

# The Effect of Labour Union Advocacy as a Determinant in Creating Harmonious Industrial Relations: An Indonesian Case Study

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This research has a purpose about work relation is a relation between labour and employer that was established after work contract signed. For the relationship between labour and employer are not always harmonious as sometimes disagreement arises when dealing with labour law. It begins with a work contract that individualistic between labour and employer. Although, labour and employers strive together for well-being and company growth, there are also potential conflicts of interest due to both sides interpret and perceive labour law differently. Advocacy on Law No. 21 of 2000 is necessary to resolve conflicts in the company due to not harmonious industrial relations. This research purpose find out and analyse determinant influences to help labour unions achieve harmonious industrial relations. Moreover, to identify determinant factors that influence labour union to achieve a harmonious industrial relations. This research was used phenomenology approach and follows such as labour union, company management, and head of labour department. This research also used descriptive qualitative analysis with interactive models. The results are labour union advocacy has a significant effect on increasing labour union performance through sustainable professional development, bipartite, tripartite, and PHI advocacy. Eventually, advocacy determinants consist of education level, communication, openness, infrastructure facilities and industrial relations. This research has

limited scope and focuses on labour union advocacy; therefore the subject can be developed with further research.

**Key words:** *Advocacy, Labour Union, Industrial.*

## Introduction

Labour development has many dimensions and correlations, which not only consist of the workforce before and after the period of work but also correlations with employers, government and society as a whole. Therefore, comprehensive arrangements are needed, including human resource development, productivity, and improving Indonesian labour competitiveness, in order to expand employment opportunities, employment placement services and industrial relations development. One of the manifestations of labour development is the establishment of labour law. The limitation/definition of labour consists of a set of regulations, both written and unwritten, also related to an event in which a person works for someone else by receiving wages.

The working relations between employee and employer is not always harmonious, including disagreements regarding labour law. Work relations are between employees and employers that occurs after an employment agreement has been signed. There are several factors that can result in the termination of employment, such as:

1. Termination due to law
2. Termination by the employer
3. Termination by the employee
4. Termination due to a court ruling

Regulations regarding workers' rights and obligations are structured through individual work agreements. A work agreement is carried out at the time of recruitment, including provisions regarding appointments, probation, salary (wages), available facilities, responsibilities, job descriptions and job placement. On the other side, workers and employers benefit from the survival and progress of the company, but also address any potential for conflict, especially regarding various perceptions or interpretations. Industrial relations involve a number of concepts, for example justice and equality, strength and authority, individualism and collectivity, rights and obligations, as well as integrity and trust.

Meanwhile, the main function of government in Industrial Relations is to establish or compile labour laws and regulations. Therefore, the relations between workers and employers are harmonious and balanced, based on fair arrangements of rights and obligations. Furthermore, the government is also obliged to resolve disputes or conflicts fairly. Basically, the government can maintain continuity of any production process for the

sake of broad interests. In accordance with the Chinese government, which has a great influence on the amount of wages, and government intervention also has an influence on a harmonious industrial relationship. Chinese labour/employment conditions are consistent with the situation in Indonesia, where the government formulates regulations and policies regarding employment/labour to protect some workers and entrepreneurs (Wei et. al., 2019).

The ultimate goal of regulating Industrial Relations is to increase the productivity and welfare between workers and employers. These two goals are interrelated, and have an influence on each other. Company productivity that begins with work productivity is only possible if the company is supported by workers who are prosperous and continue to improve their future welfare. Meanwhile, the welfare of all parties, especially workers, can only be realized if it is supported by company productivity, or if there is adequate increase in productivity, which meets employer expectations. Prior to being able to achieve an expected level of productivity, all parties involved in the production process, especially the head of company, need to create supportive working conditions. Based on the above description, labour union advocacy is urgently needed to resolve problems that arise within companies caused by disharmony in industrial relations. Therefore, it is necessary to understand and analyse determining factors that influence the success of labour union advocacy and subsequently to create harmonious industrial relations in order to improve the performance of labour unions in Indonesia.

