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## RESEARCH ARTICLE

### IMPLEMENTATION OF JUSTICE IN THE NEGOTIATIONS OF COLLECTIVE LABOR AGREEMENT.

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#### Abstract

Workers / laborers are partners of employers who need each other. Trade Unions are organizations formed of, by and for the workers / laborers either in the company or outside the company, which is free, open, independent, democratic and responsible to fight, defend and protect the rights and interests of workers / laborers and improve the welfare of workers / workers and their families. Respect cannot be built with threats and violence. Obedience and respect have something similar, but different. Respect exists only in relationship built on mutual understanding and benevolence. Companies that promotes respect, will usually be more successful than simply put obedience and fear. freedom is not linked directly to individual rights, but the right of all nations. Apparently, the sentence to avoid individualism. However, freedom as a right of all nations is precisely based on the fairy humanitarian and justice. In conclusion, is that the right to liberty, first firmly attached to each individual as a human being. Everyone has the right to freedom not because of his nationality but because of humanity. If it is associated with the above description, it is supposed, that in the Collective Labor Agreement negotiations, the negotiating team who themselves union / labor unions and employers use the rights of freedom in negotiating as individual human beings. Because with the right to freedom as a fundamental right of each person is expected to hold negotiations without feeling pressured by any party.

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#### Background:-

In setting the new labor concepts used are industrial disputes, namely disagreements resulted in a conflict between employers or joint employers with workers for their disputes regarding rights, conflicts of interest, and disputes over termination of employment as well as disputes between trade unions / labor unions in one company.

As we know that labor regulations that is used now is Act No. 13 of 2003 on Manpower. Regulations can be known about the principles, objectives and nature. Regarding this principle can be found in Article 3, namely that manpower development was organized on the principle of integration through cross-functional coordination of central and local sectors. This principle is basically in accordance with the principle of national development, in particular the principles of democracy, the principle of fair and equitable. Since Law No. 13 of 2003 was passed, the practice of contract labor and outsourcing become legal and mushrooming. The impact of this working relationship is discrimination right to organize -based research conducted AKATIGA Bandung- that contract labor and outsourcing are prohibited from directly or indirectly to join a particular union or any union with the possibility of not extended the contract or not employed if joining a union workers. Consequently, a violation of core labor standards in the ILO Convention No. 87 on Right to Organize and ILO Convention 98 on the Right to Organize and Collective Bargaining.

**Problems:-**

“The extent of the implementation of justice in The Negotiations Of Collective Labor Agreement”?

**Discussion:-****1. Freedom of Association Without Difference:-**

Workers / laborers work as partners with entrepreneurs who need each other. Trade Unions are organizations formed of, by and for the workers / laborers either in the company or outside the company, which is free, open, independent, democratic and responsible to fight, defend and protect the rights and interests of workers / laborers and improve the welfare of workers / workers and their families.

Based on the Law of the Republic of Indonesia in 1945 mentioned Article 28, Freedom of association and assembly, issued thoughts with oral and written, and so on are set by law .In this discussion, what is meant by freedom of association without distinction is Equality or equality. Right to equality is ahak associated with recognition and respect for each person as an individual that has the same humanitarian dignity with others. Everyone has the right to equality. This means that everyone has the right to gain recognition, respect and equal treatment based on the dignity of his humanity. Everyone has the same right to be treated in accordance with their dignity as human beings. No man, for some reason, has a dignity higher or lower than others. Differences in the level of intelligence, skill, race, ethnicity, culture, religion, possessions (rich and poor), should not be used as an excuse for discriminating, subordinate, and exploitation of fellow human beings. Just as the value of freedom, the value of equality between man was located on the status and dignity as human beings. Each color of the Republic of Indonesia has the right of equality for humanity and not because of ethnicity or her religious, and other attributes. All citizens have equal rights, which equal to be respected and treated as a human being, among other things: mamiliki freedom, source of income and the ability to maintain and develop themselves in various areas of life (social, political, economic and cultural). Oppression, discrimination and subordination contrary to the value of equality. Related to Collective Labor Agreement negotiations, the description above is very clear, that the negotiating team is a form of equality between unions / labor unions with employers. Not that on the contrary, trade unions / workers felt depressed when the Collective Labour Agreement negotiations.

