

ANALYSIS OF THE PROHIBITION OF PROVIDING COMPENSATION TO FOUNDATION BOARD MEMBERS FROM AN ISLAMIC JUSTICE PERSPECTIVE

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ABSTRACT

This research aims to analyze the prohibition on giving wages to foundation organs (founders and trustees) from an Islamic perspective, especially on the principles of justice. This research is included in the type of qualitative descriptive research (non-statistical) using the library research method (literature review) through a juridical-normative and conceptual approach. The results of the research show that from an Islamic perspective, the prohibition on giving salaries or wages to foundation organs, especially to foundation Trustees and Supervisors, can be said to be a form of injustice, where the management (with some limitations) is entitled to a salary, while the Trustees and Supervisors are not allowed to receive it. Therefore, when the administrators and related parties in the management of the foundation, including Trustees and Supervisors, work in accordance with a mutually agreed contract, agreement, or contract, then wages for performance must be paid fairly and transparently, according to the agreement and willingness of both parties.

KEYWORDS Foundation, Wages, Prohibitions, Justice, Islam



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INTRODUCTION

The development of foundations in Indonesia has been expanding over time as the process of establishing them becomes increasingly easier. Foundations can be formed by various parties, including individuals, private groups, or legal entities such as the government. The types of foundations emerging in society cover various fields, such as education, health, religion, finance, and others. The motivations and

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objectives behind the establishment of foundations also vary; some are based on social interests and the pursuit of rewards, while others might use foundations for personal gain or specific purposes (Nisa, 2021).

In practice, the motives for establishing foundations also vary. Some foundations might be compelled to establish these entities due to legal requirements, such as private hospitals, clinics, and private educational institutions. This ease includes several aspects, among others: (1) a simple establishment process; (2) no need for official approval from the government; and (3) tax incentives from the government for foundations (Irwansyah, 2016). However, foundations with such motives often fall into deviant practices, especially in their business activities. The various reasons that underlie society's choice to establish foundations as legal entities are not separated from the ease provided in the establishment process.

According to Law No. 16 of 2001 regarding Foundations, a foundation is a legal entity that has separate assets and aims to achieve social, religious, and humanitarian goals without members, often referred to as a nonprofit organization (NPO). However, in its development, criticism has arisen against the existence of foundations, especially from internal parties, because some provisions in the law are considered inconsistent with previous foundation management practices. One controversial provision is the prohibition against foundation members receiving salaries, wages, or honoraria from the foundation, as stipulated in Article 5 that "The assets of the Foundation, whether in the form of money, goods, or other assets acquired by the Foundation under this Law, are prohibited from being transferred or distributed directly or indirectly to the Management, Supervisors, employees, or other parties who have an interest in the Foundation."

Furthermore, the criminal provisions for such violations are regulated in Article 70, which states that "(1) Any member of the Foundation's organ who violates the provisions as referred to in Article 5, shall be punished with imprisonment for a maximum of 5 (five) years; and (2) In addition to imprisonment, the members of the foundation's organ as referred to in paragraph (1), shall also be subject to additional punishment in the form of the obligation to return the money, goods, or assets of the foundation that were transferred or distributed."

However, Article 6 of the Law shows the opposite of Article 5, where Article 6 mandates that "The Foundation must bear all the costs or expenses incurred by the Foundation's organ in carrying out its duties." Article 6 of the Law provides room for the foundation's organ to engage in "legal deviations" because its provisions tend to be abstract and can be interpreted in various ways. Moreover, the consideration of the significant responsibilities that must be borne by the foundation's management needs attention, as stipulated in Article 35 paragraphs (1) and (2) of the Foundation Law, which states that "(1) The Foundation's Management is fully responsible for the management of the Foundation for the benefit and purpose of the Foundation and has the right to represent the Foundation both inside and outside the Court; (2) Each Manager shall perform their duties with good faith and full responsibility for the benefit and purpose of the Foundation."

The implementation of very strict regulations on foundation managers can lead to reluctance for someone to serve as a foundation manager because they must work without financial compensation or may even face legal consequences if they

violate these provisions. This rule was then revised and included in Article 5 of Law Number 28 of 2004, which amended Law Number 16 of 2001 concerning Foundations. The article emphasizes that the assets of the foundation may not be transferred or distributed directly or indirectly to the Founders, Managers, and Supervisors in the form of salaries, wages, or honoraria. However, exceptions to this provision must be explained in the Foundation's Articles of Association, allowing managers to receive financial compensation if they are not connected to the founders or supervisors of the foundation and carry out the responsibilities of management directly and fully. The amount of salary, wage, or honorarium is determined by the Founder according to the financial capability of the foundation.