## **Theoretical Basis**

### ***Definition of Advocacy***

Advocacy in employment is an activity or a series of actions in the form of recommendations, assistance, statements and defense carried out toward workers / members of a certain condition / problem. An advocacy activity for the implementation of Law No.21 of 2000 includes the following activities:

#### **1. Advocacy to create Collective Labour Agreements (PKB)**

PKB is a written agreement in Indonesian. which is made jointly between the employer and labour union registered by the agency responsible for labour affairs. An advocacy process to create a Collective Labour Agreement is as follows: once a labour union has been formed at a company, it has the right to apply for a Collective Labour Agreement (Lee et. al., 2017). Objectives can include:

1. Reinforcing and clarifying the rights and obligations of workers and employers.
2. Strengthening and creating harmonious industrial relations within a company.
3. Strengthening some conditions of employment in a harmonious industrial situation and labour relations that have not been regulated through legislation.

Advocacy includes any activities that accompany workers to create a draft PKB, which contains the terms of work, rights, and obligations of companies and workers, the period of validity for the Collective Labour Agreement and procedures for collective bargaining agreements. The parties involved in advocating the making of PKB are represented by HRD/Personnel managers, while labour unions are represented by chairpersons and other administrators. Advocacy is carried out by the union until they obtain endorsement from the Manpower Office. The effectiveness of the labour union advocacy role towards implementation of Collective Labour Agreements has a great influence on the formation of harmonious industrial relations. As PKB is the legal basis that workers and companies must adhere to, both parties can be fulfilled. The interests of both parties will lead to job satisfaction and harmonious industrial relations. (ASRI WIJAYANTI, S.H., 2003) and article 124 (1) Law No.13 of 2003; Law No.13 of 2003 regulated in articles 115-135; Decree of the Minister of Manpower and Transmigration RI: No. Kep.48 / MEN / IV / 2004 concerning procedures to create and ratify company regulations and registration of collective labour agreements). Consequently, Thailand's policy on protection becomes the government's responsibility (Wilhelm et. al., 2020); (Wels, 2020). Meanwhile, in Italy, employment regulation cannot be conducted in deciding the amount of wages (Bottalico, 2019).

### ***Bipartite Advocacy***

Bipartite advocacy is a form of assistance also carried out by labour unions, when a dispute occurs between labour unions and companies, whether the dispute is normative or of interest at the company level.

Example: 1) Violation of UMK (City Minimum Wage) committed by a company, which is a violation of **Article 90 paragraph (1)** of Law No. 13 of 2003 concerning Manpower (UUK) states: "Employers are prohibited from paying wages lower than the minimum wage as referred to in Article 89" and Article 185 paragraph (1) of the UUK which states: "Anyone who violates the provisions referred to in Article 42 paragraph (1) and paragraph (2), Article 68, Article 69 paragraph (2), Article 80, Article 82, **Article 90 paragraph (1)**, Article 143, and Article 160 paragraph (4) and paragraph (7), are subject to imprisonment sanction for a minimum of 1 year and a maximum of 4 years with a minimum of Rp100,000,000 (one hundred million rupiah) and with a maximum of Rp400,000,000 (four hundred million rupiah). Advocacy from labour unions is to report violations committed by companies to PPNS and PPNS follows up on the matter to the state prosecutor's office.

2) A violation of the BPJS (Social Security) by a company where is not committed, which is in violation of Law Number 24 of 2011 concerning social security contained in Article 17 paragraph. (2) It concerns administrative sanctions in the form of fines, written warnings

and lack of public services. Advocacy from labour unions is to report violations committed by companies to PPNS, and PPNS follows up on the matter to the state prosecutor's office (RI, 2011).

### ***Tripartite Advocacy***

Tripartite advocacy is assistance provided by labour unions when disputes occur between labour unions and companies, whether disputes are normative or of interest at the Manpower level.

