

DENIAL OF LABOR RIGHTS BY LIBERAL LEGAL REGIME IN THE OUTSOURCING SYSTEM

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ABSTRACT - Outsourcing is a inevitability which is the demands of modern globalization that have character on the value of liberalism (noe liberalism). Outsourcing system is an effort to realize a product which efficient and effective, so that the resulting product has high competitiveness.

In act 13/2003 on Labor, outsourcing system open opportunities through article 64 that said the companies can give a part of job to other companies. The emphasis is done with the intention to share the risk and reduce the burden of the company. Concerning article 65 for the requirements related to the implementation of jobs to other companies. The implications of the outsourcing system, makes labor obedient to the company that provides jobs not on the holding company bound in a agreement of certain time employment or contract.

The type and nature of the work seen by agreement of certain time employment set out in article 59 clause 1. The reality of denial appearing the disadvantages to labor related with the rights. When it has been tested in the Constitutional Court decision does not provide certainty Labor Law. Protection of labor done by the Government through the regulation of Labor Minister No. 100/2004 about the Company Licensing Service or Labour. The provision is actually expanding the meaning of certain time employment agreement with makes regulation of working relationship based on casual workers who are not known to the Act.

keywords: labor rights, law, liberal, outsourcing.

1. INTRODUCTION

Global economic developments and rapid technological advances impact the appearance of competition is so tight that occur in all aspects. This highly competitive environment requires businesses to adjust to the market demands that require fast response and flexible in demanding customer demands. Therefore needed a structural change in the business, with making policy that is more effective, efficient, and productive. In relation with this, then comes that called the outsourcing. Outsourcing is a partial delegation of implementation the work to another company through an agreement contract of work or provision of services worker made in writing. The practice of outsourcing in Act no.13 of 2003 on Employment can be implemented with the requirements in accordance with Article 65, so that if one of these requirements is not met, then the job cannot be in outsourced.

2. METHOD

The method used in this paper is a normative method. Normative method is a method by reviewing the study documents that use a variety of secondary data such as legislation, court decisions, legal theory, and can be the opinions of the scholars. This paper uses qualitative analysis to explain the existing data with the words presented based on the analysis of secondary data.

3. RESULT AND DISCUSSION

Outsourcing system already widely practiced in the business world in Indonesia. Outsourcing is a diversion of jobs through job chartering and the provision of labor services.

In relation with a job diversions, the nature of the outsourcing system that exploitative and expansive is a form of global capitalism characteristic. It can even be said as biological child were born from the womb of the capitalist. Expansion and exploitation in this system is done in order to keep the accumulation of capital. With the demand the laborers to meet the requirements in outsourcing, solid working hours, wages are not balanced, lack of an opportunity to join a labor organization, because of time runs out in the employment contract. Violation of the agreement will result in immediate dismissal by management outsourcing company. Thus, industrial relations in the model of outsourcing work makes the workers do not have clarity in the job relationship, with implications lack of clarity about the position of laborers and how they demand their rights.

In relation to labor rights, the government issued Act No. 13 of 2003 on Manpower which in essence is a Act that is supposed to provide protection to labor not to other parties. The reality shows that the ratification of the Act No. 13 of 2003 on Manpower, instead became the legal basis for the legalized outsourcing system that profitable the ruling capital and otherwise detrimental to the laborers.

In legislation on Manpower does not mention explicitly the term outsourcing. However, outsourcing system began to open opportunities implicit in Article 64, which states that "the company can give part of its work to other companies through the agreement of job chartering and the provision of labor services made in writing."

In addition to the opportunities opened implicitly, to the provisions of Article 65 was mentioned about the

conditions related to the implementation of job to other companies as third parties or job chartering and the provision of labor services. This has implications that the labor obedient at the provision of labor services company, not the the holding company where the Laborers are bound by an agreement in the form of a specific time employment agreement or contract.

Regarding the type and nature of work regulated a specific time employment agreement, mentioned in Article 59 paragraph 1 of Act No. 13 of 2003 on Manpower. Labor relations in this matter outsourcing system, occurs broader interpretation in regulation of manpower ministers (Permennaker) No. 100 of 2004 on the Company Licensing Service or Labour. In these regulations, the term specified time employment agreement extended the term daily laborers are exactly regulated in chapters V. Indeed, the term daily laborers was not recognized in the Act No. 13 of 2003 on manpower.

With the existence of these regulations, actually has indirectly legalized outsourcing system in Indonesia. In the daily practice of outsourcing has been recognized more detrimental to the labor, because the employment relationship is always in the form of temporary / contract, lower wages, social security even if there is only a minimal extent, the lack of job security and the absence of guarantee of career development and so on.

According Priambudi Komang, the employer argued that "where workers were recruited, how the arrival and others are of no concern to us as consumers." This is a condition which shows that workers are merchandise and outsourcing is nothing but legalized trafficking

In fact, labor outsourcing is the most disadvantaged in the workplace because an agreement in the event of

termination of employment by the company, the workforce outsourcing do not get basic rights as befits a permanent workforce, despite working period has been for years. Working lives are not the determining factor, because each year the contract can be renewed, so that tenure starts again from the beginning when there is employment contract between the company and the workers.

With the outsourcing system through regulation that is not firm and protection of labor that are less certain. It is expected that the establishment of a labor legislation that expressly and fully protect labor, or even necessary the elimination of outsourcing system in Indonesia to achieve labor rights that must be obtained.

4. CONCLUSION

Based on the discussion that has been described writer, it can be concluded that outsourcing is a system adopted from the capitalist liberal regime which has been practiced in Indonesia. Outsourcing system is more beneficial to the ruler of capital and disadvantage of labor, so some labor rights are not fulfilled. The need for strict rules on employment in outsourcing systems and protection for labor certainty.

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