



Role of trade unions in the event of employment disputes that have an impact on termination of employment (layoffs)

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ABSTRACT

In every company, always strives to create a cooperative and comfortable work environment for every employee. However, it is not uncommon for disputes or conflicts to occur in a company due to differences of opinion or matters that are not in accordance with the regulations in force in Indonesia. When a dispute occurs, sometimes employees need representatives to convey their aspirations or act on behalf of employees. With the existence of a workers' union in a company, it is intended for all aspirations will be better conveyed and create a harmonious relationship between the Company and employees. Many companies currently have labor unions to improve the welfare of workers, including when there is a dispute over work relations whether it ends in termination of employment or not. By using normative research techniques, this paper is intended to discuss the role of trade unions, especially those that have an impact on termination of employment.

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1. INTRODUCTION

Indonesia is a constitutional state as stated in Article 1 paragraph 3 of the 1945 Constitution (1945 Constitution). Since the rule of law is the highest administrative principle in Indonesian society, it follows that all citizens and government officials must behave in accordance with the law at all times. The state's legal system, with its mandates and limits, contributes to a community's sense of safety and stability. Therefore, enforcing the law calls for a procedure wherein a government agency establishes a legislative rule. (Maswandi 2011)

The overarching objective of positive law—which includes legislation and regulations—is to manage every facet of human existence. The field of labor law is a statutory field. According to Article 1, paragraph 1 of Law No. 13 of 2003 concerning Manpower, the purview of Labor Law, or Labor Law as it was formerly known, extends to all matters relating to labor, both before and after the working hours. The term "Labor Law" is used to refer to both statutory and informal laws that regulate the workplace. (Ah Sanwani 2018) The development of human resources should be carried out in line with the principles of integration via functional coordination between the national and regional levels, as set forth in Article 3 of Law No. 13 of 2003 Concerning Manpower (hereafter referred to as the Manpower Law). Therefore, human resource development is an all-encompassing procedure accomplished via collaborative, reciprocal support. (Khikmatul Fitriyah 2021)

The basic objective of labor law is to provide equal treatment for both employees and employers. This means that the primary purpose of the Labor Law is to safeguard workers from harm, with broader goals including promoting economic and social well-being for all workers and their families by guaranteeing equal opportunities for all workers regardless of their demographic background, financial situation. Issues such as workplace regulations and contracts are governed by the Labor Law. (Much Zamhari 2020)

According to Article 4 of Law No. 13 of 2003 concerning Manpower, the goal of manpower development is to ensure that workers and their families benefit from an increase in the distribution of employment opportunities that is fair and proportional to development needs. (Rai Mantili 2021)

Workers and employers, from a philosophical perspective, are two entities that mutually benefit from collaborating and working together. Trade unions are one way that the 1945 Constitution's mandate can be realized; they play a key role in ensuring a steady flow of production in an orderly fashion and in fighting for the economic well-being of their members and their families. This is in accordance with Trade Unions and Labor Unions Law no. 21 of 2000, which recognizes trade unions as a means to advocate for, safeguard, and defend workers' rights, benefits, and interests. Additionally, we will achieve industrial relations that are peaceful, productive, and fair. (Hazar Kusmayanti 2020)

Unions representing employees should support them rather than their employers, but they should do it in an impartial, transparent, and accountable manner. This is in line with the requirements of Article 28D, paragraph 1, of Law No. 21 of 2000, which state that all citizens have the right to be treated fairly and equally under the law and to receive just and adequate remuneration for their services. 1945. (Fahmi Maulana Yusuf and Dodi R. Setiawan 2021)

Given that employees' and laborers' buying power is roughly where it was before the crisis, their expectations for welfare enhancements like salary hikes and better working conditions are justified. Since around midway through 2001, a number of strikes and protests by workers/laborers have emerged, and they have tended to intensify and have been accompanied by violence as a result of the government's policies and laws that influence their economic lives. (Djoko Heroe Soewono 2019)

However, it is important to recognize that current industrial unrest in Indonesia has been exacerbated by a long-standing and problematic problem: the settlement of industrial relations conflicts. These matters are frequently settled in ways that are not sanctioned by law, such as through the use of police, the military, or even "thugs" to enforce agreements. However, businesses also have challenges meeting employee expectations in light of the delayed economic recovery following the financial crisis and the global recession's negative effects on market share. (Aditya Tri Wijaya and Rahayu Subekti 2021)