Despite these changes, this condition has not completely resolved the problems for foundation managers because only managers are entitled to receive salaries or honoraria, except for certain exceptions, while Trustees and Supervisors are still not included. However, like Managers, Trustees and Supervisors also have important roles, functions, and responsibilities regarding the performance of Managers in running the foundation's operations efficiently to achieve the overall goals of the foundation. Therefore, it is reasonable for Trustees and Supervisors to seek fair treatment related to the possibility of "discrimination" in existing regulations, especially in terms of compensation such as salaries, wages, or honoraria.

In the context of Islam, the concept of compensation is regulated with principles that differ from Western concepts. Islam prioritizes human and moral values in the compensation system, such as the principles of justice and morality. In Islam, it is stated that there should be no discrimination in the payment of wages for the same work, and the compensation received by a person should be in accordance with the effort they have made correctly and according to Islamic law. Essentially, every trade or service transaction between two parties will result in compensation. In the terminology of *fiqh muamalah*, a transaction between goods and money is called a *śaman* (price), while a transaction between money and human labor is called an *ujrah* (wage). A person who works essentially engages in a service transaction, whether intellectual or physical, by receiving monetary compensation (Hendrie, 2003).

Al-Maliki, (2001) states that wages are a compensation for the benefits of work that will be adjusted to its value in the general market. The determination of wages is based on the value of the benefits of the worker (labor), which serves as the basis for deciding whether the wages meet their needs or not. In this context, wages in Islam are considered a reward received by workers for performing their tasks correctly and properly, both in the form of fair and decent material compensation in this world and in the form of rewards in the hereafter. Islam has a broader understanding of wages as it encompasses both material and spiritual dimensions.

The principle of wages in Islam is closely related to the fundamental principles of economic activities (*mu'āmalah*), particularly the principles of justice and morality (*al-akhlāq*). In the context of economic law, the enforcement of justice has not only juridical economic value but also theological dimensions. Justice in Islam is divine justice, inseparable from morality, based on absolute values revealed by God, and human acceptance of these values is considered an obligation (Muhammad, 2004). This means that all economic laws must align with moral

values derived from the Qur'an and Hadith. These principles of justice must be comprehensively applied in life, including in the economic domain. Justice reflects balance, proportion, and harmony, which are evident in the aspects of law and the granting of rights to those who deserve them (Siddiqi, 1996).

Thus, justice can be conceptualized as the process of equalizing various entities in terms of their value and dimensions so that none are prioritized or neglected, ensuring a balance between material and spiritual elements within individuals, and between individuals and their communities. Abbas al-Akkad notes that true justice is free from elements of injustice and oppression (*lā tazlīmūna walā tuzlamūna*) (Qardhawi, 1997). Justice, therefore, involves equalizing two similar forms according to the limits of their similarity and differing conditions or distinguishing two different things according to the differences and related conditions. In another context, justice means placing an object or situation in its proper place (Siddiqi, 1996).

Based on the above explanation, it is interesting to further examine how Islamic law views the prohibition of wage payments to foundation organs as previously explained. Several previous studies have attempted to examine and analyze wages, salaries, and honoraria for foundation officials from various perspectives.

Muhamad Agung Hidayat (2023) analyzed the payment of salaries to the management of the Yayasan Hati Gembira Indonesia from the perspective of sharia economic law and positive law. This study provides an overview of how wage payments are conducted in the foundation, and explains in more detail the application of Islamic law and positive law in this context. The findings of this study include an analysis of the payment of salaries to the management of Yayasan Hati Gembira Indonesia from the perspective of sharia economic law and positive law. The study found consistency between the reality conveyed by the foundation's management and the existing regulations, where the management of Yayasan Hati Gembira Indonesia is paid an amount that meets wage principles. However, this study did not analyze the prohibition of wage or salary payments according to Article 5 of the Foundation Law from the perspective of Islam, especially concerning the principles of justice and fairness.

