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Strengthening Legal Protection Regarding Wages Below the Minimum Wage for Workers Reviewed from the Morality Principle

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Abstract: This study analyzes wages below the minimum wage and the challenges in its enforcement by referring to Government Regulation Number 51 of 2023 concerning amendments to Government Regulation Number 36 of 2021 concerning Wages and Law Number 6 of 2023 which stipulates Perppu Number 2 of 2022 concerning Job Creation into regulation. Although this regulation aims to strengthen workers' protection, its implementation still faces obstacles, such as weak supervision and employer compliance. Using an analysis based on Lon L. Fuller's legal morality principle, this study highlights the importance of regulatory clarity, legal certainty, and effective supervision in guaranteeing workers' rights. Policy reform, enforcement of sanctions, optimization of supervision, and empowerment of workers and labor unions are strategic steps in improving legal protection for low-wage workers in Indonesia.

Keywords: Wages, Morality Principle, Lon L. Fuller

INTRODUCTION

Worker welfare is a basic right that must be enjoyed by every individual who works, as part of the principle of social justice. In terms of employment, welfare not only includes the fulfillment of economic needs through wages, but also protection of decent working conditions, social security, and fair treatment in the workplace (Ghofur, 2020). This principle is in line with the concept of a welfare state which places protection of workers as the responsibility of the state in order to create a balance between the interests of employers and the rights of workers (Wijaya & Kurniawan, 2019). Therefore, the state must ensure that every worker gets their rights fairly without exploitation or injustice in employment practices.

The legal basis that guarantees worker welfare in Indonesia can be found in various laws and regulations. Article 27 paragraph (2) of the 1945 Constitution expressly states that every citizen has the right to work and a decent living for humanity (Gimon, 2018). This provision is reinforced by Article 28D paragraph (2) of the 1945 Constitution, which emphasizes that everyone has the right to work and receive fair compensation and treatment in employment relationships. In addition, Law Number 13 of 2003 concerning Manpower

regulates various workers' rights, including the right to a decent wage, social security, and safe and comfortable working conditions. The existence of this regulation shows that the state has an obligation to ensure that workers' welfare is legally protected.

The right to a fair wage is part of the human rights that must be fulfilled by employers as a form of respect for the dignity of workers. A decent wage not only reflects appreciation for the contribution of workers but is also a major factor in maintaining the economic stability of workers and their families (Shalihah, 2016). Wages that do not comply with minimum standards can cause workers to experience economic difficulties, increase social inequality, and hinder the development of overall community welfare (Gisna, 2024). Therefore, a fair wage system under legal provisions must be a top priority in employment policy to ensure that workers receive their rights proportionally and humanely. Although regulations regarding minimum wages have been stipulated in Government Regulation Number 51 of 2023 concerning Wages, the practice of paying salaries below standard is still widespread in various employment sectors in Indonesia. Many workers, especially in the informal sector and labor-intensive industries, still receive wages not by the provisions, either due to weak supervision, lack of legal awareness, or reasons of company efficiency. This practice has a negative impact on workers' welfare, causing decreased purchasing power, family economic instability, and exacerbating social inequality.

Regulations regarding minimum wages in Indonesia have been regulated in various laws and regulations that aim to guarantee workers' welfare (Nurcahyo, 2021). Law Number 6 of 2023, which stipulates the Government Regulation instead of Law Number 2 of 2022 concerning Job Creation, is one of the main legal bases for wage policy. Article 88 states that every worker has the right to a decent living, and the central government is responsible for determining wage policies, including minimum wages. In addition, Article 88A paragraph (4) emphasizes that wage arrangements based on agreements between employers and workers may not be lower than the provisions stipulated in statutory regulations. If there is an agreement that violates this provision, then the contract is null and void by law, and employers are still required to pay wages by applicable regulations.

