

## Legal Protection For Labor Contract In PT. *Nawakara Perkasa Nusantara*

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Abstract. The problems of this study are: the outsourcing arrangement based on the law applicable and legal protection for contract workers at PT. Nawakara Perkasa Nusantara. Researchers used the method is legal normative juridical approach and specification in this study were included descriptive analysis. Even though sources and types of data in this study are primary data obtained from field studies by interviewing officials and workers in PT. Nawakara Perkasa Nusantara. And secondary data obtained from the study of literature relating to the theory of legal protection and enforcement.

Based on the results of research that restrictions or even a rejection of the application of the statutory provisions regarding outsourced workers cannot be done despite how strong workers and unions of the federation units to fight. It is caused by the development of outsourcing itself stating that the areas of specialization, especially in terms of product development expertise of goods and services is growing development. Therefore impact the outsourced workers to work opportunities more widely. Legal protection for contract workers at PT. Nawakara Perkasa Nusantara basically in implementation has not gone as stipulated in the law. The lack of protection regarding the duration of the employment agreement as to which of Article 59 paragraph (2) and (4) which states that PKWT cannot be made to work that is fixed and the period of more than three (3) years, with each year once carried out a contract extension. Interpretation in paragraph (7) stated that the violation of Article 59 paragraph (2) and (4) This will result in the void PKWT turned into PKWTT. In practice, this agreement occurred during the three (3) years with a contract extension once a year. Supposedly workers / laborers in this company have been a permanent employee, when seen from the labor law.

Keywords : Protection Law; Labor Contract.

### 1. Introduction

Manpower is every man or woman who is, in, and / or will do the job, both inside and outside the employment relationship in order to produce goods or services to meet the needs of society.<sup>3</sup> According to *Halim*, labor is labor working at or for the company, the wages paid by the company and officially hold good working relationship with the company for a certain time or for a certain period of time not ever.<sup>4</sup>

Practice Employment Agreement Specific Time (PKWT) or work contract supervisor services (outsourcing) is the realization of the policy of flexible labor market that is requested to the government of Indonesia by the IMF (International Monetary Fund), World Bank (Word Bank) and the ILO (International Labor Organization) as a condition of granting aid to deal with the economic crisis of 1997. the agreement with the IMF has become a basic reference for the preparation of a series of policies and regulations on improving the investment climate and labor flexibility.

Labor is a major capital and the implementation of community development Pancasila. The most important objective of the development of the society is the people's welfare

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<sup>3</sup> Munir Fuadi, *Pengantar Hukum Bisnis*, Citra Aditya Bakti, Bandung, 2008, Hlm. 191

<sup>4</sup> Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia*, Citra Aditya Bakti, Bandung, 2009, Hlm. 3

kerja. Tenaga including labor force as implementers of development should be guaranteed their rights, obligations and developed power set point.

According to the provisions of Article 1 paragraph 1 of Law No. 13 of 2003 on labor, employment is everything related to the workforce at a time before, during, and after the completion of the employment relationship. Labor is the object, namely everyone who is able to work to produce goods or services, for its own needs and others.

In accordance with the role and status of employment, required manpower development to improve the quality of the workforce, and with establishment of participation in the workforce for increased protection dan families in accordance with the dignity. It is very necessary for the protection of the workforce to ensure the basic rights of workers / laborers and ensure employment opportunities and treatment. without discrimination on any ground for mewujudkan welfare workers / laborers and their families with regard to the progress of the business world.<sup>5</sup>

Forms of labor protection in Indonesia that must be implemented by every businessman or companies that hire people to work for that company to be very concerned, namely the maintenance and improvement of well-being in the intent was held in the form of a guarantee so pesky labor of a general nature to be implemented or are basis, with bersaskan joint venture, familial and kegotong royongan as is listed in the soul and spirit of Pancasila and the Constitution of 1945.