Nisa, (2021) conducted research on the right to receive wages for foundation managers according to Islamic law and the Foundation Law No. 28 of 2004 using a case study of Yayasan Nurul Yaqin in Pematang Sei Baru Village, Tanjungbalai District, Asahan Regency. The findings of this research indicate that the right to receive wages for foundation managers is a complex issue requiring a deep understanding of Islamic legal principles and the provisions of the Foundation Law. Based on an analysis of Islamic law perspectives, there are arguments supporting the payment of wages to foundation managers as a form of appreciation for the work done. Meanwhile, the Foundation Law No. 28 of 2004 stipulates that foundation managers are not entitled to receive wages unless stipulated in the foundation's articles of association. This becomes a central point in the comparative analysis between Islamic legal views and the applicable law. However, the study did not touch upon or analyze the prohibition of wage or salary payments, particularly to Founders and Supervisors, according to Article 5 of the Foundation Law from the perspective of Islam, especially on the principles of justice and fairness.

Irwansyah (2016) conducted research on issues related to the implementation of the Foundation Law, particularly the prohibition of salary or wage payments to foundation organs as stipulated in Article 5 of the amended Foundation Law and the penalties imposed for violations as per Article 70 of the Foundation Law. Using an empirical approach, the research concluded that the prohibition of salary or wage payments essentially does not comply with the principles of justice and legal certainty and contradicts the constitution, which guarantees the right of every citizen to have a job and receive appropriate compensation for their work. However, it is regrettable that the research did not discuss the prohibition of salary or wage payments, especially to Founders and Supervisors according to Article 5 of the Foundation Law, from an Islamic perspective, particularly in terms of justice and fairness.

From the above studies, it is apparent that research examining and analyzing the prohibition of wages, salaries, and honoraria for foundation officials, particularly Founders and Supervisors, from the perspective and principles of justice in Islam has not been widely conducted. Therefore, this research aims to analyze the prohibition of wage payments to foundation organs (Founders and Supervisors) from an Islamic perspective, particularly regarding the principles of justice and fairness.

RESEARCH METHOD

This research falls under the category of qualitative descriptive research (non-statistical) using the library research method. In this method, a study of theoretical concepts is conducted using existing literature such as scholarly works, journals, and others. Literature review serves to build concepts or theories that form the basis of the study in research (Sugiono, 2017). The approach used in this research is a juridical-normative and conceptual approach. The juridical-normative approach is based on primary legal materials, examining theories, concepts, legal principles, and regulations related to this research. Meanwhile, the conceptual approach is a type of approach in legal research intended to analyze legal materials and emphasize conceptual analysis in solving the problems that are the focus of the research study (Hajar, 2015)(Mughtar, 2015). The research data is divided into two parts: (1) primary data, which are directly collected by the researcher from primary sources, consisting of the Quran, Hadith, laws and regulations related to the research topic; (2) secondary data, which are obtained from materials that provide explanations of primary data, such as various legal books by scholars and other books or references such as journals, articles, theses, and some data sources related to the issues in this research (Sugiyono, 2017). Once collected, these data will be processed and analyzed using content analysis techniques (Cavanagh, 1997).

RESULT AND DISCUSSION

The Foundation is one type of organization that has legal status, as explained in Article 1 paragraph (1) of Law Number 16 of 2001 concerning Foundations. The Foundation is defined as a legal entity that has separate wealth and aims to achieve specific goals in the fields of social, religious, and humanitarian, and does not have members. As a legal entity, the Foundation is interpreted as an organization or

group established through authentic deeds and recognized by law as an entity with rights and obligations, or known as a legal subject. The term "legal subject" refers to the fact that individuals and legal entities have legal rights and obligations.

According to the research conducted by Irwansyah (2016) and Mohammad Yudithama Al Kautsar (2023), one of the problems that often arises in the field is the lack of socialization related to the implementation of the Foundation Law by the Government. This situation causes many foundations to doubt the legal status they have, whether it is still considered valid or not. This concern arises because many foundations at the beginning of their establishment did not meet the requirements stipulated in the Foundation Law. These requirements include registration in the District Court and announcement in the Additional State Gazette of the Republic of Indonesia, or registration in the District Court and operational permits from relevant agencies.

