



## INTERNSHIP REMUNERATION FOR STUDENTS UNDER INDONESIAN LAW

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Article	Abstract
<p><b>Keywords:</b> <i>Remuneration, Students, Indonesian Law</i></p> <p><b>Article History</b> Received: January 18, 2021; Reviewed: January 20, 2021; Accepted: January 27, 2021; Published: February 10, 2021</p>	<p>Work experience is an essential part of gaining the experience and skills needed for post-graduate employment. They provide students with valuable work experience, access to professional networking, and the opportunity to explore different career opportunities. They open themselves and their minds to gain new knowledge and adapt to a new environment. Only if the company does and appreciates all their hard work, this is certainly a positive value. However, companies in Indonesia rarely appreciate the hard work during internship by giving them either low remuneration or no remuneration at all. There are a number of regulations under Indonesian law that explain the rights and responsibilities of interns, that is, they have rights that are protected by the state, which includes the right to compensation. Several questions arise when this issue is raised. What are Indonesian regulations regarding rights and obligations of interns and companies? What is international best practice regarding placements? In order to avoid underpayment of interns, what is the way forward for Indonesia in this area?</p>

### 1. INTRODUCTION

Internships are essential for students to acquire experience and develop the skills they need to land a full-time job after university or college. Internships provide students with valuable work experience, give them access to professional networks, and allow them to explore several career options. It opens themselves and their minds to gain new knowledge and adjust them to a new environment. This is certainly a positive value only if the company does and appreciates all the hard work from them. However, companies in Indonesia rarely appreciate hard work

during internships by either giving them low remuneration or no remuneration at all.<sup>1</sup> There are a number of regulations under Indonesian law which explain the rights and obligations of interns, namely having rights that are protected by the state which includes the right to earn remuneration. A few questions are raised when this topic is brought up. What is the existing Regulatory framework regarding rights and obligations of interns and companies in Indonesia? What are examples of the international best practices regarding internship? What are the ways moving forward for Indonesia in this area to avoid underpaying students doing their internship?

## **2. RESEARCH METHODS**

The research used "Normative Juridical Legal Research" in accordance with Soerjono Soekanto's opinion that legal research is carried out by examining secondary materials or library materials or library legal research, through searching for books, laws, literature, and other legal materials.<sup>2</sup>

## **3. DISCUSSION**

### **3.1 Regulatory Framework**

The government regulated internship activities, but in real cases, there are still numerous companies that ignore the rights and obligations of the interns. In Indonesia, there are already several existing regulatory frameworks regarding rights and obligations of interns and companies in Indonesia. However, the government does not pay too much attention to how companies provide the rights of interns. Internships are very important for students here in Indonesia. Internship activities makes the human resources of Indonesia's younger generation to evolve and could develop Indonesia as a country.

#### **3.1.1 Republic Laws of Indonesia No. 13 of 2003 concerning Manpower Law**

Even though internship is only part of on-the-job training, the working relationship between internship<sup>3</sup> participants and employers must be made in the form of an internship

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<sup>1</sup> Alfia Syahra, (2020, Februari 14) "Magang Tidak Dibayar di Masa Pandemi, Etiskah? Accessed from <https://yonulis.com/2021/02/21/magang-tidak-dibayar-di-masa-pandemi-etiskah/>.

<sup>2</sup> Soerjono soekanto, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (RajaGrafindo Persada, Jakarta, 2011, hal.12)

<sup>3</sup> Cahyadi, R. K. (2021, September 29). *Aturan karyawan magang Menurut Undang-Undang*. Blog Gadjian. Retrieved February 28, 2022, from <https://www.gadjian.com/blog/2021/04/30/aturan-karyawan-magang-menurut-undang-undang/>

agreement.<sup>4</sup> This provision is stated in Article 22 on the Republic Laws of Indonesia Number 13 Year 2003 concerning Manpower Law.<sup>5</sup> The first is that the internship is carried out on the basis of an internship agreement between the intern and the employer which is made in writing. Second, the internship agreement (as referred to in paragraph 1) shall at least contain the rights and obligations of participants and entrepreneurs as well as the period of internship. Third, the internship that is held not through an internship agreement (as referred to in paragraph 1) is considered invalid and the participant's status changes to become a worker of the company concerned. Basically, an internship agreement is not much different from a work agreement or work contract.