2. RESEARCH METHOD

In this study, normative research was used as the technique of inquiry. Research in the field of law that relies on secondary sources, such as published works, is known as normative legal research. The doctrinal norms that govern conduct are the starting point for the doctrinal-nomological methodology of normative legal study. (Effendi 1983) On the basis of this view, the goal of legal research is to determine whether or not a person's actions are consistent with legal norms or principles, and whether or not the rule of law is consistent with legal norms that contain obligations and sanctions. In this case, the legal research conducted will make use of primary legal materials like statutes and regulations, secondary legal materials like law books and journals, and tertiary legal materials like dictionaries and the Big Indonesian Dictionary (KBBI), among other resources. law.

3. RESULTS AND DISCUSSIONS

The Role of the Pekerja Union in Indonesia

Workforce is defined broadly in Article 1 point 2 of Law no. 13 of 2003 regulating Manpower, as everybody able to labor to generate commodities and/or services to fulfill their personal needs and the requirements of the community. The nature of the job connection is unclear from this definition. In particular, Ridwan Halim defined workers/employees as: Work for or on behalf of an employer/business. (Budiono 2009; Ishaq 2017) The corporation or employer provides the perks; Join

the firm or employer publicly and openly in a position of employment, whether for a set amount of time or indefinitely.

There are many conflicts between employees and employers over matters of labor law, which can lead to tension in the workplace. Workers and employers enter into an employment relationship once an employment contract has been signed. The work relationship might cease for a variety of reasons, including: (Suwandi and Wardana 2022) Legally separate; The business owner makes that call; Voted on by employees; Because of the ruling of the court.

Trade unions/labor unions are organizations formed from, by, and for workers in companies and outside companies, and are free, open, independent, democratic, and responsible for fighting for, defending, and protecting the rights and interests of workers/laborers and improving the welfare of workers/laborers and their families (Article 1 letter q of Law Number 13 of 2003 concerning Manpower). (Eko Wahyudi 2016)

Workers/needs have equal standing in law, the right to get a decent job and livelihood, the right to express opinions, the right to gather in one organization, and the right to establish and become members of trade unions/labor unions, according to the general elucidation of Article 25 of Law No. 21 of 2000 concerning Trade Unions.

According to Abdul R. Budiono, a labor union is "an organization formed from, by, and for workers or laborers within and outside the company that is free, open, independent, democratic, and responsible for fighting for, defending, and protecting the rights and interests of workers."

Workers have the right to organize a union, and this right is protected in the Universal Declaration of Human Rights from 1948. This is explicitly stated in Article 23: (Agus 2020; Fathammubina and Rani Apriani 2018)

(1) Everyone has the right to work, (2) Everyone has the right to freely choose a job, (3) Everyone who works has the right to just and favorable remuneration, guaranteeing a dignified life for himself and his family, and if necessary supplemented by other social pros (2) Everyone has the right to equal remuneration for equal work; and (4) Everyone has the right to unemployment protection. (Purnomo and Chessa Ario Jani. 2018)

In addition to fostering productive workplace interactions, trade unions serve as representatives of their members in institutional frameworks for bipartite cooperation, as organizers and leaders of strikes, and as advocates for their members' acquisition of company stock, among other roles.

The presence of trade unions means that the duties and functions of Bipartite LKS in the company can already be carried out by trade unions/labor unions; these include listening to workers' and labourers' hopes and complaints, relaying them to management, advocating for their members' rights and interests in the workplace, mediating workplace disputes, and fostering a more disciplined and committed workforce. (Soekanto 1985)

If ten or more employees choose to band together, they can create a union, and that union has the right to join and participate in a larger trade union federation or confederation. Employers, the government, or anyone else who tries to stop workers from forming a union faces a minimum of one year in prison and a maximum of five years in prison, and/or a fine of at least Rp. 100,000,000,- (One Hundred Million Rupiah) and a maximum of Rp. 500,000,000,- (Five Hundred Million Rupiah). Therefore, it is threatened with such provisions for those who obstruct the activities of trade unions, such as dismissal, temporary dismissal, demotion, transfer, nonpayment of wages, wage reduction, intimidation, and campaigns against the formation of trade unions, if workers receive treatment that is not in accordance with legal provisions when carrying out organizational activities.