Separate wealth from the founders is a crucial requirement in the establishment of a foundation as a legal entity. According to Article 26 paragraphs (1) and (2) of the Foundation Law, the wealth of the foundation must be separated from the wealth of its founders, whether in the form of money or goods. The sources of the foundation's wealth can come from donations or voluntary assistance, endowments, grants, testamentary gifts, or other sources in accordance with the Foundation's Articles of Association and applicable laws and regulations, as regulated in Article 26 paragraph (2) of the Foundation Law. This wealth becomes the initial capital for the foundation's activities, which comes from the contributions of the founders and other sources. The purpose of using the foundation's wealth is to achieve social, religious, and humanitarian goals, so that the foundation's activities are not only oriented towards profit-seeking.

In carrying out its activities, the foundation needs sufficient funds to achieve its established goals. Insufficient income sources can disrupt the smooth operation of the foundation, which is an important issue for the sustainability of the foundation. The situation is different from social foundations that rely on donations. However, what about educational foundations that have to finance operational activities such as facilities, equipment, and teacher salaries? Without violating non-profit principles, foundations are allowed to seek profit by forming business entities or engaging in investments, as regulated in Article 3 paragraph (1) and Article 7 paragraph (2) of the Foundation Law.

Like other organizations, foundations have specific goals, both quantitative and qualitative. The quantitative goals of foundations involve maximum achievement and organizational development, while qualitative goals aim to achieve organizational efficiency in terms of effectiveness and strong management, by enhancing work enthusiasm and optimal service to the community in accordance with the social, religious, and humanitarian fields of the foundation. These goals are the end result of all processes carried out by the foundation, which are influenced by the quality of human resources and the performance of actors in the foundation, considering that the foundation is a non-profit legal entity that not only prioritizes profit-seeking. In achieving these goals, there are factors such as the welfare of the implementers that can facilitate or drive the achievement of these goals, including by paying attention to their welfare.

However, when examined in the context of Article 5 of Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations, it can be seen that achieving the foundation's goals becomes difficult because the prohibition stated in Article 5 hampers the performance optimization of the foundation's actors (organs). This results in welfare or rewards, which are the main drivers in achieving goals, being disrupted.

Article 5 of the Law explicitly prohibits the transfer or distribution of the foundation's wealth, whether it be money, goods, or other assets, in the form of salaries, wages, honorariums, or other forms that can be valued in money, to the Founders, Management, and Supervisors. This prohibition is largely a preventive measure against the possibility of abuse of power in managing the wealth or finances of the foundation, which often leads to cases of misuse by managers in the use of foundation funds.

From a more rational perspective, founders who use foundations as their business platform certainly expect to profit from it. Prohibiting the distribution of any profits from the foundation's business activities potentially creates a negative impression of the foundation, even though obtaining such profits is their primary goal in running the business. Although they must provide the best service to the community, foundations are faced with demands to improve all aspects, including the quality of Human Resources (HR) and foundation facilities. All the risks faced by foundations require every organ within them to face them with strong determination.

Prohibiting the provision of salaries, wages, or honorariums to the Founders, Management, and Supervisors of the foundation will impact the performance of the organs within it. Considering Article 5 paragraph (2) which stipulates that only the Management of the foundation can receive compensation in the form of salaries or wages, while the Founders and Supervisors cannot, this may make people hesitant to establish foundations, and it can be difficult to find people willing to become Founders and Supervisors of the foundation. As a result, this can lead to a decrease in the overall number of foundation institutions. The impact will be felt especially by the poor, orphaned children, and the general public who have been beneficiaries of foundation activities. Specifically, this also has the potential to reduce the number of private educational institutions managed by foundations, which could hinder the achievement of Indonesia's noble aspirations as stated in the 1945 Constitution, namely improving the quality of life through education.

The purpose of prohibition in law is to create a balance between the interests of one legal subject with another legal subject, regulate concrete human actions with clear and varied sanctions, and maintain peace and order in society. The article explains that salaries or wages are rights that should be received by workers after completing their tasks, so providing wages is a form of appreciation or compensation from the company to employees for their contributions and achievements in production activities.

The application of this prohibition in the context of foundations, such as educational foundations, will be a constraint in educational operations because quality education requires support from competent teachers and adequate facilities, which certainly require significant investment. Unlike public schools funded by the

Government, private schools depend on foundations as managers. Especially in educational foundations, foundation organs often also serve as teachers, so the question arises whether receiving wages as teachers can be considered a benefit from the foundation.

