the labor sector

by creating rules and regulations that balance the interests of both parties to protect employers and workers (Basofi & Fatmawati, 2023).

The State's obligation to protect workers in Indonesia rests on a constellation of legal instruments, including labor statutes, the Constitution, and ratified international conventions. Labor legislation outlines the rights and duties of workers, as well as the government's protective responsibilities. Article 86 (1) affirms that every worker is entitled to protection in matters of occupational safety and health, moral and ethical integrity, and treatment consistent with human dignity and religious values. Additionally, ensuring a decent income through wage policies that prioritize worker protection falls within the government's remit. The Job Creation Law, as the most recent labor framework, safeguards workers' rights with the stated aim of strengthening workers' roles and welfare while supporting the investment ecosystem.

The 1945 Constitution guarantees protection for workers, as articulated in the fourth paragraph of the Preamble and in Articles 27(2) and 28D. On this basis, the Constitution affirms that the law must protect the people fairly and equitably. To prevent exploitation, governmental intervention is necessary to ensure legal protection for workers, consistent with the Constitution's mandate to realize social justice. Accordingly, such protection constitutes an indispensable guarantee from the outset and an integral component of the policies and operations of a rule-of-law State (negara hukum), shaping regulatory design and administrative practice across the employment relationship from wage setting and occupational safety and health to termination and remedies (Basofi & Fatmawati, 2023). Thus, the implications of representative government are a consequence of the governmental system of the prior regime. Accordingly, limitations on power are required, considering whether the new law's objectives reflect the social interests they serve (Satya Arinanto, 2001).

As a member of the International Labor Organization (ILO), Indonesia upholds global standards for the protection of workers in occupational safety and health. Among these is the ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, which safeguards workers' fundamental freedoms and enables collective bargaining to foster an optimal working environment. The Convention addresses the legality of protecting workers from harassment, improper treatment, and violence, as well as fair working conditions, decent living standards, and access to information about working conditions. These rules guarantee workers' freedom, identity, and mobility. (*Konvensi Perlindungan Upah*, 1949). This is a preventive measure to protect workers from arbitrary actions by employers that are not in accordance with the law and have the potential to violate human rights (Satya Arinanto, 2001).

Employers must pay THR to workers/laborers who have been continuously employed for at least one month. Noncompliance triggers sanctions as stipulated in Minister of Manpower Regulation No. 6 of 2016 on THR payments for company workers. The regulation stipulates that late or nonpayment of religious holiday allowances is subject to fines and administrative sanctions. However, the imposition of penalties does not extinguish the employer's obligation to pay the THR to workers/laborers (Sholikatun, 2017).

Employers who fail to pay THR are subject to administrative sanctions, including written warnings, restrictions on business activities, temporary suspension of part or all their production equipment, and the freezing of business operations. THR violations, whether nonpayment or delay, are not classified as unlawful acts (*perbuatan melawan hukum* or PMH). THR constitutes a worker's right, infirm; therefore, the provisions of THR entitlements are treated as disputes within the meaning of Article 1(2) of Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes (Tri Jata Ayu, 2024). However, as the foregoing discussion makes clear, the new THR regulation has effectively "eliminated" or no longer provides for criminal sanctions.

The Job Creation Law inaugurates a new regulatory regime for labor protection. This governmental choice carries both positive and negative consequences and has elicited mixed public responses. Supporters contend that the law can stimulate investment and expand employment opportunities, while critics raise concerns regarding its broader implications and potential adverse effects on workers' rights (Manullang & Hadilinatih, 2023).

Upon closer examination, the Job Creation Law does not expressly regulate workers' entitlements to religious holiday allowances; instead, it delegates this matter to subordinate legislation. The Manpower Law (Law No. 13/2003), as amended by the Job Creation Law (Law No. 2 of 2022). This framework stipulates that the central government shall establish a wage policy to achieve a decent standard of living for workers, as further elaborated in Government Regulation No. 51 of 2023 concerning Wages (BPLawyers, 2024). Furthermore, as the implementing regulation on wage policy governing THR, Government Regulation No. 36 of 2021 classifies the religious holiday allowance as a non-wage component of income that employers are obligated to provide to workers/laborers and requires that it be paid no later than seven days before the relevant religious holiday (*Peraturan Pemerintah Nomor 36 Tahun 2021 Tentang Pengupahan*, 2021).