### 3.1.2 Regulation of the Minister of Manpower No. 6 of 2020

There are several rights that interns have, including those stated in the Regulation of the Minister of Manpower (Permenaker) Number 6 of 2020 in Article 16 where interns have 6 rights that are protected by the state.<sup>6</sup> The six are: *“the right to receive guidance from the instructor; obtain fulfillment of rights according to the agreement; obtain occupational safety and health facilities during the internship; earn pocket money; be registered in the social security program; and obtain an internship certificate or a certificate of having participated in the internship.”*<sup>7</sup> As mentioned in this regulation, we can see that the Government has regulated how the rights of these interns must be fulfilled by the company.

Furthermore, in the next article, namely Article 13 paragraph 2 of this regulation, it is explained that it is said that pocket money includes transportation costs, meals and expenses. incentives for internship participants. For the amount of remuneration, there really is no minimum limit, but in the implementation of these internships, internship providers must provide remuneration according to their workload and responsibilities as interns, such as a

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<sup>4</sup>Apakah Magang Digaji? - [hukumonline.com/klinik](https://www.hukumonline.com/klinik/a/apakah-magang-digaji-lt50c9bc71e2237). (n.d.). Retrieved February 28, 2022, from <https://www.hukumonline.com/klinik/a/apakah-magang-digaji-lt50c9bc71e2237>

<sup>5</sup>Undang-Undang Republik Indonesia nomor 13 Tahun 2003 ... (n.d.). Retrieved February 28, 2022, from <https://www.gadjian.com/blog/wp-content/uploads/2017/08/Undang-Undang-No.-13-tahun-2003-tentang-Ketenagakerjaan.pdf>

<sup>6</sup>Jatim, R. (2022, January 27). *Mahasiswa Dan Siswa magang Perlu Dilindungi Jaminan Sosial ketenagakerjaan*. Cakrawala. Retrieved February 20, 2022, from <https://cakrawala.co/mahasiswa-dan-siswa-magang-perlu-dilindungi-jaminan-sosial-ketenagakerjaan/>

<sup>7</sup>Minister of Manpower Regulation (Permenaker) Number 6 of 2020. Permenaker No. 6 tahun 2020 Tentang Penyelenggaraan Pemagangan di Dalam negeri [JDIH bpk ri]. (n.d.). Retrieved February 20, 2022, from <https://peraturan.bpk.go.id/Home/Details/145067/permenaker-no-6-tahun-2020>

survey conducted by Glassdoor. The average salary of interns in the DKI Jakarta area is around Rp. 3 million per month. Meanwhile, the average salary for regular employees ranges from Rp. 2 million to Rp. 4 million per month. This may vary from one place to another depending on the agreement, local government policies and the location of the internship.<sup>8</sup>

### **3.1.3 Bekasi Regency Regional Regulation No. 4 of 2016 concerning Manpower & Regional Regulation of East Java Province No. 8 of 2016 concerning Employment Implementation**

It is also stated in Article 21 of Bekasi Regency Regional Regulation Number 4 of 2016 concerning Manpower. It states that, *“(1) The Regional Internship Operators are required to provide remuneration to internship participants in the amount of at least 80% (per cent) of the Regional Minimum Wage to job seekers internship participants, as well as other benefits as regulated in Company Regulations or Collective Bargaining Agreements. (2) In addition to the obligations as referred to in paragraph 1, the internship operator is obliged to provide occupational safety and health facilities during the internship program, as well as protection in the form of work accident insurance and death insurance. (3) Whoever violates the provisions as referred to in paragraph (1) shall be subject to criminal sanctions.”*<sup>9</sup>

