

## Protection Of Trade Unions Based On Positive Law In Indonesia

**Daulat Sihombing**  
**University Of Muhammadiyah Sumatera Utara**  
Email: [daulatsihombing@gmail.com](mailto:daulatsihombing@gmail.com)

### ABSTRACT

Workers must know and understand that as individuals and workers, not much can be achieved. So that on its journey, several workers or what are commonly known as laborers form labor unions to protect their rights and reduce forms of exploitation carried out by company management. In the course of history, it has been proven that the role of labor unions in fighting for the rights of their members is very large, so that workers have felt the benefits of independent labor union organizations that are consistent in fighting for labor rights. Considering that the labor factor in this development process must be considered, therefore efforts are needed to foster, direct and protect the workforce to create welfare related to what they do. The nature contained in Article 3 of Law No. 21/2000 is emphasized that labor unions, federations and confederations of labor unions are free, open, independent, democratic, and responsible. Open means that in accepting members and or fighting for the interests of workers, labor unions, federations and confederations of labor unions do not differentiate between political affiliations, religion, ethnicity, and gender. The purpose of labor unions, federations and confederations of labor unions is to provide protection, defend the rights and interests and improve decent welfare for workers and their families. Examples of clauses that support the interests of workers are clauses that emphasize the terms of work, social security for workers, labor rights, and others.

**Keywords: Protection, Trade Union.**

### A. Introduction

In running and implementing the development of a company, there must be several factors such as capital, nature, and labor. These three factors are the most important factors in running and implementing the development of a company. One factor that is no less important to support the implementation of the development of a company is the labor factor. Considering that the labor factor in this development process must be considered, therefore efforts are needed to foster, direct and protect the workforce to create welfare related to what they do. The relationship between

workers and companies is a common relationship and they need each other. The company wants big profits and the workforce demands welfare. However, in the process, workers often become victims of exploitation by a company. As partners of the industry, workers want justice and get "returns" as a result of the implementation of the industry.

Therefore, efforts are needed to foster, direct and protect workers to create welfare related to what they do. Basically, protection for workers is intended to ensure that workers are more humanized. But individually, workers are unable to fight for their rights against the great combination of capitalists and management where they have power, money and influence. Workers must know and understand that as individuals and workers, not much can be achieved. So that on its journey, several workers or what are commonly known as laborers form labor unions to protect their rights and reduce forms of exploitation carried out by company management. In the course of history, it has been proven that the role of labor unions in fighting for the rights of their members is very large, so that workers have felt the benefits of independent labor union organizations that are consistent in fighting for labor rights. Furthermore, a number of articles in the 1945 Constitution and its amendments explicitly.

Regulates the guarantee of protection of the most important human rights, namely in the fields of politics, economics, social, and culture. In fact, the provisions in the 1945 Constitution were formulated three years before the Universal Declaration of Human Rights of the United Nations (Universal of Human Rights) in 1948 was initiated. One of the protections of human rights, namely the principle of liberty in the field of employment relations in Indonesia, is contained in Article 28 D Paragraph (2) of the Amendment to the 1945 Constitution. This article states that everyone has the right to work and receive fair and proper compensation and treatment in employment

relations.<sup>1</sup>

## **B. Research Methods**

A research cannot be said to be research if it does not have a research method.<sup>2</sup> Research methods are one of the factors of a problem that will be discussed.<sup>3</sup> The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

## **C. Analysis And Discussion**

### **1. Forms of Legal Protection for Trade Union Members**

Workers' Unions (SP/SB) are organizations established and formed by and for workers/laborers in one or more companies, in various industrial sectors, both formal and informal. According to Law No. 21 of 2000 concerning Workers' Unions/Laborers' Unions (Labor Union Law), workers' unions have the function of protecting, defending, and representing the rights and interests of their members and fighting for the welfare of workers/laborers and their families.

The position of trade unions according to the SP/SB Law is recognized as a legitimate dialogue partner in discussing employment issues. This law emphasizes that trade unions are independent, free from the influence of any party, democratic, and responsible in carrying out their functions and duties. The author's analysis of the position of trade unions indicates that unions have a strategic and important position in the dynamics of industrial relations in Indonesia. Trade unions are not only organizations that protect and represent the interests of their members, but also entities that have an important role in maintaining the balance of power between workers and employers. The importance of the position of trade unions is further emphasized by

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<sup>1</sup> Nurrohman, Bayu. 2017. 'Jurnal KAPemda – Kajian Administrasi Dan Pemerintahan Daerah, Jurnal KAPemda - Kajian Administrasi Dan Pemerintahan Daerah, 10.6: 98–107

<sup>2</sup> Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

<sup>3</sup> Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

research conducted by Handayani, which states that trade unions function as a balancer of relations between workers and employers. This union plays an important role in creating harmonious and dynamic industrial relations, which ultimately contribute to the common welfare of workers and employers.