#### **Example: 1) Unilateral Termination of Employment**

A company conducts the violation of terminating employment unilaterally, so a union advocates for workers who are dismissed in accordance with applicable laws and regulations. Advocacy is carried out in the form of advocating for any employee to be able to return to work. However, if unsuccessful then the union will fight for the rights of workers who have not been offered severance pay, a period of appreciation and compensation in accordance with Law No. 13 of 2003, articles 150, 156-158.

#### **2) Violations of Hiring Contract Employees - Continuously**

A company commits a violation by continuously employing employees with contract employee status, which violates Law No. 13/2003 articles 65-66. Advocacy is also carried out by labour unions to support workers' rights to be appointed permanent employees at both bipartite and tripartite levels. If unsuccessful then proceed to the PHI level.

### ***PHI Advocacy***

PHI advocacy is carried out by labour unions when the results suggest the Manpower Office (mediator) is not in line with expectations. Moreover, the union will follow up by filing a lawsuit with PHI in accordance with Law No. 2 of 2004. An advocacy process by the company union is created at the bipartite level after mutual agreement as a joint agreement between the union and the company in accordance with article 7 Law No. 2 of 2004. If no agreement is made, the next step will proceed in accordance with article 13 of Law No. 2 of 2004 (Nasution, 2017).

#### **Example: Unilateral Termination of Employment**

Unilateral Termination of Employment is carried out by the company of employees who are union administrators, on the grounds of violating work discipline. Advocacy carried out by labour unions is to support union management, so they can be re-employed (Bipartite). However, if the company still decides to terminate employment, the union reports the

company's actions to the Disnaker (Tripartite). If the decision made by the Manpower Office is not in line with the union's expectations, eventually, a case will be escalated to the PHI level until the employee gets his or her rights back or is rehired.

### ***Definition of Labour Union***

Labour unions are organisations formed by workers/labourers both in and outside companies, which are free, open, independent, democratic and responsible for supporting, defending, and protecting the rights and interests of workers/labourers to improve their and their families' welfare (Law No. 21 of 2000 article 1:1) Labour unions also function as mediators for companies and workers (Mukherjee & Wang, 2013), (Streeck & Planck, 2015). Labour union advocacy is urgently needed when there are disagreements between workers and companies that cause industrial disputes, so unions are expected to be effective mediators in advocating for workers and companies (article 103 of Law No. 13 of 2003). If no agreement is reached between two parties, it will be settled through PHI at the tripartite level (Law No.2 of 2004).

In this case, before it reaches a consensus, the labour union conducts a rally that can play a role as a bargaining tool. In Israel, an industrial action (strike) must be informed by the labour union to their company and police force at least two weeks before a meeting. Justifications for strikes must also be communicated to companies through a strike permit letter. A specified time span and rules are intended to create a good relationship between workers and their management before the strike/rally is conducted. It is expected that conflict resolution can be achieved by way of deliberation to reach consensus in the industrial relationship. The consensus for labour-related conflict in Israel parallels Indonesia, either through the bipartite or industrial relationship court (Afik et. al., 2018).

### ***Definition of Harmonious Industrial Relations***

According to Law No. 13 of 2003, industrial relation is defined as a system of relations formed between parties in the production process and/or services consisting of employers, workers/labourers and the government based on Pancasila values and the 1945 Constitution of the Republic of Indonesia (Quinn & Cahill, 2017), (Lazear & Shaw, 2007) and (Trant & Brekken, 2018).

Therefore, to create a balance of interest between workers, employers and government, effective and correct advocacy is needed. The implementation of advocacy is also influenced by any creation of high determinants on advocacy, including high levels of education, communication, openness and infrastructure. Education level and gender for labourers have a significant influence on the amount of wages in the U.S. This is unparalleled with the basic

wage amount in Indonesia as the country determines its wage amount from the sum of economic growth and inflation level, multiplied by the previous year's wage amount (Callaway & Collins, 2017).