Many employee unions in Indonesia have been recognized by the government and are listed with the Ministry of Manpower. According to the Ministry of Manpower, there were over 7,000 employee unions in existence in 2017. ILO (International Labor Organization) and PPMI (Indonesian Muslim Workers Association) are two prominent examples of Indonesian trade unions.

All Indonesian Workers Union (SPSI) Congress of the Alliance of Indonesian Trade Unions (KASBI) FSPS (Singaperbangsa Trade Union Federation) (Jayadi Ahkam 2015; Danurdara 2018) The Indonesian Labor Confederation, or KSPI; The presence of more than one labor union increases the potential for friction between SBs. Among SB that came into being in the years following the fall of the new regime as well as those that predated them. Due the potential for continual friction and by

enabling these SBs to remain in the same organization, differences in areas such as strategy of struggle, recruitment of members, patterns of leadership, and ideology might eventually lead to conflict.

The various roles played by trade unions are spelled out in Article 4, Paragraph 2 of Law No. 21 of 2000. The following are some examples: Participating in labor arbitration and collective bargaining; Positions in cooperative institutions dealing with human resources, representing employees or laborers in accordance with their status; For the purpose of establishing legally compliant, dynamic, and equitable working conditions.

To focus ambitions on defending the group's members' rights and interests: In this capacity, you'll be responsible for organizing, leading, and breaking up strikes by employees and laborers in compliance with the law; To advocate on behalf of employees/workers for full stock ownership; In addition to representing workers' interests in times of conflict, trade unions strive for a number of other vital goals.(Diandra and Putrawan 2013)

First, Fighting for Laborers' Rights Workers who have questions or concerns about their workplace rights and responsibilities can turn to their trade union for assistance. In the hopes that they may enjoy the fruits of success. Regulation Reform for Worker-Owned Businesses It's not uncommon for one aspect of a brand-new company's policies to start to seem like a burden after some time has passed. When these issues result in real harm to workers, the union can serve as a go-between for the staff and the company's administration. There is a possibility that the applicable regulations will be modified once this negotiation is complete.

Bringing Company Goals in Line with Employee Dreams Staff members should avoid the company's unilateral decisions as much as feasible. It cannot be denied, however, how frequently this occurs. Trade unions serve a useful purpose and offer many advantages since they enable workers to have their voices heard by the corporation. Because it's best practice for businesses to consult with their staff before making important choices.(Parinduri 2019)

Article 25 of Law No. 21 of 2000 states that a Trade Union/Labor Union with a proof number has the right to: Make collective work agreements with employers; Represent workers/laborers in the resolution of industrial disputes; Represent workers/laborers in manpower institutions; Establish institutions or carry out activities related to efforts to improve the welfare of workers/laborers, such as establishing cooperatives, foundations, or other forms of business; Carry out activities related to improving the working conditions of workers/laborers.

Article 27 explains the responsibilities of established trade unions/labor unions, federations, and confederations to their members, including: protecting and defending members' rights and interests; working to improve members' and their families' standard of living; accounting for the organization's activities in accordance with its articles of association and bylaws; and collecting membership dues, the amount of which is determined by the organization's articles of association and bylaws.(Hanifah 2020)

The Role of the Pekerja Union in •Keria Relationship Disputes

Institutions that promote methods for rapid, suitable, fair, and low-cost resolution of industrial relations conflicts are more important in this age of industrialization and rapid advances in knowledge and information technology. The above-mentioned situations and necessities have evolved to the point where the Law No. 22 of 1957 on Labor Completion and the Law No. 12 of 1964 on Termination of Employment in Private Companies are no longer appropriate. Most conflicts in the workplace arise from opposing viewpoints and competing interests between employers and employees.(Asyhadie 2007; Kahfi 2016)

The goal of industrial relations is to ensure that all employees feel like they belong at the firm and are invested in its long-term success. Similarly, business owners in the field of industrial relations have the responsibility of elevating the professional standing and well-being of their employees. However, in practice, disagreements between employees and employers over the nature of their working relationship are common and often contentious.