Judging understanding employment agreement according to the Civil Code indicates that the relationship between employers and workers there was a relationship subordinates and superiors as well as their command authority which differentiate between employment contracts and other agreements. In the labor laws more general sense because it refers to the relationship between employers and workers memu at working conditions, rights and obligations of the parties. As well as the provisions of the law No. 13 of 2003 does not mention the form of the employment agreement, as well as on the duration of work.<sup>6</sup>

Based on the background of the problems mentioned above, then the problem can be formulated as follows: How does the outsourcing arrangement under the Act applicable? How legal protection for contract workers at PT. *Nawakara Perkasa Nusantara*?

## **Research Methodology**

The method used in the writing of this law that are normative, the law conceived as norms, principles or dogmas. This legal writing, research trying to do a legal interpretation grammatical interpretation is done by looking at the meaning of section in the law. Researchers conducted a sociological interpretation of the law, namely the interpretation made to face the fact that the will of emphasis on the science of law by holding a juridical aspects. The author conducted research including research into Descriptive Analytical focused on the issue that illustrates the provisions contained in the theory of the laws and regulations including the Regulations object of research, then do analytical against these regulations to seek answers to the problems posed.

## **2. Results and Discussion**

### **2.1 Outsourcing arrangements Based on the Law Applicable**

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<sup>5</sup> Asri Wijayati, *Hukum Ketenagakerjaan Pasca Reformasi*, Sinar Grafika, Jakarta, 2009, hlm 6.

<sup>6</sup> Husni Lalu, *Hukum Ketenagakerjaan Indonesia*, Raja Grafindo Persada, Jakarta, 2005, hlm 54-55..

In the Act does not explicitly mention the term outsourcing. But the understanding of outsourcing can be seen in the provisions of Article 64 of the Labor Act No. 13 of 2003, which said that outsourcing is a labor agreement made between employers and workers, which the company can transfer part of its work to other companies through job chartering agreements made in writing.<sup>7</sup>

The working relationship that occurs between labor and employers arising from the existence of an employment agreement is actually theoretically is a right of employers and the rights of workers to start or end. But for the workers of the law relationship with the employer always in a subordinate relationship or a relationship in which the workers' status is lower than the employer or the employer. For outsourced workers it gets even worse because the workers do not have a working relationship with the employer company.<sup>8</sup>

Implementation of outsourcing within a few years after the publication of Law No. 13 of 2003 on Labor still have many weaknesses; mainly this is due to the lack of regulations issued by the Government as well as inequities in the implementation of employment relationship between employers and workers. However, basically the practice of outsourcing can not be avoided by the employer especially by workers. That is because the entrepreneur with the enactment of Article 64 through Article 66 of Law No. 13 of 2003 on Labor, get the legalization impose outsourcing practices without regard to things that are prohibited by law.

Legal issues in the implementation of outsourcing among others caused by the differences in the interests of the parties. In the practice of outsourcing, there are three parties namely company law related employer, labor and outsourced workers receiver itself. Third-party interest in outsourcing is different. Employers expect the quality of goods or services is high with prices as low as possible. While the job receiver expects the quality of the goods or services of the highest with the lowest price. On the other hand, employers expect workers to do the work in earnest to produce maximum production, while employees expect work light with high income or wages.<sup>9</sup>

The pros and cons of outsourcing arrangements in the Act No. 13 of 2003 on Labor did not discourage legislators to regulate on the issue of outsourcing. That is because prior to the enactment of Law No. 13 of 2003 on Labor, more prevalent misuse of law in regulating labor relations and terms of employment between outsourcing company with workers. The application of Law No. 13 of 2003 on Labor which seeks to protect workers from the legal uncertainty in the employment relationship between the workers and outsourcing company still did not stop the problem outsourced workers, even on the one hand is increasingly becoming a choice employer to set up a working relationship with outsourced workers for reasons of cost efficiency, time and effort for employers.

Given the outsourcing business is closely related to labor practices, then Law No. 13 Year 2003 on Manpower is one of the implementing regulations outsourcing in Indonesia which is found in Article 64, Article 65 and Article 66.