Article 13 paragraph 2 of the Regional Regulation of East Java Province Number 8 of 2016 concerning Employment Implementation states that for internship participants who are already working for the company concerned, receive pocket money and/or transport money (as referred to in paragraph 1 letter b) of at least 60% of the Regency/City Minimum Wage.<sup>10</sup> This regulation can be used for the case of “Campusmedia” in which the office is located in Surabaya. This case happened a few years ago which was about a start-up called Campusmedia, where they paid an intern a smaller amount of wage than the fine that he would get if he violated his obligations. To add onto that, those interns are often asked to

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<sup>8</sup> Utama, O. C. (2021, November 8). *Daftar Gaji Anak Magang (internship) Yang Ideal Dan Layak 2021, Jangan Mau Digaji Rendah!* Berita, August 11, 2021, from <https://artikel.rumah123.com/daftar-gaji-anak-magang-internship-yang-ideal-dan-layak-2021-jangan-mau-digaji-rendah-111034>

<sup>9</sup> *Tentang ketenagakerjaan - SPSI bekasi.* (n.d.). Retrieved February 20, 2022, from <https://www.spsibekasi.org/spsibekasi/wp-content/uploads/2018/10/PERDA-KETENAGAKERJAAN-BEKASI.pdf>

<sup>10</sup> *Gubernur Jawa timur peraturan daerah ... - banyuwangikab.go.id.* (n.d.). Retrieved February 20, 2022, from <https://nakertrans.banyuwangikab.go.id/documents/Perda-Jatim-No-8-Tahun-2016-Penyelenggaraan-Ketenagakerjaan.pdf>

work more with a fairly high target pressure and are promised a salary of around Rp100,000 per month. However, there are other interns who are paid Rp100,000 for three months, even though the employee's target has been achieved. It is important that all companies know their rights and it is the duty of the government to find solutions to the application of the regulations they have made regarding this topic.

### **3.1.4 Closing**

It can be stated that the amount of remuneration given is the same as the obligations borne by interns, in this case the government needs to include regulations regarding the minimum salary/ Remuneration of interns so that companies do not act as they please in providing remuneration during the internship activity. In Indonesia, the regulations that regulate internship procedures include: Regulation of the Minister of Manpower (Permenaker) Number 6 of 2020, Bekasi Regency Regional Regulation Number 4 of 2016 concerning Manpower, Regional Regulation of East Java Province Number 8 of 2016 concerning Employment Implementation, and the Republic Laws of Indonesia Number 13 Year 2003 concerning Manpower Law.

## **3.2 International Practices**

There are several examples of international best practices regulations regarding internships that Indonesia can follow such as France, Japan, and the United States. By viewing their perspective on internship, Indonesia could improve by evaluating and learning from these countries mentioned.

### **3.2.1 France's Regulations**

In France, according to Law No. 2014-788 of 10 July 2014 on the development, training and improving the status of trainees,<sup>11</sup> Part-time Internships must be paid if they last longer than two months or start from the 309th hour or 44th day. An internship's minimum wage is regulated by legislation, and there is a minimum internship salary/remuneration. It will cost €3.90 per hour in 2021, or 15% of the hourly social security level which is the scale used for determining welfare benefits. Their salary begins the first hour they work, not two months

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<sup>11</sup>LAW No. 2014-788 of July 10, 2014 on the development and supervision of internships and the improvement of the status of interns. Legifrance.gouv.fr. (n.d.). Retrieved March 3, 2022, from <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000029223331/>

later. When they sign their internship contract, they must agree on the entire amount they will earn beforehand. For a full-time internship of 7 hours per day and 22 days worked, this amounts to €600 on average. The host organization provides them with additional incentives and remuneration. Additionally, providing them monetary gratuity if their internship lasts two months or longer such as financing 50% of their transportation expenditures, providing them with restaurant vouchers in the same way that other colleagues receive them, access to the company restaurant, as well as the offerings of the works council. These benefits are not given at the company's discretion, they are considered as a legal requirement. If they haven't been receiving these benefits, they have every right to demand them.<sup>12</sup>

