



THE ROLE OF WORKERS UNION ON THE IMPROVEMENT OF TERMS OF EMPLOYMENT IN THE NEGOTIATION OF COLLECTIVE AGREEMENT AT PT. BANK CENTRAL ASIA: A CONCEPTUAL MODEL

Fritz Simon Saortua¹, Muchtar Luthfie², Noverdi Bross³

^{1,2,3}**Department of Management, Faculty of Economic and Business, Trilogi University, Jakarta, Indonesia**

ABSTRACT

This paper proposes a conceptual model in order to know the role of workers union on the improvement of terms of employment in the negotiation of collective agreement. The study is conducted at PT. Bank Central Asia. This paper is a descriptive qualitative approach. This qualitative study is use primary data obtained from interviews and secondary data obtained from literature reviews and the company documents. The qualitative analysis is done through the process of organizing, summarizing, and interpreting of the obtained data. Practicing this conceptual model would provide information about the role of workers union on the improvement of terms of employment in the negotiation of collective agreement.

KeyWords

Workers Union, Terms of Employment, Collective Agreement, Conceptual Model

INTRODUCTION

Workers unions are sustainable and permanent democratic organizations that are voluntarily formed from, by, and for workers as a mean to protect and defend the rights and interests of workers as individual workers will not be able to protect and fight for their interests and rights; freedom of assembly and association, protection from unemployment, protection from discrimination, obtaining equal agreement for education and training, promotion and appreciation, improvement in the conditions and terms of employment, and so on. They can achieve it only through the union of workers because workers unions have the full authority to state the interests and rights of its members and representing their views, opinions and willingness, especially to improve the conditions and terms of employment through collective agreement along with management.

Collective agreement can only be done by employers/employer organizations on one hand and the other by a representative of organization of workers or representatives of workers in order to negotiate the conditions and terms of employment (ILO Recommendation No. 91 paragraph 2, of the Convention of ILO 98 Article 4).

When thinking about the workers, we do not only think about themselves but also their families. Difficult conditions that is being experienced by workers; illness, losing promotion or position, suspension or layoffs will impact their family as well. Aside acting as a negotiating institution, workers union are also a social institution.

Every decision made by the management/employer will always affect the workers. Workers unions have the right to know the draft of decision that will be taken by providing input or pressure and influence the policies if the impact is disadvantaging for workers. Workers at PT. Bank Central Asia also use their right to form a union that fight for the welfare of workers in the company.

LITERATURE REVIEW

Article 1 of Law 21 of 2000 explains that workers unions are organizations formed from, by and for workers both in companies and outside companies, which are free, open, independent, democratic, and responsible for fighting for, defending and protecting rights and the interests of workers and improving the welfare of workers and their families. A workers union at a company is a workers union established by workers at one company or at several companies. A workers union outside the company is a workers union established by workers who do not work in the company.

In order to realize freedom of association, workers have the right to form and develop workers union that are free, open, independent, democratic, and accountable. It is stated in Article 5 of Law Number 21 of 2000 on workers union, that every worker has the right to form and become workers union members, where a workers union is formed by at least 10 (ten) workers.

There are many advantages for workers who are union members, especially if the union at the company is affiliated to a union federation and a workers union confederation. For example, workers union members will receive training programs to improve their work skills and self such as negotiation skills training, training in making collective labor agreement, and others. In addition, union members will also get legal assistance when there are problems with companies related to law and the fulfillment of their rights as workers.

Workers union aim is to provide protection, defend their rights and interests, and promote adequate welfare for workers and their families. To achieve this goal, workers union has the following functions:

- a. as a party in making collective agreement and resolving industrial disputes;
- b. as workers' representatives in a cooperation institution in the field of workers according to their level;
- c. as a means of creating harmonious, dynamic and fair industrial relations in accordance with applicable laws and regulations;
- d. as a means of channeling aspirations in fighting for the rights and interests of its members;
- e. as the planner, executor, and person in charge of workers' strikes in accordance with applicable laws and regulations;
- f. as worker representatives in fighting for the ownership of shares in the company.

Article 1 of Law Number 13 Year 2003 explains that employment relations are relations between employers and workers based on work agreement, which have elements of work, wages, and orders.