Respect for others is the best human value is priceless. Wherever and wherever we go, if we always acted respect and respect for others, then it will open the hearts of others and will turn respect us.

Respect cannot be built with threats and violence. Obedience and respect have something similar, but different. Respect exists only in relationship built on mutual understanding and benevolence. Companies that promotes respect, will usually be more successful than simply put obedience and fear.

**2. Freedom In Bargaining:-**

At first, the principle of freedom or freedom of association under Article 28 UUD 1945 (pre-reform) which reads, "Freedom of association and assembly, issued a verbal invitation thoughts and writings and so on are set by law". Article 28 is entirely not provide constitutional guarantees explicitly and directly, but simply stated will be set by law. However, after the reform, through the Second Amendment of the 1945 Constitution in 2000, the constitutional guarantee is expressly provided for in Article 28E paragraph (3) of the 1945 Constitution which states, "Everyone has the right to freedom of association, assembly, opinion and expression". Thus 1945 directly and expressly guarantees freedom of association or the association (freedom of association), freedom of assembly (freedom of assembly), and freedom of expression (freedom of expression), not only for every citizen of Indonesia, but also for means any person including foreigners residing in Indonesia.

Justification of the right of freedom of every citizen of the Republic of Indonesia is dignity as human beings. Justification is expressed in the preamble to the 1945 first paragraph: "that true freedom is the right of every nation and therefore, the occupation over the world should be abolished because it does not comply with peri peri humanity and justice". In this statement, the freedom not connected directly with individual rights, but the right of all nations. Apparently, the sentence to avoid individualism. However, freedom as a right of all nations is precisely based on the fairly humanitarian and justice. In conclusion, is that the right to liberty, first firmly attached to each individual as a human being. Everyone has the right to freedom not because of his nationality but because of humanity. If it is associated with the above description, it is supposed, that in the Collective Labor Agreement negotiations, the negotiating team who themselves union / labor unions and employers use the rights of freedom in negotiating as

individual human beings. Because with the right to freedom as a fundamental right of each person is expected to hold negotiations without feeling pressured by any party.

There is a difference of negotiations between Indonesia the Philippines and Australia. In the Philippines, the cooperation between trade unions / labor unions with employers in order to establish collective bargaining. There are forms of cooperation Labor Management Council. The rule in collective bargaining includes procedure and substance. The procedures for making collective bargaining begins with the submission of a proposal to establish a collective bargaining to entrepreneurs. The next ten days since being handed, employers must make additional answers. If a disagreement arises can be held a maximum of ten days from the date of the request. If the dispute is not resolved, then the Voluntary Labour Arbitration Council to intervene with invoke through conciliation. During the peace process in the council, the unions / labor unions are prohibited from taking any action that could interfere with or inhibit the initial settlement of the dispute. Time of completion in accordance with the rule is 60 days. The validity period is 5 years collective bargaining. After 3 years of implementation should be held a re-analysis of the substance.

Bargaining collective agreement in substance can be required any union security clause that includes agency fee, close shop, union shop and maintenance of membership. Other forms of cooperation workers / laborers with employers is Labor Management Council (LMC).

LMC is a council which entitles workers / laborers to participate in policy and decision processes that directly affect their rights, and provide benefits and welfare. In addition, LMC also for the purpose of promoting peace industrials. Members who sit in the LMC been by at least a majority of all workers / laborers. Full Board of Management is one of the voluntary body consisting of representatives of the workers / labor and management together hold a meeting to identify and resolve the issue-an issue that is related to the interests and needs together. Issue-matter in question is the problems that are usually not included in the scope of their collective agreement negotiations. The difference between the LMC by collective bargaining are:

**Table 1**  
**The difference between the IMC Collective Negotiation**

<b>LMC</b>	<b>Perundingan Bersama</b>
1. Focus on production activities: a joint venture to expand production	1. Focus distribution activities: division of production between the parties
2. Proactive: detect and prevent before the issue occurred	2. Reactive: resolve the issue after going
3. Position of win-win: on issues of mutual interest: welfare	3. Contrary: wages, fringe benefits, rights management prerogative

**Source: Asri Wijayanti, Hak Buruh untuk Berunding**

In Australia, there are guidelines for criteria that negotiations should be undertaken in good faith, that trade unions / labor and entrepreneurs attending and participating in meetings at reasonable times; disclose relevant information (other than confidential or commercially sensitive information) in a timely manner; responding to proposals negotiations with representatives of negotiations on a timely basis; give consideration and appropriate responses; refrain from doing injustice that undermines freedom of association or collective bargaining; recognize the results of the negotiations.

When compared with the above two countries, according to the authors, in Indonesia, bargaining at the enterprise level cooperation will be successful if it is based on proportionate liability by referring to the framework of partnership relations Industrial Pancasila.

Freedom of association is desired by the workers / laborers in trade unions / labor unions are not provided by the Government of the Republic of Indonesia for granted, but arises because of the development of the labor movement in Indonesia since colonial times until the release of Act 21 of 2000, concerning the Union workers / Trade Unions. The effectiveness of these laws in practice passed away back to the bargaining position of labor organization itself. Since decades, freedom of association for workers has been shackled. Labor organizations in Indonesia have broad impact include dulling of sound in its efforts to improve the welfare of workers.

The objective of establishing the union / labor union is a means to promote the interests of workers / laborers in creating harmonious industrial relations, dynamic and fair. Justice are intimately associated with the law. The negotiating teams both union / labor unions and employers still need to be questionable. Enterprises justice must be waged in all directions and corners, including trade unions / labor unions and employers

### **3. Obstacles in Negotiation:-**

Obstacles in the Collective Labor Agreement negotiations based on the testimony of Disosnaker Bontang is the implementation time and the involvement of top management on the part of employers who are usually held by a director. In addition to the lack of authority from the company provided to the entrepreneur there is also a lack of readiness from both unions / labor unions and employers before the peace negotiations (negotiation partners). Outside are two things that have been mentioned earlier, also their second negotiating team has not set up a comprehensive data and information in the discussion of the Collective Labour Agreement.

In general, the negotiating team from the employers is based on the letters from company directors. In such power is not mentioned explicitly authority authorizes employers in negotiations. Explicitly just mentioned, the board of directors authorized the company through a representative committee to negotiate a Collective Labor Agreement. The authorization may be suspected as one cause of delays in the negotiations Collective Labor Agreement.

The resistance of the negotiations is the aspect of time because of busy operations, so that the negotiating team of employers, representing companies often reschedule the negotiations Collective Labor Agreement. Meanwhile, if you pay attention to the structure of the negotiating outcome of the National Convention dated March 23, 2003, was formulated that the bargaining structure consists of: 1). Preparation phase; 2). Stage of manufacture; 3). Validation Phase and 4). Implementation Phase. At this stage of manufacture, it is mentioned that prior to the Collective Labour Agreement negotiations between unions / labor unions with employers, preparing order to be used as a reference in the preparation of the Collective Labor Agreement negotiations. Next in order is also required to determine the time and place-term aspects, costs and facilities and infrastructure of the negotiations. The purpose of the regulation of periods and places, and facilities and infrastructure costs is that the Collective Labor Agreement negotiations can be carried out quickly, effectively and efficiently. But in fact, the implementation of the Collective Labour Agreement negotiations always exceeded the time period that has been decided in order.

### **Conclusion:-**

Workers / laborers work as partners with entrepreneurs who need each other. Trade Unions are organizations formed of, by and for the workers / laborers either in the company or outside the company, which is free, open, independent, democratic and responsible to fight, defend and protect the rights and interests of workers / laborers and improve the welfare of workers / workers and their families.

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