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<sup>7</sup>H.Zulkarnain Ibrahim, *Praktek Outsourcing Dan Perlindungan Hak-Hak Pekerja*, Internet : Simbur Cahaya No. 27 Tahun X Januari 2005, hlm.80

<sup>8</sup>"Layoffs and State Protection Over Labor Rights," accessible from <http://www.pemantauperadilan.com> on August 15th, 2019.

<sup>9</sup>Healthy *Damanik* Outsourcing and Employment Agreement According to Law No. 13 of 2003 on LaborDSS Publishing, Jakarta, 2007, p. .95.

Some cases in PT. *Nawakara Perkasa Nusantara* (Nawakara) denial of the allegations related to the commitment made by the workers of outsourcing over the payment of wages, which could reap the issue recently. Based on interviews with Dino<sup>10</sup> as the Board of PT. *Nawakara Perkasa Nusantara* "The information was incorrect and not based on facts In the letter asserted, PT. *Nawakara Perkasa Nusantara* never committed irregularities in the implementation of the work as a provider of security services in PT SCG. "So once again we submit, the information is not true," a letter signed on 24 October. Previously, the workers who are members of the Federation of Forestry, Industry, Agriculture and Farming Confederation of Indonesian Prosperity Trade Union (F HUKATAN-KSBSI) held a demonstration demanding payment of the difference in labor costs after the transfer of security outsourcing. Post these actions, the SCG agreed and would grant the workers' demands. Nendar Admittedly, at the time of action, some of the workers' representatives to negotiate with the PT SCG, discuss issues and demands of the masses. In this case, questioned the mass difference post-transition workers' payroll outsourcing. "There is a difference in income far at the turn outsourcing July. From the statement of the Director of PT. SCG when the demands of the masses will be fulfilled and the contract with PT Nawakara will addendum, "said Chairman of the DPC F-HUKATAN KSBSI, Nendar Supriatna. Meanwhile, one security guard, Deden Indragandi admitted, before shifting the outsourcing company to PT Nawakara, the entire security was under PT. Private Guard. But after switching to PT Nawakara, our wages reduced. "We demand that the company consistent with the commitments that have been agreed," he said. Mass demands will be met and the contract with PT Nawakara will be addendum, "said Chairman of the DPC F-HUKATAN KSBSI, Nendar Supriatna.

Outsourcing arrangements Based on the Law Applicable are restrictions or even a rejection of the application of the statutory provisions regarding outsourced workers cannot be done despite how strong workers and unions of the federation units to fight. It is caused by the development of outsourcing itself stating that the areas of specialization, especially in terms of product development expertise of goods and services is growing development. Therefore impact the outsourced workers to work opportunities more widely.

## **2.2 Legal Protection for Labor Contract PT. Nusantara Perkasa Nawakara**

Law No. 13 of 2003 on Labor Article 1 paragraph 4 gives the sense Worker / laborer is someone who works for a wage or compensation in any form. This notion is rather common but broader meaning because it can include everyone who worked on anyone whether individual, partnership, corporation or other entity to receive a salary or compensation in any form.

In doing a deal there is a process to bind the parties occurring on one company. The process is done on company PT. *Nawakara Perkasa Nusantara* namely, first the stages of acceptance and supply on the workers. The workers / laborers follow the way of the worker's acceptance criteria as desired by the company, following receipt of such workers so they negotiate on salaries / wages in employment. If it has been agreed that the parties signed a labor contract called contractual stage. The last stage is the appropriate

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<sup>10</sup> The interview with Dino as the Board of PT. *Nawakara Nusantara Perkasa*, on August 5, 2019, at 10.45 pm.

parties to implement the agreement that has been agreed.

Generally speaking about the protection of workers have been regulated in Law No. 13 of 2003 on employment. But lately a lot of unrest in the community, especially on workers who perform work contract system. Unrest of the people arises because in reality there is a very noticeable difference in the livelihoods that received by workers with a contract system when compared to permanent workers.

