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3rd ImCoSS

THE THIRD INTERNATIONAL MULTIDISCIPLINARY
CONFERENCE ON SOCIAL SCIENCES

5 - 7 JUNE 2015

BANDAR LAMPUNG UNIVERSITY
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PROCEEDINGS

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3rd IMCoSS 2015

**THE THIRD INTERNATIONAL MULTIDISCIPLINARY
CONFERENCE ON SOCIAL SCIENCES**

5, 6 June 2015
Bandar Lampung University (UBL)
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PROCEEDINGS

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PREFACE

The Activities of the International Conference are in line and very appropriate with the vision and mission of Bandar Lampung University (UBL) to promote training and education as well as research in these areas.

On behalf of the **The Third International Multidisciplinary Conference on Social Sciences (The 3rd IMCoSS) 2015** organizing committee, we are very pleased with the very good response especially from the keynote speaker and from the participants. It is noteworthy to point out that about 112 technical papers were received for this conference.

I would like to express my deepest gratitude to the International Advisory Board members, sponsor and also to all keynote speakers and all participants. I am also grateful to all organizing committee and all of the reviewers who contribute to the high standard of the conference. Also I would like to express my deepest gratitude to the Rector of Bandar Lampung University (UBL) who give us endless support to these activities, so that the conference can be administrated on time

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Table Of Content

Preface.....	ii
International Advisory Board	iii
Steering Committee.....	iv
Organizing Committee	vi
Table of Content	viii
Keynote Speaker :	
1. Cultural Tourism and Trade in Indigenous People's Art and Craft: A Gap Analysis of International Legal Treatise and National Legislation – Ida Madieha bt. Abdul Ghani Azmi	I-1
2. Contrasting Islamic Leadership Styles (An Empirical Study Of Muslim Majority And Minority Countries) - Khaliq Ahmad	I-10
Paper Presenter :	
ECONOMICS :	
1. An Analysis of The Influence of Aggregate Expenditure Regional Gross Domestic Product Growth In The Lampung Province – H.M.A. Subing	II-1
2. Effect on The Quality of Passenger Satisfaction (Study in Radin Inten II Airport South Lampung) – Ardansyah and Stefanny Ellena Rushlan	II-7
3. Factors That Affect Longevity Of Business Relationships – Margaretha Pink Berlianto and Innocentius Bernarto.....	II-12
4. Millennials Green Culture: The Opportunity And Challenge (A Case Study Of Higher Education Student) - Ika Suhartanti Darmo	II-21
5. Preferences Prospective Students In Choosing The Study Program (University X In Bandar Lampung) - Indriati Agustina Gultom and Wahyu Pamungkas	II-29
6. The Effect Of Growth, Profitability And Liquidity To Bond Rating Of The Banking Firms Listed On The Indonesian Stock Exchange (Period 2009- 2013) - Syamsu Rizal and Winda Sutanti	II-34
7. The Influences Of Investment On Regional Gross Domestic Product (RGDP) In Lampung - Habiburrahman	II-42
8. The Influences Of Bank Product Socialization And Electronic Payment System Quality On Intention To Use E-Money In Indonesia - Cynthia Jonathan, Rina Erlanda and Zainal Arifin Hidayat	II-46
9. The Influence Of Inflation, GDP Growth, Size, Leverage, And Profitability Towards Stock Price On Property And Real Estate Companies Listed In	

Indonesia Stock Exchange Period 2005-2013 - Herry Gunawan Soedarsa and Prita Rizky Arika	II-50
10. The Influence Of Investment Opportunity Set (IOS) And Profitability Towards Stock Return On Property And Real Estate Firms In Indonesia Stock Exchange - Grace Ruth Benedicta, Herlina Lusmeida	II-57
11. The Influence Of Prosperity And Finacial Performance With Respect To Equalization Funds Of The Government District/City In All Southern Sumatra Regions - Rosmiati Tarmizi, Khairudin and Felisya Fransisca	II-66
26. The Influence of The Financial Performance and Macroeconomic Factors To Stock Return - Angrita Denziana, Haninun, and Hepiana Patmarina.....	II-73
27. The Economical Analysis Of Mechanization In Land Preparation For Plantation - M.C. Tri Atmodjo	II-81
28. The Performance of Undiversified Portfolio In Indonesia Stock Exchange - Budi Frensidy	II-84
29. An Analysis of Fast Improvement Program of Human Resources for Employee Satisfaction of PT. PLN (Persero), Bandar Lampung Power Sector - Sapmaya Wulan and Kiki Keshia	II-89
30. Engineering Model of Economic Institution Insugarcane Agribusiness Partnership (Case Study on Sugar Cane Agribusiness Partnership between Farmers Cooperative and Sugar Factory in Way Kanan Regency of Lampung Province-Indonesia) – Syahril Daud and Adrina Yustitia	II-97