In addition to guaranteeing workers' rights to receive decent wages, this regulation also stipulates sanctions for employers who violate minimum wage provisions (Pratiwi, 2023). Article 88E paragraph (2) emphasizes that employers are prohibited from paying wages below the applicable minimum provisions. If a violation occurs, then according to Article 185 paragraph (1), employers can be subject to criminal sanctions in the form of imprisonment of at least one year to four years, as well as a fine ranging from IDR 100 million to IDR 400 million. In addition, employers who intentionally or negligently pay wages on time are also subject to additional fines according to a certain percentage of the amount of workers' wages (Worang, 2024). This regulation shows that the government has set fairly strict rules to ensure that workers' rights are protected and prevent exploitation in wage practices. (Sari, 2024)

In Indonesia, the minimum wage is a wage standard set by the government as a safety net for workers so that they can meet their decent living needs. Provisions regarding minimum wages are regulated in Law Number 13 of 2003 concerning Manpower, which was later updated through Law Number 11 of 2020 concerning Job Creation and its derivative regulations. The minimum wage is set based on recommendations from the Wage Council, considering economic growth, inflation, and employment conditions in each region. Although this regulation aims to protect workers' rights, the reality on the ground shows that there are still many employers who pay wages below the minimum provisions. This practice often occurs in the informal sector, small-scale manufacturing industries, and companies that have high bargaining power over low-skilled workers.

Violation of the minimum wage has become a recurring problem in various industrial sectors. Many workers, especially casual laborers and contract workers, experience wage cuts or are given wages far below the minimum standards that have been set. Several cases show

that companies often take advantage of workers' status as contract or outsourcing workers to avoid the obligation to pay wages according to the provisions. The impact is significant for workers' welfare, where they have difficulty meeting basic needs such as food, shelter, and education for their families. Not infrequently, this condition forces workers to look for additional work or accept inadequate working conditions just to survive. In addition, substandard wages also contribute to increasing poverty rates and social inequality, which ultimately impacts economic and social stability in a region.

Although regulations regarding wages have been regulated, their implementation still faces various obstacles. One of the main factors is the weak labor inspection system, which causes many companies to escape sanctions even though they have violated minimum wage provisions. In addition, the lack of legal awareness among workers makes them reluctant to report violations for fear of losing their jobs. The role of labor inspection should be at the forefront in ensuring employers' compliance with the rules, but in practice, the limited number of inspectors and limited resources often hinder the effectiveness of inspections.

The importance of morality in employment law can be examined through Lon L. Fuller's theory of legal morality, which emphasizes that good law must meet eight principles of legal morality to be effective and fair (Yanto, 2021). In employment regulations, legal morality plays a role in ensuring that the regulations made are not only formally valid but also fair and function to protect workers' rights. One of Fuller's main principles is that legal rules must be clear (Ammade, Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humaniora), so that employment regulations, especially those related to wages, must be designed without multiple interpretations so that they can be implemented effectively by employers, workers, and law enforcement officers.

Furthermore, the principle that legal rules must not conflict with each other is very relevant in minimum wage policies (Iswaningsih, 2021). Employment policies must be in line with economic policies so that the objectives of worker protection do not conflict with the realities of the labor market and company conditions. For example, although the minimum wage is set to ensure workers' welfare, the policy must still take into account the economic capacity of the business sector so that it remains sustainable and does not have an impact on increasing the number of layoffs or informal workers (Putra, 2022). In other words, legal morality demands that labor laws not only regulate but also be able to be implemented in real terms in existing socio-economic conditions.

The principle of conformity between rules and implementation emphasizes that law enforcement must be carried out consistently (Herlina, 2024). The wage system means that employers who pay wages below standard must be subject to sanctions indiscriminately. If regulations only exist on paper but violations remain rampant without consequences, then the law loses its morality because it fails to create order and justice. Therefore, strict supervision, an effective reporting system, and a transparent law enforcement mechanism are needed, so that labor regulations can truly protect workers in real terms by the principles of legal morality proposed by Fuller.

Strengthening legal protection in wages is an urgency that cannot be ignored, given the widespread practice of paying wages below the minimum standard. Although regulations on wages have been regulated in various laws and regulations, their implementation is often ineffective due to weak monitoring and sanctions systems that have not provided a deterrent effect for violators. Therefore, revisions to regulations or stricter law enforcement must be carried out, especially in imposing heavier sanctions on companies that violate wage regulations. In addition, transparency in the determination and implementation of minimum wage policies must be strengthened so that there are no legal loopholes that can be exploited by employers to avoid their obligations. The government must also increase the capacity of labor inspectors and provide legal protection for workers who dare to report wage violations so that they do not feel threatened by losing their jobs when demanding their rights.