### 3.2.2 Japan's Regulations

In Japan, an internship is considered as a form of work and in which all work must be paid. This is regulated in Article 11 of the Manpower Law<sup>13</sup> which explains that what is meant by wages are salaries, allowances, bonuses, and any other payments to workers from the employer in return for work. In Japan, the word “work” can be characterized as something as easy as taking up a pencil or writing notes, speaking with students is labor, and walking to and from different classrooms. As a result, if a company wants to hire interns for an unpaid legal internship, they should be very careful about what activities they let the intern do while they're in the program. This source says that when a worker conducts it legally as an internship activity, his action is for the goal of “study” rather than “work,” according to Tomohiko Akiyama Law Office in Saitama.<sup>14</sup>

As a result, the organization cannot expect him to conduct real business without an experienced employee following him and instructing him along the way. He is not allowed to deal with clients, and any documents or materials he develops are not allowed to be used by the company. If the company utilizes them for business, the activity is considered “work,” and if

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<sup>12</sup> Paid internships in France: Laws, salary, and more. N26. (n.d.). Retrieved March 2, 2022, from <https://n26.com/en-fr/blog/paid-internship-in-france>

<sup>13</sup> *Labour Standards Law [Law No. 49 of 7 April 1947 as amended through Law No. 107 of 9 June 1995]*. Japan.-labour standards law. 27776. (n.d.). Retrieved March 3, 2022, from <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/27776/64846/E95JPN01.htm#:~:text=Article%2011, such%20payment%20may%20be%20called>.

<sup>14</sup> General Union (nd). Unpaid Internship In Japan. Unpaid internships in Japan - A scam! Retrieved March 2, 2022, from <https://www.generalunion.org/laws-and-rights/1853-unpaid-internships>

the company uses them for business, the interns must be paid. In other words, an internship is strictly a “wait and see” experience, and whatever the internship accomplishes must be compensated. The law mandates “wages for labor, regardless of the label used to represent the payment,” according to Article 11 of the Labor Standards Act.<sup>15</sup> Compensation in place of cash recompense is likewise unlawful, despite the fact that items like transportation allowance and meal reimbursement are nothing like actual salary

To give an example, in 2016, both Hokkaido hostel operators and some of their visitors were detained for alleged immigration law violations after it was discovered that they were allowing guests to remain in hostels for free in exchange for completing domestic labor in dorms. Three people from Manryo Inc, a Tokyo-based company that owns the Khaosan Sapporo Family Hostel, allegedly canceled a ¥2,000 per night housing fee for at least two female tourists from China and Malaysia, according to Hokkaido police. The women are compensated by working three hours every day making beds and cleaning. They admitted to authorities that the sale was unlawful, but believed it was acceptable because no money was exchanged, according to investigators. Even if the host firm does provide housing for the interns, this compensation is insufficient to compensate them for their actual financial/salary remuneration. As we previously indicated, while perks such as transportation allowance and food refund may be offered, it is unlikely that interns will be given free housing.<sup>16</sup>

### 3.2.3 United States Regulations

In the United States, apart from the Fair Labor Standards Act, unpaid internships can be legal. That's the value of a complete resume. For example, one company taking advantage of this demand is CBD'R US, which is an online retailer of cannabinoid products based in Anaheim, California, that started unpaid internships two years ago. Under the Fair Labor Standards Act of 1938,<sup>17</sup> every employee of a nonprofit company must be paid for their work. Meanwhile, interns are not considered as employees under the FLSA. Does that mean unpaid internships are legal? The short explanation is yes, as long as the internal,

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<sup>15</sup> *Labor Standards Act*. Labor standards act. (n.d.). Retrieved March 3, 2022, from [http://www.japaneselawtranslation.go.jp/law/detail\\_main?id=5&vm=2&re#:~:text=Article%2011%20In%20this%20Act,such%20payment%20may%20be%20called](http://www.japaneselawtranslation.go.jp/law/detail_main?id=5&vm=2&re#:~:text=Article%2011%20In%20this%20Act,such%20payment%20may%20be%20called).