In the context of employment, regulations regarding compensation such as wages, salaries, or honorariums have been stipulated in Law No. 13 of 2003 concerning Manpower. This law serves as the legal basis used to address labor issues. In Indonesia, the provision of wages generally occurs after the existence of an employment agreement between the worker and the employer. This employment agreement is a formal agreement between the two parties that covers job details, financial compensation, and job responsibilities. This definition is explained in Article 1 paragraph 15 of Law Number 13 of 2003 concerning Manpower as an employment agreement involving employers and workers that includes aspects of tasks, compensation, and responsibilities provided. According to Article 1 paragraph 30 of Law No. 13 of 2003 concerning Manpower, wages are the rights received by workers in the form of money as compensation from the employer or employer in accordance with the employment agreement, agreement, or statutory regulations, including allowances for workers and their families or for work or services that have been performed.

It means that every individual who works in accordance with the employment agreement, agreement, or statutory provisions is entitled to receive compensation from the employer or employer. Managers in the context of foundations are considered workers because they are responsible for the day-to-day activities and operations of the foundation and seek funds from donors for the progress and needs of the foundation in accordance with its purpose and objectives. Similarly, with the Founders and Supervisors, they have responsibilities for the tasks given and should also be rewarded in the form of wages, salaries, or honorariums for the work they have done.

Furthermore, to ensure fairness regarding the prohibition in Article 5, reference can be made to Article 28 I paragraph (2) of the 1945 Constitution which states that "every individual is free from discrimination on any basis and has the right to be protected from such discriminatory treatment". This indicates that the application of Article 5 has the potential to violate the constitution and does not fulfill the principle of justice mandated by the 1945 Constitution.

Analysis of the Prohibition of Wage Payment in the Perspective of Islam

Wages in Islam are often referred to as "jazā'" (recompense or reward), as frequently encountered in the words of Allah, among them in Surah An-Nahl, verse 97:

مَنْ عَمِلْ صَالِحًا مِّنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهٗ حَيٰوةً طَيِّبَةً وَلَنَجْزِيَنَّهُمْ أَجْرَهُمْ بِأَحْسَنِ مَا كَانُوا يَعْمَلُونَ

Meaning:

“Whoever does righteousness, whether male or female, while he is a believer - We will surely cause him to live a good life, and We will surely give them their reward [in the Hereafter] according to the best of what they used to do.”

The phrase "*walanajziyannahum*" (We will surely give them their reward) in this verse implies that those who work will receive compensation, both in this world (material) and in the Hereafter (reward). This confirms that Allah will provide reward or compensation for those, whether male or female, who do righteous deeds with rewards in this world and in the Hereafter (Shihab, 2010). Meanwhile, the term "*amal saleh*" signifies all actions that are beneficial for the individual, family, group, and humanity as a whole, in accordance with rational evidence, the Qur'an, and hadith (Al-Maliki, 2001). Therefore, it can be understood that anyone who exerts their efforts to work, whether in a company or individually, can be categorized as righteous deeds because it benefits themselves, their families, and the wider community, as long as it is not against Sharia law and intended as worship.

From the perspective of justice in Islamic law, the prohibition of giving wages to foundation organs, especially Founders and Supervisors of the foundation, may be considered unjust. This is because Managers, with some limitations, are entitled to receive wages, while Founders and Supervisors, who are also involved in the management of the foundation, do not have the same rights. Welfare is a key factor in achieving success because the greater the benefits received, the greater the responsibilities borne by the foundation organs. The amount of benefits received must be commensurate with the responsibilities undertaken by each organ and must be adjusted to the financial situation of the foundation. These benefits are given as a reward for the efforts and dedication made to achieve the goals and purposes of the foundation.

In the Qur'an, there are several verses related to the meaning of justice, among them Allah's statement in Surah Al-Baqarah, verse 286:

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا لَهَا مَا كَسَبَتْ وَعَلَيْهَا مَا اكْتَسَبَتْ

Meaning:

“Allah does not burden a soul beyond that it can bear. For it is what it has earned [of good] and against it [is what it has earned] of evil.”

The basic principle of this verse illustrates the reward that a person will receive for their deeds during their life in this world. However, the concept of justice contained therein can be applied to the wages received by humans during their life in this world, where the compensation received by workers is adjusted to the work they have done, and no one should be treated unfairly. This is because justice is one of the most important aspects in living life and conducting business activities on this earth (Iskandar et al., 2020)(Hazri & Laela, 2011). Workers will receive wages based on their productivity and contribution to production, while entrepreneurs will obtain profits according to their capital and contribution to joint production. Thus, each party will receive a share commensurate with their productivity, and no one will be disadvantaged.