In addition to the legal aspect, a moral approach also needs to be emphasized in the wage system, considering that wages are not just an economic aspect but also concern the welfare and dignity of workers. The principle of morality in wages requires employers to not only comply with existing regulations but also have ethical awareness in providing decent wages for their workers. Therefore, the government needs to encourage a culture of legal compliance by providing incentives for companies that implement fair wage policies, while increasing education for workers about their rights. If legal protection in wages is strengthened, the positive impact will not only be felt by workers but also for social and economic stability as a whole. Increased worker welfare will contribute to increased productivity, people's purchasing power, and more sustainable economic growth, thus creating more harmonious industrial relations between workers and employers.

METHOD

This study uses a normative legal research method, which focuses on the study of laws and regulations and applicable legal principles related to wages and worker protection. In its approach, a statute approach is used to examine legal norms governing minimum wages and worker protection in various regulations, such as the Manpower Law and its derivative regulations. In addition, this study also uses a conceptual approach to analyze the principles of morality in labor law and how the concept of justice and worker welfare plays a role in an ideal wage system. This approach allows research to not only examine applicable regulations but also understand the basic values underlying wage law in the context of morality.

The data sources used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include applicable laws and regulations, such as Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, and government regulations related to minimum wages. Secondary legal materials consist of research results, legal journals, books, and expert opinions that support the analysis regarding salaries and the legal protection of workers. Meanwhile, tertiary legal materials include legal dictionaries, legal encyclopedias, and other reference sources that help understand the legal concepts in this study. Data collection techniques are carried out through library research, by reviewing various relevant legal literature. The data that has been collected is then analyzed using normative legal analysis techniques, namely by interpreting laws and regulations and examining their conformity with the principles of morality and justice in the context of wages, to provide recommendations for strengthening legal protection for workers.

RESULT AND DISCUSSION

Legal Protection for Workers from Below-Minimum Wage Practices

Legal regulations regarding wages in Indonesia have undergone several significant changes, especially with the enactment of Law Number 11 of 2020 concerning Job Creation and Law Number 6 of 2023 which stipulates Government Regulation instead of Law (Perppu) Number 2 of 2022 into law (hereinafter referred to as the Job Creation Law). Article 88 of Law Number 6 of 2023 emphasizes that every worker/laborer has the right to a decent living, with wage policies that include minimum wages, wage structures and scales, and forms and methods of wage payments (Budijanto, 2017). This shows the government's commitment to ensuring workers' welfare by ensuring that employers do not pay wages below the established standards.

However, in its implementation, there are differences between the minimum wage regulations in Law Number 13 of 2003 concerning Manpower and the changes introduced in the Job Creation Law. Article 185 of the previous Manpower Law stipulated criminal sanctions for employers who pay wages below the standard, with the threat of imprisonment of one to four years and a fine of between IDR 100 million and IDR 400 million. Meanwhile, in the Job Creation Law, there has been a change in the mechanism for determining the minimum wage,

considering economic and employment conditions, as stipulated in Article 25 of Government Regulation Number 51 of 2023 concerning Wages.

In terms of worker protection, Article 88A paragraph (4) of the Job Creation Law emphasizes that agreements between employers and workers that set wages lower than the wage provisions stipulated in statutory regulations are null and void (Pratiwi, Concept of Manpower Law in Terms of Imposing Legal Sanctions on Companies That Pay Wages Below the Minimum Standard, 2023). In addition, Article 88A paragraph (6) stipulates that employers who intentionally or negligently cause delays in wage payments may be subject to a fine of a certain percentage of the worker's wages. This regulation aims to avoid unfair wage practices and ensure employer compliance with minimum wage standards.

One of the main differences in the latest regulations is the approach to setting minimum wages. Article 88B of the Job Creation Law states that wages can be set based on time and/or output units, providing flexibility for companies in setting wage policies. Meanwhile, Article 24 of Government Regulation No. 51 of 2023 concerning Wages emphasizes that the minimum wage applies to workers with less than one year of service, with the provision that workers with certain qualifications can receive higher wages (Nurkhaerani, 2024). This provision has the potential to provide more protection for novice workers, although in practice it still requires strict supervision.