According to Article 1601a Code Civil which referred to the collective agreement, it is an agreement in which the parties are single, workers bind themselves to work on the other, the employer, during a certain time to receive a wage. Whereas according to Article 1 number 14 of Law 13 of 2003, the meaning of collective agreement is an agreement between workers with employers or providers of work that contains terms – the terms of work, rights and obligations of the parties.

The existence of an employer means that there is an employer-worker relationship. This means that there are those who are ordered and those who carry out orders. Hence, there is an unequal position. One ordered and the other told to. This is different from doctors and patients where there is equal status. This is also shown on the contract of employment or work contract between the employer company and the contracting company. Workers are getting paid not in wages but service fees.

Agreement could be born from approval and for legislation. In a work agreement, an agreement that occurs is born because of the existence of consent where there is one party that gives the achievements or results of the work while the others provide wages. On a side note, collective agreement sometimes show specificity of the content of the collective agreement as it is not allowed to be lower than the normative rules that are contained in the regulation law of employment or the terms of work are contained in collective agreement or Company's regulations.

Work agreements are made on the basis of:

- a. agreement of both parties ;
- b. the ability to carry out legal actions ;
- c. the promised work exists ; and
- d. jobs that are contrary to the agreement for example to the public order, decency, and regulations that apply.

Collective agreement that were made by the parties are at odds with the provisions, then it can be canceled and invalidated by law.

In Indonesia, the rules regarding the rights and obligations of employers and workers loaded in the new regulation. The regulations are specifically defined in the Act No. 13 on 2003 on Labor or more commonly abbreviated as Employment Law. Through this guideline, it is expected to minimize the imbalance between the rights and obligations of employers and workers who have the potential to cause problems.

Article 1 Verse 21 of the Law on Labors states that the collective agreement is an agreement that is resulted from all of negotiations between the union or some unions registered in the responsible government agency in the field of employment with the employer, or several employers or employers associations that loaded the requirement terms of employment, rights, and obligations of both parties. Collective agreement negotiations must be based on good purpose and free will of both parties and be held by deliberation for consensus. The duration of the collective agreement negotiations is determined based on the agreement of the parties and is set out in the negotiating rules.

The formulation of a collective agreement is carried out by deliberation. In the event that the deliberation does not reach an agreement, the settlement shall be carried out through the procedure for resolving industrial relations disputes. Employers must serve workers union that submit requests in writing to negotiate the Collective Agreement with the provisions if the workers union has been registered under Law Number 21 of 2000 on Workers Union and meet the requirements for making Collective Agreement.

Each company can only have one collective agreement that can be made to apply to all workers in the company, both certain work duration agreement and uncertain work duration agreement.

The validity period of the collective labor agreement is no more than 2 (two) years from the date of signing or other provisions in the collective agreement, which can be extended for a maximum of 1 (one) year based on a written agreement between the employer and the union. In the event that the collective agreement negotiations do not reach an agreement and the validity period of the collective agreement extension has expired, the applicable collective agreement is the previous collective agreement, until the new collective agreement is agreed upon.

The subsequent negotiation for the establishment of a collective agreement can begin at the earliest 3 (three) months before the end of the current collective agreement.

In determining the negotiating team for the making of the collective agreement, the employer and the workers union appoint a negotiating team as needed, with a maximum of 9 (nine) people each with full power. The collective agreement negotiating team members who represent the union must be workers who are still bound in a work relationship at the company. The place of negotiation for the collective labor agreement is held in the office of the company concerned or the office of the workers union or in other places in accordance with the agreement of both parties. The costs of negotiating the making of a collective labor agreement are borne by the employer, unless agreed by both parties.

Negotiations on the making of a collective agreement, which did not reach an agreement, leads one of the parties or both parties recorded it to the agency that held the affairs in the field of labor for settlement. Settlement by the agency is carried out in accordance with the mechanism of industrial relations dispute resolution as regulated in Law Number 2 of 2004. The agency resolves the said dispute based on a written agreement from the workers union that negotiated with the employer.