In connection with the Labor Law has been explained that the contract system should only be done for temporary employment and should not be implemented for the work that is ongoing. It can be seen that PKWT system is a system that puts workers as temporary workers. This agreement relates relationship between workers in the framework of the implementation of a temporary employment.

PT. *Nawakara Perkasa Nusantara* is a national private company engaged in the provision of security consulting services that provide guidance to clients in representing and identify security issues. In carrying out their duties, PT. *Nusantara Perkasa Nawakara* require many employees to keep the assets of the client company PT. *Mighty Nawakara Nusantara* spread throughout Indonesia. There are several branch companies PT. *Nawakara*, to help the head office regarding the accommodation needs of the client company. For that we need an information system that can support data processing needs specific time employee labor agreements, and client data, so that the news in the branch office can immediately to the office center,

In the PT. *Nawakara Perkasa Nusantara* providing legal protection for employees about safety and health, if accidents PT. *Nawakara Perkasa Nusantara* will bear. It also provided protection of wages, working time, as well as protection for welfare. It is as set forth in Article 86 concerning occupational safety and health and Article 88 regarding the remuneration of Law No. 13 of 2003 on Manpower.

In the research shows that, weak supervision by the Department of Labor Regional against companies that conduct business activities that one indicator of why the company does not comply with the rule of law especially when it comes to the obligations of the employer to the worker. As well as the need for regulating clearly the period of implementation of the agreement and the work to be done by the workers.

Legal protection for contract workers at PT. *Nawakara Perkasa Nusantara* basically in implementation has not run as set out in legislation. The lack of protection regarding the duration of the employment agreement as to which of Article 59 paragraph (2) and (4) which states that PKWT cannot be made to work that is fixed and the period of more than three (3) years, with each year once carried out a contract extension. Interpretation in paragraph (7) stated that the violation of Article 59 paragraph (2) and (4) This will result in the void PKWT turned into PKWTT. In practice, this agreement occurred during the three (3) years with a contract extension once a year. Supposedly workers / laborers in this company has been a permanent employee, when seen from the labor law.

### 3. Closing

#### 3.1 Conclusion

- Outsourcing arrangements Based on the Law Applicable are restrictions or even a rejection of the application of the statutory provisions regarding outsourced workers cannot be done despite how strong workers and unions of the federation units to fight. It is caused by the development of outsourcing itself stating that the areas of

specialization; especially in terms of product development expertise of goods and services is growing development. Therefore impact the outsourced workers to work opportunities more widely.

- Legal Protection for Labor Contract PT. *Nawakara Perkasa Nusantara* is for contract labor in PT. *Nawakara Perkasa Nusantara* basically in implementation has not gone as stipulated in the laws. The lack of protection regarding the duration of the employment agreement as to which of Article 59 paragraph (2) and (4) which states that PKWT cannot be made to work that is fixed and the period of more than three (3) years, with each year once carried out a contract extension. Interpretation in paragraph (7) stated that the violation of Article 59 paragraph (2) and (4) this will result in the void PKWT turned into PKWTT. In practice, this agreement occurred during the three (3) years with a contract extension once a year.

### 3.2 Recommendation

- The assertion of the regulation concerning restrictions on the activities of what work can be carried out outsourced workers, the amount of wages that must be specified or at least if already established, known by workers before signing the employment agreement, which outline the main problem outsourced workers, in addition to the contract system for workers outsourcing which should be attributed to the existence of cooperation agreements between the company and the employer with the company that must be synchronized with one another; so will the ongoing certainty and guarantee of jobs for workers outsourcing can provide security for outsourced workers.
- The protection of the rights of certain contract-time workers in this agreement in the provision of wages every month has been fulfilled as stipulated by the company or according to labor laws. Workers laid off during the contract period did not get their rights such as getting compensation as stipulated in the legislation. The company should provide protection to the workers to meet the requirements in accordance with the rules.

### 4. References

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