The comparison of sanctions in the Manpower Law and the Job Creation Law is also a crucial aspect in the analysis of legal protection for workers. If previously the Manpower Law provided criminal threats for employers who violated minimum wage provisions, the changes in the Job Creation Law focus more on administrative mechanisms and supervision in the implementation of wage policies (Zainuddin, 2023). It raises questions about the effectiveness of the new regulations in providing optimal legal protection for workers, especially in preventing substandard wage practices.

Thus, the latest regulations in the Job Creation Law and its derivative regulations have various implications for the legal protection of workers and the obligations of employers. On the one hand, there is an affirmation of workers' rights to decent wages and a legal enforcement mechanism against violations. However, on the other hand, a more flexible approach to setting minimum wages could potentially provide space for employers to carry out wage practices that are less profitable for workers. Therefore, the effectiveness of legal protection for workers is highly dependent on the implementation of regulations, strict supervision by the government, and the active participation of trade unions in ensuring employers' compliance with established wage standards.

Employers who violate minimum wage provisions can be subject to various types of sanctions, both administrative, civil, and criminal. Based on Article 185 of the Job Creation Law, employers who pay wages below the standard can be punished with imprisonment of between one to four years and/or a fine of between IDR 100 million and IDR 400 million. In addition, Article 88A paragraph (4) emphasizes that agreements between employers and workers that set wages below the provisions of laws and regulations are considered null and void, so employers are required to pay wages by applicable regulations. This sanction aims to provide a deterrent effect on employers who do not comply with wage policies.

In practice, administrative sanctions can also be applied to companies that violate wage provisions. Based on Article 88A paragraph (6), employers who intentionally or negligently pay wages on time can be fined a certain percentage of workers' wages. In addition to fines, companies can also be given warnings or have their business licenses revoked if they are proven to have violated systematically. Government Regulation Number 51 of 2023 concerning Wages Article 25 also stipulates that the determination of the minimum wage is based on the economic and employment conditions in an area so employers are required to comply with the provisions set by the local government.

Criminal liability in cases of violation of the minimum wage is not only limited to the company owner but can also include the manager of the legal entity or the management involved in making decisions related to wages. Based on Article 88A paragraph (3), employers are required to pay wages by the agreement which must not be lower than the applicable provisions. If a violation occurs, the company management responsible for the wage policy can also be subject to legal sanctions. Therefore, both the company owner and the management must ensure that the wage policy implemented is by the laws and regulations (Cindya, 2025).

The legal impact on companies that do not comply with the minimum wage provisions can include revocation of business licenses and criminal sanctions for the responsible parties. In addition, companies that are subject to sanctions can also experience reputational losses that impact the sustainability of their business (Suprayitno, 2024). This sanction is in line with Article 88B paragraph (1) of the Job Creation Law which emphasizes that wages are determined based on time units or output units are required to provide fair compensation to workers. If a violation occurs, workers have the right to sue the company through available legal mechanisms.

Legal protection for workers who receive wages below the standard is guaranteed through various labor dispute resolution mechanisms. Based on Article 88 paragraph (2), the central government is responsible for determining wage policies as an effort to realize workers' rights to a decent living. Workers who feel disadvantaged can file a complaint with the labor inspector or bring this problem to the legal realm through civil or criminal channels. With this protection, it is hoped that workers will have better access to fight for their rights.

Legal protection for workers in the aspect of wages, especially in preventing the practice of paying below the minimum wage, still faces various weaknesses. One of the main weaknesses is that there are still loopholes in the regulations that allow companies to avoid the obligation to pay the minimum wage in various ways, such as employing workers with internship status or short-term contracts without clear rights. In addition, sanctions against violators are often not enough to provide a deterrent effect, because many companies continue to operate even though they have been proven to have violated the minimum wage provisions. The mechanism for resolving wage disputes is still ineffective, where workers often face complicated, slow, and costly legal procedures. This is further exacerbated by the imbalance of power between workers and employers, where workers are afraid to report violations due to the threat of termination of employment (PHK).