Collective labor agreement contain at least:

- a. name, place of residence and address of the union;
- b. name, domicile and address of the company;
- c. number and date of registration of the union at the regional work unit in the district/city labor sector;
- d. employer's rights and obligations;
- e. rights and obligations of workers union and workers;
- f. the period and date the collective agreement becomes effective; and
- g. the signatures of the collective agreement makers.

The collective agreement is signed by the directors or leaders of the company, which are the chairman and secretary of the

union at the company. In the event that a Collective Agreement is signed by a representative of the board of directors or a representative of the company's leadership, a special power of attorney must be attached.

CONCEPTUAL MODEL

Based on a literature review has been done, conceptual model that can be generated in this study is as follows:

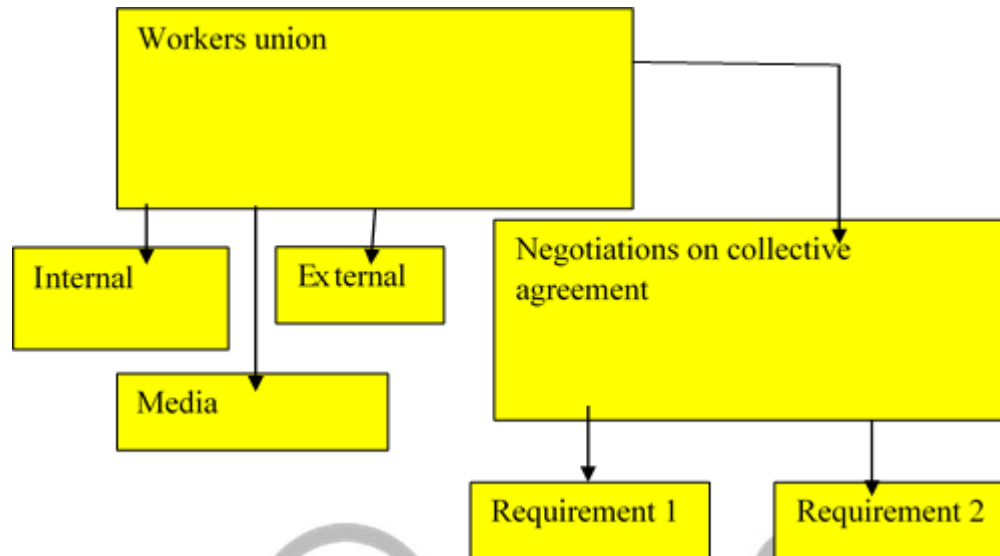


Figure 1. Conceptual Model

METHODOLOGY

This study uses a descriptive analysis approach. This analysis collects data then averages and graphs data but does not include analysis using hypothesis testing of statistical tests. The study will be conducted in PT. Bank Central Asia in Jakarta. The sample were used in this study are employees or workers of the company. In this study, the samples used are not limited because the purpose is to obtain information.

This research process is descriptive qualitative in nature is to track and organize systematically the data material collected from various qualitative data collection techniques such as interview transcripts, field notes, participant observation, or other materials. The purpose of this process is so that a researcher can present meaningful information in his research findings. The steps that researchers take in collecting data are organizing, summarizing, and interpreting.

CONCLUSION

This paper proposes a conceptual model to understand how workers union affects the term of employment in a collective agreement negotiation in a company by using qualitative descriptive approach. This research will do at the PT. Bank Central Asia. Introduction, literature review, conceptual model, research methodology, and conclusion are discussed. Practicing this paper instantly would provide information about the role of labor union on the improvement of terms of employment in the negotiation of collective agreement at the PT. Bank Central Asia.

REFERENCES

- [1] ILO. 1951. R091 – Collective Agreements Recommendation. Geneva: ILO
- [2] Undang-Undang Nomor 13 Tahun 2003. Ketenagakerjaan. 25 Maret 2003. Lembaran Negara Republik Indonesia Tahun 2003 Nomor 39. Jakarta.
- [3] Undang-Undang Nomor 21 Tahun 2000. Serikat Pekerja/Serikat Buruh. 4 Agustus 2000. Lembaran Negara Republik Indonesia Tahun 2000 Nomor

131. Jakarta.

© GSJ