It must also be supported by professional advocates who can work well together in resolving industrial relations disputes. Thus, it can be concluded that higher and more correct forms of advocacy activities have been created on the implementation of Law No. 21 of 2000 (Gunarto, 2011).

### **Research Method**

The research uses a qualitative descriptive study with a phenomenological approach. According to Nasution, (2007) qualitative descriptive research uses descriptions to provide a clearer picture of social situations.

### ***Research Location***

The research was conducted in East Java with participants including labour unions, management and manpower office.

### ***Source of Data***

Data was obtained from primary sources such as interviews with participants, triangulation of data to obtain validity, and secondary data including documents, labour laws, and observations in the field.

### **Discussion**

#### ***Factors Affecting the Success of Labour Union Advocacy***

Factors influencing success in advocating the implementation of Law No.21 2000 include:

#### ***Communication***

The main key for success is creating a safe and dynamic industrial relation through effective communication. Maintaining good communication is indeed not easy and requires special attention. Both workers and employers will greatly benefit from maintaining regular communication. Positive interaction between workers and employers also supports effective communication.. If maintained regularly and continuously, this kind of interaction creates mutual understanding and trust, which will in turn be dominant factors in creating in business and industry. Communication workers can be used to discover the company

condition and future prospects. In addition, some workers can also express their views to improve company performance, which needs to be responded to positively by management, at the same time acknowledging and appreciating workers who care about the fate of the company.

Meanwhile, communication management or entrepreneurs must have a positive value. In addition, involvement or participation of workers in the company and management's awareness of employees' needs are also important considerations. Thus, management can take steps to solve problems early and prevent problems from increasing.

Communication is not only possible by the work unit/HR leadership (executive director, managers, or division managers, etc.) but all company staff. Therefore, human resource development and in particular industrial relations, must be a concern for leaders at every level. As a result, industrial relations need to be understood by all levels of leadership, not only human resource leaders or personnel. Moreover, harmony in work and business are important goals for creating safe and dynamic industrial relations, which are reflected through indicators of a dynamic work relationship between management and workers or labour unions.

Another definition of communication is the delivery of any ideas and information in organisations also known as systems. Internal communication is very important for an organisation. Several previous studies have outlined that communication also relates to media in management. According to these studies, there are four areas of internal communication, including business, management, corporate and organisation. Internal communication can also be seen from the stakeholder approach (Welch & Jackson, 2014), which includes internal management, internal team of peers, internal projects of peers and corporate internal. Internal management is focused on employee participation and its impact on internal communication such as meetings and discussions. Therefore, the effect between communication at the organisational level is emphasised, such as fellow employees (internal) and consumers, suppliers, government and other stakeholders (external).

Communication strategies consist of oral or written contact between two or more people that can lead to understanding a problem. There are four communication flows in practice by a company:

- a. Downstream communication: This model of communication is used as a vehicle for the management of delivering various information to subordinates, such as orders, instructions, directions and reprimands.
- b. Upstream communication: This model of communication takes place when company members require their superiors to listen to their complaints or inspirations.

- c. Horizontal communication: This communication model takes place between people at the same level in a company.
- d. Diagonal communication: This model of communication takes place between two work units that are on different levels, but in similar companies.

### ***Education***

Advocating the implementation of Law No. 21 of 2000 requires fairly educated human resources from the labour union. Having better educated labour unions will result in better understanding of labour laws, and easier to relate to difficulties faced by both employees and companies, thus unions that have a higher level of education will be more flexible in accepting complaints from workers or companies and better communication to resolve industrial relations by deliberation and consensus. Unions learned to adopt rational, open and communicative principles. By having union members with a higher level of education, the union can be an effective partner for the company which will facilitate the interests of both the labour and the company. If there is an industrial relations dispute, it is expected to be resolved at the bipartite level by deliberation to reach consensus. Under these conditions, labour unions can play a role in building harmonious industrial relations and can support the welfare of employees while achieving company goals. If the conditions of harmonious industrial relations are achieved, they will improve the performance of labour unions.