In the implementation of wage regulations, various obstacles are still faced, both from the government, employers, and workers themselves. One of the main obstacles is the weak labor supervision system, where the limited number of supervisors makes the supervision of thousands of companies less than optimal. As a result, many violations are not detected or are not followed up seriously. In addition, there are still practices of compromise or collusion between employers and certain labor inspectors which lead to weak law enforcement. On the other hand, many workers do not have a sufficient understanding of their rights, especially in the informal sector and small industries, so they do not realize that they are experiencing violations in terms of wages. Lack of access to legal aid is also a factor that causes many workers to have difficulty fighting for their rights.

Trade unions and Non-Governmental Organizations (NGOs) have an important role in fighting for workers' rights, especially about wages policies. Trade unions can serve as advocacy platforms that help workers negotiate decent wages and fight for their collective interests before employers and the government. In addition, trade unions also play a role in educating their members about labor rights and helping them resolve disputes related to minimum wages. However, not all workers are members of unions, and in some companies, the existence of trade unions is still under pressure or restricted by employers. Meanwhile, NGOs also contribute by providing legal assistance to workers who experience rights violations, as well as conducting policy advocacy so that labor regulations are more pro-

worker. However, the challenges faced are limited resources and room for movement which are often limited by certain political and economic interests. Therefore, synergy between trade unions, NGOs, the government, and civil society should be strengthened to ensure more effective legal protection for workers.

Strengthening Legal Protection Regarding Wages Below the Minimum Wage for Workers Reviewed from the Principle of Morality

Wages below the minimum wage refer to the practice of paying wages to workers at an amount lower than the minimum standard set by the government. This practice can occur in various industrial sectors, especially in the informal sector, micro, small, and medium enterprises (MSMEs), and labor-intensive industries. Some of the main factors that cause employers to pay workers below the minimum wage include economic pressure due to the company's financial condition, lack of government supervision, and regulatory gaps that provide loopholes for companies to avoid the obligation to pay wages according to the provisions (Laia, 2024). In addition, in some cases, workers receive wages below the standard due to limited information regarding employment rights or fear of losing their jobs if they demand their rights.

The impact of wages below the minimum standard is very significant on workers' rights, both economically and socially. From an economic aspect, low wages cause difficulties in meeting basic needs, reduce purchasing power, and increase the risk of workers getting into debt. From a social perspective, insufficient income can affect family stability, mental health, and the overall well-being of workers. In addition, job instability often occurs because low-wage workers tend not to have adequate job protection. From a legal perspective, companies that violate wage regulations can be subject to administrative, civil, or criminal sanctions in accordance with laws and regulations. However, weak law enforcement often causes companies to continue to implement substandard wage practices without firm consequences.

Evaluation of wage regulations based on Lon L. Fuller's principle of legal morality emphasizes the importance of clarity, consistency, and effectiveness in the implementation of wage regulations. The first principle, namely clarity of rules, requires that regulations regarding minimum wages can be well understood by all interested parties, both employers and workers. However, in practice, there are still provisions open to multiple interpretations, such as the mechanism for exempting minimum wage payments for certain industries or in certain economic conditions. This ambiguity is often exploited by employers to avoid the obligation to pay wages according to applicable standards, so a more detailed formulation of regulations is needed to avoid deviations in implementation.

The principle of publication of regulations requires that regulations regarding minimum wages be disseminated effectively. The government must ensure that workers and employers understand wage regulations, either through direct socialization, dissemination of information through mass media, or digital platforms. However, in some areas, especially in the informal and rural sectors, many workers do not know their rights related to wages. Lack of access to this information is a major obstacle in enforcing labor laws, so a more inclusive strategy is needed in socializing wage policies.

The principle of legal certainty and the non-retroactive application of the law ensures that the minimum wage policy is permanent and does not change suddenly, thus providing certainty for employers and workers in preparing their economic plans. However, in reality, wage policies in Indonesia often experience uncertain changes, such as revisions to the minimum wage amount every year that do not always reflect actual economic conditions. In addition, in some cases, there are provisions that have the potential to have a retroactive impact, for example in the adjustment of wages that apply in the middle of the current year, which can create uncertainty for business actors and workers.

The principle of regulatory coherence requires that there be harmony between wage policies and the labor law system as a whole. Ideally, wage regulations should be in line with other laws and regulations that regulate workers' welfare, such as social security and employment protection. However, overlapping or even contradictory regulations are often found, such as provisions on the suspension of minimum wages that still provide loopholes for employers to avoid their obligations. This inconsistency can weaken the effectiveness of regulations and hinder the protection of workers' rights.