LAW :

1. Analysis Of Convict's Rights In Judicial Review Of Narcotics Criminal Case - Yulianto	III-1
2. Comparison Of Authority Of The Conditional Court In India And Thailand In Judicial Review – Indah Satria	III-4
3. Criminal Law Policy As An Effort Of Overcoming Crime Towards Protected Animals - Benny Karya Limantara and Bambang Hartono	III-9
4. Decentralization Evaluation in Indonesia : The Dynamics of Relation Central Government and Local Government - Dewi Nurhalimah	III-15
5. Denial Of Labor Rights By Liberal Legal Regime In The Outsourcing System - Cornelius C.G, Desi Rohayati and Ricco Andreas	III-20
6. Design Of The Special / Special For Inclusion In The System Of The Republic Of Indonesia By Constitution Of The Republic Of Indonesia 1945 - Baharudin.....	III-22
7. Dilemma of State Sovereignty Protecting the Homeland Indonesia (Studies Agrarian Constitution) - FX. Sumarja	III-27
8. From State Sovereignty To People Sovereignty: The Development of State Control Doctrine in Indonesia Constitutional Court Decision - Utia Meylina	III-32

9. Law Function As Instrument To Build a Stability of Moral Economy in
Globalization Era - Hieronymus Soerjatisnanta and M Farid Al-Rianto III-36
10. The Analysis Of Criminal Liability For Crimes Perpetrators Of The Crime
Of Human Trafficking – Dharma Saputra III-45
11. The Death Penalty: Pancasila, With Efforts To Eradicated Drugs -
Anggun Ariena R. and Ade Oktariatas Ky III-48
12. The Existence of Government Regulation in Liew of Law or Peraturan
Pemerintah Pengganti Undang-Undang (Perppu) in Legal Systems of the
Republic of Indonesia - Rifandy Ritonga III-53
13. The Fulfilment Of The Right To Health Services Through Control Of
Ombudsman Functions In The Region - Agus Triono III-57
14. The Tort Of Multimodal TransportatioAgreement -
Dio Adewastia Fajaranu III-64
15. Uprising Of Village Democracy: Challenge And Opportunities For Village -
James Reinaldo Rumpia III-70
16. Comparative Law of Cartels between Indonesia and Japan (Review of Act
No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair
Business Competition and the Act Concerning Prohibition of Private
Monopoly and Maintenance of Fair Trade" (Act No. 54 of 14 April 1947))
- Recca Ayu Hapsari III-77
17. The Role Of Adat Community As The Part Of Normative Systems In Paser
- Melisa Safitri III-83

SOCIAL SCIENCE :

1. An Using E-CRM To Improve Market Value Companies (Research Study at
EF Bandar Lampung) - Ruri Koesliandana, Arnes Y. Vandika, and Dina Ika
Wahyuningsih IV-1
2. Analysis Of The Quality Of Public Health Field – Siti Masitoh IV-4
3. Charges Of Indonesia Labor / Workers Against Proper Living Needs That
Can Meet The Minimum Wage – Agustuti HandayaniIV-13
4. Community Response On Changes Regional Head Election System (Study
On Environmental Public Housing Way Kandis Bandar Lampung) -
Wawan Hernawan and Mutia Ravenska.....IV-16
5. Compensation Policy Implementation Of Fuel Oil, In The District Konawe,
Southeast Sulawesi Province (Study on Implementation of Direct Cash
Assistance) – Malik and Noning VerawatiIV-21
6. Crowd Funding, Social Entrepreneurship and Sustainable Development -
Hery Wibowo.....IV-29
7. Euphoria and Social Media Related to Organizational Effectiveness, Based
on Gangnam Style Case - Astadi Pangarso and Cut Irna SetiawatiIV-32