In carrying out its duties and functions, the Workers' Union/Laborers has a strategic position and function, which is explicitly regulated in the SP/SB Law. The main function of the Workers' Union/Laborers' Union is to protect, defend, and represent the rights and interests of workers/laborers and their families. This is regulated in Article 28 of Law No. 21 of 2000 concerning Workers' Unions/Laborers' Unions, which states: Anyone is prohibited from preventing or forcing workers/laborers to form or not to form, become administrators or not to become administrators, become members or not to become members and/or carry out or not to carry out activities of a workers' union/laborers' union by means of:

- a. Terminating employment, temporarily suspending, demoting, or transferring workers;
- b. Not paying or reducing workers' wages;
- c. Carrying out intimidation in any form;
- d. Carrying out campaigns against the formation of workers' unions.

These functions indicate that the Trade Union has an important and strategic role in representing and protecting the interests of workers. The Trade Union is expected to act as an effective mediator between workers and employers, as well as being an advocate who defends the rights of workers. The function of education and improving the quality of life of members mandated by the Law is also important. This reflects a long-term plan and strategy for worker empowerment, which is not only focused on employment issues, but also on developing the individual capacity of workers as citizens who have rights and obligations. By having a legal forum, workers can fight together for their rights and interests. This creates a fairer and more

proportional balance in the employment relationship between workers and employers, and ensures that workers' rights are fulfilled in practice.<sup>4</sup>

## **2. What Factors Are Barriers to Trade Unions in Providing Protection of Workers' Rights**

The essence of employment law is protection for workers, which is intended to guarantee the basic rights of workers/laborers and equal opportunities and non-discriminatory treatment on any basis to realize the welfare of workers/laborers and their families while still paying attention to the development of progress in the business world. The basis for employment development is based on Pancasila and its constitutional basis is the 1945 Law of the Republic of Indonesia. Employment development is carried out in the context of developing Indonesian people as a whole. The benefits of this protection can provide a sense of security to workers so that they can concentrate more on increasing motivation and work productivity.

The practice of labor with the PKWT system or more popularly called contract workers/outsourcing in Indonesia, historically has been carried out for years. The existence of this kind of work model or system has consequences for the workers concerned. Because, if the contract is terminated suddenly, workers cannot demand their rights from the company. The absence of protection for workers has made the public's view negative. Workers are considered as commodities that can be sold, transferred, exchanged, which are only considered if the employer considers that they can employ the workers concerned and can be removed if the employer no longer needs them. In the PP JHT itself, as is known in Article 22 paragraph (1), it states that "JHT benefits are in the form of cash paid when participants are 56 (fifty-six) years old...". It can be concluded that the provisions in this article have the autonomous power to regulate the age limit used as a reference for retirement age, namely 56 (fifty-six years) at that time. whereas as is known, companies' needs for workers are different.

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<sup>4</sup> Muhammad Abrar Ali & Rediyanto Sidi, "Peranan Serikat Pekerja Dalam Melindungi Hak-Hak Pekerja Di Sektor Ketenagalistrikan (STUDI DI SERIKAT PEKERJA PT. PLN), 6.4, (2023), 157.

#### **D. Conclusion**

Considering that the labor factor in this development process must be considered, therefore efforts are needed to foster, direct and protect the workforce to create welfare related to what they do. The nature contained in Article 3 of Law No. 21/2000 is emphasized that labor unions, federations and confederations of labor unions are free, open, independent, democratic, and responsible. Open means that in accepting members and or fighting for the interests of workers, labor unions, federations and confederations of labor unions do not differentiate between political affiliations, religion, ethnicity, and gender. The purpose of labor unions, federations and confederations of labor unions is to provide protection, defend the rights and interests and improve decent welfare for workers and their families. Examples of clauses that support the interests of workers are clauses that emphasize the terms of work, social security for workers, labor rights, and others.

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