<sup>16</sup> General Union (nd). Unpaid Internship In Japan. Unpaid internships in Japan - A scam! Retrieved March 2, 2022, from <https://www.generalunion.org/laws-and-rights/1853-unpaid-internships>

<sup>17</sup> *The Fair Labor Standards Act Of 1938, As Amended*. (n.d.). Retrieved March 3, 2022, from <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FairLaborStandAct.pdf>

not the employer, is the main benefit of the work arrangement. What makes this so difficult is the subjectivity and employers may have differing views on who benefits most from the arrangement. Also, with the fact that many states have their own regulations, and the costs to employers often outweigh the benefits. Employers who do not see results from the Primary Acceptance Test should also check their status before studying any internals. Where the federal government has strict requirements, many state governments have relaxed the rules. Some make flexible guidelines out of the mandatory seven- point test, with many providing their own criteria.<sup>18</sup>

New York, for example, states that interns must provide required (not company-specific) training and cannot provide direct benefits to employers, even when internal parties are the primary beneficiary. In fact, as the New York State Department of Labor explains, "*in most circumstances, internals will require the employer to dedicate resources that can reduce workplace productivity for some period,*" making it impossible to profit from unpaid internship work for companies. In the case of CBD'R US, the lack of academic education in internships can be a problem. As in the state of California, it has one of the most stringent stances on unpaid internships, requiring all programs to be conducted through and supported by an accredited school or vocational program. Employers are also required to submit an internship proposal to the Division of Labor Standards Enforcement prior to bidding. Any internals who do not meet these standards must pay the minimum wage.<sup>19</sup>

### **3.2.4 Closing**

As it can be seen, each and every country has different regulations and implementations regarding internships. The rights and obligations of interns and companies vary as explained before and it can be seen that the countries mentioned have better implementations for interns doing their internships compared to Indonesia.

### **3.3 Moving forward for Indonesia**

The internship procedure in this case refers to the provisions that must be met by both the intern and the company in carrying out the internship program. There are many ways moving forward for Indonesia in terms of the government regulations and the company, to avoid

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<sup>18</sup> Hedreen, S. (2021, December 21). *Business News Daily Contributing Writer*. Retrieved from Business News Daily: <https://www.businessnewsdaily.com/15161-are-unpaid-internships-legal.html>

<sup>19</sup> *Ibid*



underpaying students doing their internship.

### 3.3.1 Internship procedure

Internship itself as explained previously, is part of an integrated job training system, in this case internship refers to the relationship between skill seekers, namely interns and skill providers, which usually consist of training institutions and companies consisting of business entities that are legal entities. It also includes social enterprises and other businesses that have administrators and employers. In the internship process, there are several internship procedures regulated in laws and regulations that must be followed by both the company and the interns. Procedures related to internship consist of several things such as the requirements of the internship provider, the requirements of the internship participants, the internship agreement, the period of internship, and supervision. It should be understood that not all companies can organize internship programs.<sup>20</sup>

For companies that wish to organize internships, the company must comply with the provisions of Article of the Minister of Manpower No. 6 of 2020,<sup>21</sup> namely companies must have Training Units; Internship Program; Facilities and Infrastructure; and Guidance of Internship or instructor. The training unit is intended as a training provider located in the company that is used by the company either for its own needs or for the needs of the community. The above requirements are important for internship providers to fulfill in order to create quality internships, as set out by the International Labor Organization (ILO) in its research in 2017 which stipulates eight components of internship. Some of which are criteria for quality internship, theoretical training (off the job training), the company has a competent internship supervisor.<sup>22</sup> Thus, the above requirements are important to ensure the quality of internship.

### 3.3.2 Internship Agreement

The internship process is carried out on the basis of an internship agreement between the intern's participants and the employer which is made in writing. This is stated in the

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<sup>20</sup> APINDO Reasach Center dan ILO. (2020). Pembelajaran dan Praktik-Praktik Baik Program Pemagangan di Indonesia. Jakarta, Indonesia: Kantor Perburuhan Internasional. [https://www.ilo.org/wcmsp5/groups/public/---asia/--ro-bangkok/---ilojakarta/documents/publication/wcms\\_738183.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/--ro-bangkok/---ilojakarta/documents/publication/wcms_738183.pdf).