Furthermore, harmonious industrial relations can create a system of relations between some parties in the production process by companies, employees, and the government which is one of the important factors to improving working conditions, quality, productivity and competitiveness.

### ***Openness***

The Japanese labour union advocacy group plays an essential role in influencing the wages of some laborers.' High level of education, excellent communication and the openness of the labour union can influence company policies and increase its annual wage amount, which also increases company costs due to the significant annual increase in wages (Chino, 2016). Therefore, a lack of openness in a company management system often leads to negative perceptions of employees.. Even industrial relations disputes are often caused by negative employee perceptions of the company.

Employees also assume that company management is not open, often hiding profits obtained by the company, or other forms of corruption. In this case, when a company claims to be at a loss, employees maintain that the volume of production continues to grow each year, therefore company profits should also increase. Employees also do not receive a

significant increase in income with an increase in company profits. Thus, the employee might decide that the company is unfair and less attentive to improving employee welfare. As a result, workers rally to demand increases in salaries, bonuses and benefits. The act of rallying will cause an adverse impact, so the production process will stop running and the company will suffer loss.

On the other hand, there is a sense of "fear" from the company to improve employee welfare through an increase in the provision of salary/wages, bonuses and benefits as the company is also afraid of workers' demands. This condition shall not occur if there is mutual openness between employers and labour, in the sense that if the company does experience significant profit increases, it is obliged to pass it on to employees. Therefore, a company is obliged to support employee welfare by raising salaries, giving additional bonuses and benefits. However, if the company has experienced a decline in profits, this should also be communicated openly to the employee. Moreover, an employee should understand the challenges of work and take responsibility for keep a company alive and contributing to it by increasing employee performance, productivity, discipline and efficiency in all fields. Therefore, company challenges can be resolved. In this case, companies and employees are have positive synergies. In addition, some companies must also be open to the existence of labour unions and have mutual trust between companies and employees in industrial relation disputes (YN/Head of DPW PPI/5 September 2018/16.00-20.00).

### ***Facilities and Infrastructure***

Facilities and infrastructure are significant supporting factors that will affect the continuity, ease, and success of a union in running the organisation. Unavailability of infrastructure, such as an office space for the union's work unit within a company will limit the union's ability to carry out its organisational activities. Unions cannot properly receive employees unless they have adequate office space. Receiving complaints from employees in an inadequate space will cause discomfort for both unions and employees who will feel negativity towards the company.

Therefore, a company is obliged to provide adequate office space facilities and infrastructure for unions, so that both the union and employee feel valued and recognised by the company. Some facilities and infrastructure are provided by a company in the form of transportation equipment with trade union officials who carry out organisational activities outside the company. With transportation facilities provided by a company, the union will facilitate, and expedite the capability to attend union meetings conducted outside the company.

Facilities and infrastructure are not provided by a company for unions due to fears that may be abused by the union (Y/Head of PUK RTMM PT.Jacobis/10 September/16.00-20.00).

It can be concluded from the above description that some determinants of advocacy for the implementation of Law No. 21 of 2000 can create harmonious industrial relations in order to improve the performance of labour unions follows:

1. Communication

Communication between the labour union, company and employee in resolving labour issues, so that any labour union advocacy will be more successful in resolving industrial relations disputes.

2. Education

Higher education level of the union, competence and understanding regarding the union and employee labor legislation will result in more flexibility when dealing with all situations and conditions of employment.

3. Openness

Increased openness of the company towards labour unions and any condition of the company's ability to provide labour will increase employee awareness towards accepting any company condition and be more responsible towards company sustainability.

4. Facilities and Infrastructure

More adequate company facilities and infrastructure provided by unions, such as office space and transportation will also increase comfort in the organisational activities of unions and develop loyalty towards the company.

5. The relationship between harmonious industrial relations the performance of labor unions and companies. The establishment of harmonious industrial relations will improve the performance of both the labor union and company.