As a consequence of this regulation's enactment, oversight of employers is necessary to ensure that they fulfill their obligations in accordance with applicable law. Wage protection constitutes the most important aspect of worker protection. Its purpose is to ensure that workers

perform their jobs with remuneration sufficient to support their families, thereby achieving a standard of living consistent with human dignity.

## **Comparison of Worker Protection in Religious Holiday Allowance Provisions in Several Countries**

The provision of THR, commonly referred to as the “Eid bonus,” is not expressly regulated by statute; however, in practice, many companies grant bonuses or incentives to workers in advance of the holiday. In Malaysia, THR takes the form of special financial assistance for Eid al-Fitr. In the State of Johor, for example, civil servants receive one-half of a month’s salary or a minimum of RM1,000 (approximately Rp3.4 million). Prime Minister Ismail Sabri Yaakob announced that the Malaysian government would provide RM500 to all for Eid al-Fitr and extend special financial assistance of RM500 (approximately Rp1.7 million) on April 5, 2024 (Wahyuni & Dijan, 2024). As reported by Antara News, Datuk Seri Anwar Ibrahim, Malaysia’s Minister of Finance, stated that the early incentive payment of RM2,000 recently disbursed to civil servants was intended for the celebration of Hari Raya Idulfitri. Accordingly, a review of Malaysia’s legislative framework indicates that subsidiary legislation is widely employed and that legislative authority is administratively delegated, as evidenced by the empowerment of ministries to issue regulations to give effect to primary legislation.

Saudi Arabia, a predominantly Muslim country with a strong Islamic tradition, maintains a culture of providing religious holiday allowances (THR) to friends and relatives. The celebration of Eid al-Fitr is eagerly anticipated by Saudi society. Not only within families, but the majority of companies and employers in Saudi Arabia also extend holiday bonuses to their workers (CNN Indonesia, 2024). Under Saudi Arabian labor law, employers are required to compensate workers for overtime at a rate equal to the employee’s hourly wage plus 50 percent of the base wage. Work performed on rest days, public holidays, and during Eid al-Fitr is classified as overtime (Royal Decree No. M/21, 1969).

In the Netherlands, religious-holiday allowances are paid through employee wage contributions at a standard minimum rate of 8 percent of total salary, 8.33% for temporary workers, a scheme in effect since January 2020. The practice dates back to the 1920s, when companies began granting special holiday bonuses. In 1960, the policy was revised because most workers chose to travel abroad during the holiday period. Consequently, the Dutch government converted the allowance into an extra payment outside the base wage—what, in Indonesia, would be termed a “*tunjangan*.” Under this framework, workers receive a thirteenth-month payment each May, allowing them to plan their vacation time using the funds they have

saved. Employees in the Netherlands receive this benefit, commonly referred to as a holiday allowance (Wahyuni & Dijan, 2024).

In the Netherlands, the holiday allowance (*hoogte vakantiegeld*) must be at least 8% of the employee's gross earnings from the preceding year. The calculation base includes overtime, performance bonuses, commissions, supplements for work outside regular hours, and payments instead of holidays, but excludes expense reimbursements, profit distributions, and similar non-wage items. Holiday pay is typically computed on earnings accrued in May; however, profit sharing and year-end bonuses are excluded from the base. Employers are also required to pay at least the average minimum hourly wage for overtime, and corresponding holiday pay must be accrued on those additional hours, calculated on the full overtime value (including any overtime premiums) (rijksoverheid, 2024).