<sup>21</sup> *Minister of Manpower Regulation (Permenaker) Number 6 of 2020*. Permenaker No. 6 tahun 2020 Tentang Penyelenggaraan Pemagangan di Dalam negeri [JDIH bpk ri]. (n.d.). Retrieved February 20, 2022, from <https://peraturan.bpk.go.id/Home/Details/145067/permenaker-no-6-tahun-2020>

<sup>22</sup> *Ibid*

provisions of Article 22 paragraph (1) of the Manpower Law.<sup>2322</sup> In Article 22 paragraph (2) it is clarified again that the internship agreement at least contains provisions that contain the rights and obligations of participants and employer during the internship period. Regarding the internship agreement, it is also regulated in Article 10 of the Minister of Manpower No. 6 of 2020 which contains more or less the same provisions, namely requiring internship activities to be based on internship agreements.

### 3.3.3 Rights and Obligations of Interns

As mentioned previously, based on Article 13 paragraph (1) of Permenaker 6/2020 letter d, the rights of interns protected by the state are one of them being entitled to pocket money/remuneration.<sup>2423</sup> More specifically, the allowance as referred to in letter d of article 13 includes transportation costs, meal allowances and incentives for interns. To go more in-depth on this topic, most of the internship programs are located far from the student's residence, so students often need to rent a place to gain easier access to the internship location. Sometimes they may even have to use transportation which is time-consuming and expensive. This certainly requires a large amount of remuneration, not to mention the cost to eat. Students have high hopes that conducting the internship programs can provide them a small remuneration as a form of appreciation for their efforts while they are studying. If the internship program does not provide the proper remuneration, students will only lose out financially due to large expenses. Firda Cynthia, a 21 years old student in the final semester of Communication Studies at one of the public universities in Jakarta, did not receive any remuneration during her internship program. She said *“The WFH (Work From Home) scheme is the reason why the office does not provide internship remuneration for students.”* She continued by saying *“In addition to the food allowance, I also need quota money to cover press conferences and discussions for hours on end.”*<sup>25</sup> With this, the rights and obligations interns have is to receive the needs that they require when doing their internship.

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<sup>23</sup>Undang-Undang Republik Indonesia nomor 13 Tahun 2003 ... (n.d.). Retrieved February 28, 2022, from <https://www.gadjian.com/blog/wp-content/uploads/2017/08/Undang-Undang-No.-13-tahun-2003-tentang-Ketenagakerjaan.pdf>

<sup>24</sup>Schroeder, Jackson, and Susan Chu. “Apakah Magang Yang Tidak Bayar Worth It?: Jaringan Universitas.” The University Network, April 27, 2021. <https://id.tun.com/blog/Adalah-tidak-dibayar-magang-worth-it/>

<sup>25</sup>Prabowo, Haris, and Rio Apinino. “Malangnya Nasib Mahasiswa Magang Di Tengah Pandemi.” *tirto.id*. Tirto.id, July 7, 2020. <https://tirto.id/malangnya-nasib-mahasiswa-magang-di-tengah-pandemi-fLjV>.

### 3.3.4 Closing

If companies could provide the requirements as mentioned in the regulations of Indonesian law, it could definitely improve the internship field of work for interns. It could also help Indonesia move forward in this area to avoid underpaying students doing their internships.

## 4. CONCLUSIONS

In conclusion, this debate should answer the question of whether interns have the right to earn the proper amount of remuneration during their internship programs. By examining the international practices regarding internship, Indonesia should improve by stating a clear minimum amount of remuneration an intern should receive like other countries mentioned before. Interns, especially students, have the same rights as employees, which is to earn remuneration. Under a number of Indonesian laws, it is explained that interns are entitled to their rights, which varies from other countries. Even as an intern, it has been explained according to the law, what rights they should get during their internship. In our opinion, there are still several things that can be improved in Indonesia in the context of giving remuneration to interns, in order to move forward for the betterment of this country.

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## **Research Results**

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