Industrial relations may be defined as the practice of encouraging open lines of communication, consultative discussions, and productive agreements between all stakeholders in an organization. The foundational ideas for advancing industrial relations have been established by

labor legislation. In order to foster environments that are productive, harmonic, dynamic, and just, it is necessary to design optimal systems and institutions.

Workplace communication also plays a role in this type of industrial partnership. If there are issues or turbulence, this will be sensed. As a result of the altered mood at work, productivity and efficiency will fall. The key to success or failure is how well the corporation handles industrial relations.

Article 1 number 2 of Law Number 2 of 2004 about the Settlement of Industrial Relations Disputes categorizes the various types of IRDs as follows, on the basis of the definition of IRDs: (Iswaningsih and others 2021; Julianti 2015) Disputes over the implementation or interpretation of statutory provisions, work agreements, company regulations, or collective labor agreements that arise from the non-fulfillment of rights (Article 1 point 2 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes). Based on the foregoing, as stated by Lalu Husni in his book, it is evident that rights disputes are legal disputes because they arise from violations of agreements made by the parties, including matters that have been specified in company regulations and applicable laws; Disputes of Interest, or disagreements in the workplace caused by divergent interpretations of the terms of employment contracts, company policies, or collective bargaining agreements (Article 1 number 3 of Law No. 2 of 2004 Concerning the Settlement of Industrial Relations Disputes). Iman Soepomo claims that, in light of the foregoing explanation of interest conflicts, there is a misunderstanding about proposed modifications to working and/or labor conditions; Article 14 of Law No. 2 of 2004 Concerning Settlement of Industrial Relations Disputes addresses Disputes on Termination of Employment, or disagreements that develop when one party terminates employment relations while the other does not agree. Layoff disputes are the most common type of workplace conflict. When an employer decides an employee is no longer suitable for the company's needs, the employer may issue a letter of dismissal. However, employees may also request a layoff if they believe their employer is not meeting their contractual obligations. has been agreed upon or who treats workers unfairly and disputes between trade unions or labor unions within a single company, such as disagreements over the rights and responsibilities of union members and how those rights and responsibilities should be implemented (Article 1 point 5 of Law No. 2 of 2004 concerning Industrial Relations Dispute Settlement; PPHI Law).

Employment termination disputes (PHK) are among the most delicate issues for employees. Disagreements might arise when layoffs are not carried out in compliance with the law. One example is when a business imposes layoffs on its employees without providing a rationale. Differences in viewpoint and interpretation of the union's regulations can lead to conflicts between different trade unions or labor unions within the same firm. For instance, if employees of a firm are members of both Trade Union A and Trade Union B, it might explain why tensions have arisen between the two. The consequence was a division between the members. This is the root cause of tension inside the union.

Termination of employment, as defined by Manpower Law No. 13 of 2003, is the ending of the rights and duties between the worker or laborer and the business owner. Work agreements may be terminated due to: a) the worker's death; or b) the expiration of the employment contract's duration, as specified in Article 61 of Law No. 13 of 2003 concerning manpower. (Muin 2015)

If an employee breaks business policy, a collective bargaining agreement, or their employment contract, the corporation has the right to terminate their employment. Therefore, if one party to the contract ends the worker's employment before the end of the agreed upon term, that party must compensate the other by paying the worker's salary for the remainder of the term.

Disputes in the workplace can be resolved in a number of ways, including through the specialized judicial system known as the "industrial relations court," (Judge 2012)

Agreement by Means of a Bilateral Process The term "bipartite negotiations" refers to talks between employees and their employers in an effort to settle a labor dispute, as defined by Article 1, paragraph 10 of Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes. Articles 3–7 of Law No. 2 of 2004 Regarding Settlement of Industrial Relations Disputes govern bipartite negotiating efforts. (Kaufmann 2007)

A Consensual Trilateral Agreement Members of employer groups, trade/labor unions, and the government sit down together to discuss and negotiate solutions to workforce challenges at the

Settlement via Tripartite forum. The primary responsibility of the Tripartite settlement is to advise the government and related parties on labor policy matters.