From a legal-political perspective, each country's approach to regulating religious holiday allowances (THR) reflects its broader philosophy of labor protection and economic governance. In Malaysia, the policy orientation is administrative and welfare-based, where the government actively intervenes through ministerial decrees or budgetary allocations to maintain social stability during religious holidays. This approach demonstrates the state's political commitment to distributive justice by ensuring that workers, particularly civil servants and low-income employees, receive additional financial support during festive periods. The consequence of this policy is a strong sense of social solidarity and public trust in government institutions, fostering harmonious labor relations and minimizing industrial disputes.

In Saudi Arabia, the political stance is rooted in the moral and religious obligation derived from Islamic principles of *ukhuwah* (brotherhood) and *ta'awun* (mutual assistance). Although THR is not formally codified as a statutory right, the deeply ingrained cultural and religious values ensure compliance through social norms and employer reputation. The impact of this approach is the reinforcement of social cohesion and respect for workers' dignity, in line with the Islamic economic philosophy of equitable wealth distribution and community welfare.

Meanwhile, in the Netherlands, the political-legal framework reflects a liberal-welfare model in which labor entitlements are embedded within statutory wage structures. The mandatory holiday allowance (*vakantiegeld*) demonstrates how the state institutionalizes workers' rights through systematic regulation, ensuring fairness, predictability, and economic planning. This creates a transparent system that balances employer flexibility with employee welfare, promoting sustainable labor relations and productivity.

Overall, these comparative models illustrate that the political design of THR policies—whether administrative, cultural-religious, or statutory—produces positive socio-economic

effects. They enhance worker welfare, industrial harmony, and public trust while aligning with each nation's ideological and legal traditions, showing that effective labor protection can serve as both a social and economic stabilizer.

In the context of Indonesia, a nation whose legal system integrates Islamic legal principles into its national legislation, the ideal configuration of religious holiday allowance (THR) protection should merge the normative strength of statutory regulation with the moral and cultural foundations of social justice derived from Pancasila, the 1945 Constitution, and Islamic law (*shari‘ah*). Although the government has enacted several regulations, such as Minister of Manpower Regulation No. 6 of 2016 and Government Regulation No. 36 of 2021 on Wages, their effective implementation still relies on consistent supervision and a shared ethical commitment among employers, workers, and the state.

An integrative approach that harmonizes the legal certainty of positive law with the ethical imperatives of Islamic justice, emphasizing fairness (*‘adl*), empathy (*rahmah*), and shared prosperity (*maṣlahah*), would ensure that the payment of THR is not seen merely as a legal obligation but as a manifestation of social responsibility and moral accountability. Such a model would reinforce industrial harmony, uphold workers' dignity, and embody both the constitutional mandate of "social justice for all Indonesian people" and the Islamic objective of achieving welfare and balance in economic relations.

## Conclusion

Based on the doctrinal and comparative analysis conducted, this study concludes that the protection of workers' rights regarding the provision of the Religious Holiday Allowance (THR) in Indonesia remains normatively weak and structurally inconsistent. The delegation of authority from Law No. 11 of 2020 on Job Creation to secondary regulations such as Government Regulation No. 36 of 2021 and Minister of Manpower Regulation No. 6 of 2016 results in a fragmented legal framework that undermines the enforceability of workers' entitlements. The absence of explicit statutory sanctions for noncompliance not only diminishes legal certainty but also weakens the deterrent effect necessary to uphold labor justice. From a political-legal perspective, this condition reflects a continuing tension between the pursuit of economic flexibility and investment climate on one hand, and the constitutional obligation to ensure workers' welfare and social justice on the other.

The comparative findings further demonstrate that other jurisdictions—such as Malaysia, Saudi Arabia, and the Netherlands—have achieved a more coherent alignment between policy, culture, and law in safeguarding workers' welfare. The Malaysian and Saudi systems emphasize

social and moral responsibility through administrative policy, while the Dutch model institutionalizes worker protection through a legally embedded wage scheme. Drawing from these models, Indonesia's future policy orientation should aim for a balanced integration of legal certainty, ethical responsibility, and administrative effectiveness, ensuring that THR is not treated merely as a discretionary benefit but as a constitutional and socio-economic right inherent in the nation's commitment to human dignity and social justice as enshrined in the 1945 Constitution.

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