The principle of alignment between policy and implementation in the field requires that wage regulations be implemented effectively by established norms. However, in practice, there are still many companies that do not pay wages according to the provisions without being subject to strict sanctions. Factors such as weak labor supervision, non-compliance by employers, and lack of courage for workers to report are the main causes of the discrepancy between policy and practice in the field. Therefore, efforts are needed to increase the effectiveness of law enforcement, such as strengthening the role of labor inspectors and accelerating the mechanism for resolving wage disputes, so that the principle of legal morality in wage policies can be realized in real terms.

One of the main problems in legal protection for low-wage workers is the weakness in supervision and law enforcement. Labor inspectors who are tasked with ensuring company compliance with regulations often face limited resources and authority, so they are unable to reach all operating companies. In addition, the worker complaint system still faces major obstacles, especially workers' fear of reporting violations due to the threat of termination of employment (PHK) or pressure from company management. As a result, many workers continue to receive substandard wages without adequate legal action, thus exacerbating labor exploitation in various industrial sectors.

On the other hand, there is a gap between regulations and reality in the field, where even though the minimum wage policy has been legally established, many workers still receive substandard wages. Economic factors, such as the pressure of business competition and high production costs, are often used as an excuse by employers to avoid the obligation to pay minimum wages. In addition, political and social factors, including the government's weak commitment to worker protection and the low level of trade unions in several sectors, further worsen the implementation of this policy. Therefore, reforms are needed in the labor inspection system and increased protection for workers so that existing regulations can be implemented more effectively and provide real benefits for worker welfare.

To strengthen legal protection for workers, policy reforms and strengthening sanctions are needed for employers who violate wage regulations. Wage policies need to be reviewed to be more pro-worker by considering the continuously developing economic conditions and the need for a decent life. In addition, sanctions for employers who pay workers below the minimum wage must be strengthened, both in the form of administrative sanctions such as revocation of business licenses, and criminal sanctions for repeated and systematic violations. This step aims to provide a deterrent effect on companies that do not comply with wage provisions and ensure that workers receive their rights fairly.

The government has a crucial role in ensuring minimum wage protection by optimizing labor supervision. Strengthening regulations must be accompanied by increasing the capacity of labor inspectors so that they can be more effective in taking action against violations. In addition, there needs to be an easier and safer mechanism for workers to file complaints regarding minimum wage violations without fear of the threat of termination of employment or intimidation from the company. With a more transparent and responsive complaint system, workers can be more courageous in demanding their rights without worrying about the negative impacts that may arise.

In addition to government efforts, empowering workers and labor unions is also an important element in increasing legal protection related to wages. Workers need to be given

education and advocacy regarding labor rights so that they better understand their legal rights, including the right to a minimum wage. Trade unions also play a role in ensuring that wage policies are fair by conducting collective negotiations and encouraging the government to implement policies that favor workers. With strong trade unions and workers who are more aware of their rights, inequality in the wage system can be minimized, so that workers' welfare can be more assured.

CONCLUSION

Although regulations on wages in Indonesia have undergone various changes through the Job Creation Law and its derivative regulations, challenges in the implementation and effectiveness of legal protection for workers are still a major concern. Legal protection efforts can be strengthened through policy reforms that are more pro-workers, increasing sanctions for employers who violate the rules, and optimizing labor supervision. In addition, empowering workers and labor unions in understanding their rights is also a key factor in ensuring employer compliance with fair wage policies. Therefore, synergy is needed between the government, employers, and labor unions so that the wage system can run by the principles of justice and worker welfare.

Wages below the minimum wage are still a serious problem that has an impact on worker welfare and legal certainty in Indonesia. Although regulations have set minimum wage standards, their implementation and enforcement still face various challenges, such as weak supervision, multiple interpretations of regulations, and low socialization of workers' rights. From the perspective of Fuller's legal morality, the principles of clarity, certainty, and consistency of wage regulations still need to be strengthened to provide effective protection for workers. Therefore, there is a need for more pro-worker policy reforms, increased supervision, and empowerment of workers and trade unions to ensure their rights are protected and their welfare is improved.

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