Third, a Mediation-Based Agreement Industrial Relations Mediation, hereinafter referred to as mediation, is defined as the process by which rights and interest disputes, employment termination disputes, and disputes between trade unions/unions workers only in one company are resolved through discussions mediated by one or more neutral mediators, as stated in Article 1 number 11 of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. For disputes involving rights, interests, termination of employment, and trade unions/labor unions within a single company, mediation must be conducted by an employee of the government agency responsible for manpower affairs who meets the requirements as a mediator determined by the Minister and who must provide written recommendations to the disputing parties.(Mantouvalou 2012)

A Consensual Agreement, or Mediation. Conciliators are neutral third parties that arbitrate disputes between opposing parties in an effort to reach a mutually agreeable resolution, and whose jurisdiction includes the workplace of the worker or laborer in question. Interest disputes, layoff issues, and disagreements between trade unions or labor unions within a corporation are all examples of the kinds of disputes that can be settled by conciliation.

Article 56 of Law No. 2 of 2004 establishes the Industrial Relations Court's (PHI) exclusive jurisdiction to investigate and provide judgment on the following matters:(Costa 2004) When rights conflicts initially arise; Regarding potential conflicts of interest, both at the top and bottom levels; In the initial phase of an employment termination dispute; Within a firm, at the first and last tiers of any dispute between trade unions or labor unions.

The existence of trade unions in the corporate environment, employers' organizations in the bipartite realm, with the government through tripartite forums, various positive legal regulations, collective labor agreements, and industrial relations dispute resolution institutions all contribute to the model of industrial relations facilities. The partnership is realized by employing all accessible means; nevertheless, this does not ensure a problem-free manufacturing process; however, by using a variety of these available methods, the rate of difficulty may be decreased.

4. CONCLUSION

The number of workers who are part of a union is rising. Workers at many major corporations now may choose from a dizzying array of unions that aim to advance their interests and protect their benefits. We can't really fault them for this because, within legal bounds, it is their prerogative to create and participate in labor unions.

In order to ensure that employees and their families receive the protection, defense of rights and interests, and improvement of proper welfare that they deserve, trade unions themselves have aims that have been governed by legislation.

Industrial relations conflicts, such as those involving the termination of employment (PHK), are best resolved with the help of labor unions. Unions represent employees and their families to advocate for better working conditions, wages, and benefits.

Free, open, independent, democratic, and committed to fighting for, defending, and protecting the rights and interests of workers / workers and improving the welfare of workers / workers and their families, trade unions or labor unions are organizations formed from, by, and for workers / workers both inside and outside of the company. When it comes to workplace issues, trade unions act as a clearinghouse for employees' hopes and dreams. Because the right to freedom of association serves as a basic right in which employees are entitled to gain the rights that workers should get, its application in the form of trade unions for workers has strategic relevance.

The preceding analysis suggests that trade unions play an important part in transmitting goals and in fighting for welfare, health, and work safety. To get agreement, the negotiating approach is favored. Even while trade unions are aware of the hurdles and problems that always confront them, they play an active role as advocacy-stakeholders at the branch level, and the government's function as a mediator lends positive significance in the framework of law enforcement. However, national growth in the area of personnel has taken on a unique hue thanks to the activity of trade unions in carrying out their tasks and roles to construct a conducive and proportionate working relationship.

Suggestion, In carrying out its activities, trade unions/labor unions and their members must work professionally in running their organizations according to the AD/ART based on the law. No. 21 of 2000. Trade Unions/Labor Unions demand that the Government continuously educate and train members of Trade Unions/Labor Unions, so that they become professionals in their fields to meet the requirements of the job market. Because professional workers can live in prosperity, contribute taxes, and reduce unemployment rates, and other social problems, the thing to worry about is if the Trade Union/Labor Union only acts on behalf of the Organization for the benefit of a handful of parties or misuses the Organization which was formed as a forum to oppose regulations Companies that are correct for the sake of more profits.

Another important thing to do is to immediately work on forming a Company Council, in the form of cooperation in the production process or industrial relations system which can be built on the basis of a spirit of togetherness, having democratic values and transparency. The purpose of the company board is to organize a gotong-royong economy or collective economy. The Company Council can be re-established at the company with the initiative of the Trade Union/Labour Union, of course with the approval of the company. Company Council as a way to end the struggle based on class conflict and become the official bridge between workers and companies that operate neutrally without taking sides.

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