The principle of justice in wages is translated into Western management as the principle of "equal pay for equal work," meaning that equal pay should be given

for equal work. This implies that if two or more people perform the same job, the wages they receive should be proportional. Setting wages for workers must also consider the company's conditions because, in Islam, demanding something beyond one's ability is considered oppression. Thus, wage-related oppression can be in the form of unjust payment or not matching the actual contribution. Conversely, oppressing employers means demanding or forcing them to pay wages beyond their capability.

In the contract of *ijārah*, one of the valid conditions that must be met is clarity regarding wages, including the time of payment, the amount to be received, and the form of payment. The Prophet Muhammad (peace be upon him) said:

مَنْ اسْتَأْجَرَ أَجِيرًا فَلْيُعَلِّمَهُ أَجْرَهُ

Meaning:

“Whoever hires a worker, let him inform him of his wage.” (Abī Syaibah, 1989)

To make the transaction process fairer, it is important to conduct it transparently and clearly (Fatmawati, 2020; Pramono, 2003). Islam suggests that every contract or work agreement should be well-documented, including records of time, type of work, promised wages, and other relevant details to prevent future disputes. The concept of wages in Islam is based on the principles of justice and equality, ensuring that every party receives a fair share of the joint work's results without any oppression towards others (Rahman & Nurjulianti, 1997).

This principle of fair treatment is crucial not only in terms of wages but also in other aspects such as employee recruitment, job promotion, and other decisions where managers must assess an individual's performance compared to others (Antonio, 2022). Honesty and justice are principles that must be upheld. Allah emphasizes this in Surah An-Nisā', verse 58

﴿إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا ٥٨﴾

Meaning:

“Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing.”

A worker is only entitled to their wages if they have performed the work according to the agreed terms and conditions, as Muslims are bound by the conditions agreed upon, except those that prohibit the lawful or allow the unlawful. As long as workers receive their wages in full, they must also fulfill their obligations completely. Therefore, in Islam, wage transactions require clarity regarding the type, amount, and nature of the wages. Before starting work, there must be an agreement on the wages to be received, including the amount, time, and place of payment. The agreed-upon amount in the transaction is known as "*ajru al-musamma*" (equivalent wage), determined based on the mutual consent and willingness of both parties.

By agreeing to the wages and other aspects of the contract, a worker is legally bound by the contract and should not demand wage increases or other matters

contrary to the work contract. As long as an employer adheres to the contract, workers are obliged to work without protest. If both parties comply with the contract terms and Sharia law, disputes and dissatisfaction will not arise. In case of a dispute, both parties should refer to the agreed contract and Allah's laws on wages, rather than resorting to protests, public meetings, demonstrations, or strikes. This way, the relationship between workers and employers will remain harmonious and preserved, and they will gain the pleasure and mercy of Allah for adhering to their respective contracts.

Therefore, in the context of foundations, when administrators and related parties, including Founders and Supervisors, work according to the agreed contracts, agreements, or covenants, performance wages must be paid fairly and transparently, following the mutual consent and willingness of both parties.

CONCLUSION

Article 5 of Law Number 28 of 2004, which amends Law Number 16 of 2001 on Foundations, explicitly prohibits foundations from transferring or distributing their wealth, whether in the form of money, goods, or other assets, as salaries, wages, honoraria, or other forms that can be monetarily valued to the foundation's organs, especially to the Supervisory and Supervisory Boards. The impact of this prohibition on profit-sharing in various forms from the foundation's business results has the potential to create suspicion towards the foundation and can affect the performance of the foundation's organs.

From an Islamic perspective, the prohibition against giving salaries or wages to the foundation's organs, especially to the Supervisory and Supervisory Boards, can be seen as unjust because the Management (with some limitations) is entitled to receive salaries, while the Supervisory and Supervisory Boards, who also work in managing the foundation, do not have the right to receive them. Therefore, when the management and related parties, including the Supervisory and Supervisory Boards, manage the foundation according to the contract or agreement that has been mutually agreed upon, wages must be paid fairly and transparently, in accordance with the agreement and the willingness of both parties.

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