8. Financial Management In Public And Private Junior High Schools -
Suwandi and SoewitoIV-40
9. Gender Mainstreaming In Glasses of Public Administration at Banten
Province - Ipah Ema JumiatiIV-47
10. Impact From Social Media To Social Life -
Eka Imama N, Ade Kurniawan, Yoga Dwi Goesty D.S, and Arnes Y. VandikaIV-56
11. Implementation of Public Private Partnership in The Management Market
RAU (Rau Trade Center) In Serang City - RahmawatiIV-59
12. The Values Of Democracy In The Implementation Local Political Agenda
In Kendari - Jamal BakeIV-67
13. Evaluation Of Health Services Regional Public Hospital Besemah in Pagar
Alam City of South Sumatra -
Yuslainiwati, Budiman Rusli, Josy Adiwisastra, and Sinta NingrumIV-77
14. The Impact Of It Social Network Path In The Students Of Community -
Arnes Yuli VandikaIV-82
15. The Development of Women's Participation in Political Life -
Azima DimiyatiIV-86

EDUCATION :

1. An Analysis of Students' Gramatical Error in Using Passive Voice at Grade
Ten of SMA Persada Bandar Lampung 2014 - Ildhias Pratiwi Putri..... V-1
2. An Error Analysis of Speaking Present Tense on English Conversation on
Program of PRO 2 Radio Bandar Lampung – Maryana Pandawa V-5
3. Developing Students' Writing Skill by Diary Writing Habit -
Fatima A. Putri, Bery Salatar, and Susanto..... V-8
4. Discourse Analysis Of Gettysburg Address -Yanuaris Yanu Darmawan V-11
5. Error Analysis of SMA Pangudi Luhur Bandar Lampung Students'
Translation in Using Meaning-Based Translation. – Kefas Ajie Bhekti V-18
6. Improving Students Affective Domain Through Asian Parliamentary
Debate Technique – Purwanto V-24
7. Online Authentic Materials For Learning English - AgniaMuti, Ezra
Setiawan, and Ida Oktaviani V-36
8. Politeness Strategies As Persuasive Tool In Magazine Advertisements
Circulated In Lombok Tourism Spots – Lalu Abdul Khalik and Diah
Supatmiwat V-39
9. Simple Past Tense Of The First Grade Students Of SMP Negeri 1 Seputih
Banyak In Academic Year Of 2014/2015 - Qory Fahrnis Firdaus V-47
10. Supporting Learners' Autonomy Through Distance Language Learning -
Dameria Magdalena S V-51

11. Teaching Poetry in ELT Classrooms: Some Challenges and Solutions - Bastian Sugandi and Husnaini	V-54
12. Teaching Vocabulary By Using Hypnoteaching To Second Semester Students Of Bandar Lampung University - Fransiska Anggun Arumsari	V-58
13. The Application Of Brainstorming To Improve Student's Writing Skill - Ita Brasilia Nurhasanah, Ria Martin, and Rizky Amalia	V-65
14. The Application Of Using Letter Land Technique Towards Students Vocabulary Mastery - Budianto, Elis Munawaroh, Fitri Anggraini, and Yuni Arifah	V-68
15. The Application of Quiz Team Technique to Improve Students' Understanding on Simple Present Tense at Grade Seven at SMPN 26 Bandar Lampung – Rosdawati	V-71
16. The Art Of Seduction Of Giacomo Casanova An Analysis Of "The Story Of My Life" - Helta Anggia	V-75
17. The Effect Of The Application Of The News Presentation Towards Students' Speaking Ability Of Grade Eleven At SMK Negeri 1 Seputih Agung - Risdiana Yusuf	V-78
18. The Effect Of The Teacher's Feedback Approach Towards Students' Descrptive Writing Skill At Grade Tenth Of SMK Bhakti Utama Bandar Lampung - Nila Kurnijanti	V-83
19. The Improvement Of Students' Vocabulary Achievement By Using Direct Method Of SMP Wiyatama Bandar Lampung - Putri Nurhayani	V-85
20. The Influence Of Lampungnese Ethnicity Accent On Dialect A To Lampungnese Students' Pronunciation Ability At English Education Study Program - Anggi Okta Dinata	V-88
21. The Influence of Using Scrambled Pictures to Improve Students' Ability in Writing Narrative Text of Eleventh Grade Students of SMK Bhakti Utama Bandar Lampung - Novita Uswatun Khasanah	V-91
22. The Use of Letterland Method in Teaching Reading at Early Year Level to Pre-School Students in an Informal Education in Bandar Lampung - Alfiana Rochmah	V-94
23. TheInfluence of Using Short Video Towards the Students' Speaking Skill at Grade VII of SMPN 22 Bandar Lampung - Dita Oktapiana	V-101

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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