***Labour Union Advocacy in Creating Harmonious Industrial Relations***

To create harmonious industrial relations, there must be a balance between the interests of employees, companies and the government. On the other hand, employees work to earn wages while companies can strive for income and the government assists companies as producers of goods and services. Therefore, a different approach has occurred in the United States, where the labor union's advocacy groups are powerful and have a strong bargaining position to negotiate and obtain access to the results of company financial audits. As a result, these audit results can be utilized to increase the wealth of employees and their family members.

In Indonesia, it also quite challenging to obtain an audit report because there are no rules for regulating the rights of labour unions and accessing a company's financial statement. Labor unions experience difficulties in obtaining proper wages that can improve their wealth based on the considerations of a company's financial reports (Bryan, 2017).

Therefore, effective and accurate is required in balancing employee, company and government interests. This is consistent the below statement of a participant:

The existence of labour unions in the workplace is very helpful in bridging opinions between employees and companies, which is necessary to identify certain gaps in an organisation and the existence of labour unions that are beneficial for both parties, as regulated by Law No.21 of 2000 concerning the workforce. Labour unions make a positive contribution and hopefully, someday they will truly become a channel for assisting employee and company aspirations. Some benefits of unions include the provision of a standard monthly salary with a number of allowances, and health benefits provided to employees, as well as other relevant employee rights. Perhaps, one suggestion for labor unions is the regeneration of organisations which employ numerous senior members who already have families, so that they are unable to carry out union tasks in an optimal fashion (EY / Owner of PT.Baladhika Majapahit Mojokerto / 22 April 2018 / 09.00 - 13.00).

Another statement by Rukilah, SPSI PT Cigarette Sriwijaya supports the opinion of some labor union advocacies to be able to create harmonious industrial relations summarised as follows:

Labour unions in each company can support each other and protect the rights of employees so that their rights can be fully protected. Any problems can be discussed with the aim of finding a solution and an increase in wages can be discussed without a demonstration through a labour union. If the company is already considerate, employees should not be too demanding, and must be able to make a positive contribution to the company. Therefore, a company may consider an employee's request without need for conflict. Employees and companies must be open to be able to maintain the appropriate policy can be practiced as the culture of the company, so it can be mutually beneficial (SPSI PT.Cigarette Sriwidjaja / 30 April 2018 / 16.00 - 18.00).

Harmonious industrial relations can be achieved if each party who becomes an advocate can be "air" and open to feedback, respectful, and communicate effectively. Unions must be wise in understanding particular work situations, regarding labour conditions and regulations. A company must openly accept labor unions support them in mediating in the interests of the company and employee. Therefore, companies also implement labour laws especially Law No. 13 of 2003 and Law No.21 of 2000 properly and accurately. The labour

office becomes the agency in charge of labour which can provide training and technical guidance to a maximum extent between employees and companies. The labour office is able to create conditions and minimize the suspicion of labour and companies to a manpower office. Some examples also occur in Italy, where the labour union's role is dominant in creating efficiency in the company regarding their role as mediators between employees and the company. Therefore, union enthusiasts must educate members to work optimally and push down production costs, so that a product's price can compete in the international market. This also parallels the Indonesian's labour union role in being effective mediators either for a company or employees to create a harmonious industrial relationship (Devicienti et. al., 2017).

### ***Harmonious Industrial Relations to Improve Labour Union Performance***

Performance represents an achievement regarding the implementation of a program for any activities or policies to achieve goals, objectives, vision, and the mission of an organisation as outlined through strategic planning. Performance can be measured by an individual or group of employees, which follow criteria or standards of success set by an organisation. Therefore, without any set goals and targets the performance of a person or organisation may not be understood as a benchmark for success. In Japan, labour union advocacy groups can increase workers' performance. Therefore, increasing labour union performance can later improve a company's productivity and profitability. In accordance with Indonesian conditions, some determinants of the labour union's advocacy group influence co-operative industrial relationship through a positive effect that increases the harmonious industrial relationship, and also increase a company's performance in terms of productivity and profitability (Morikawa, 2010).

Some factors that influence labour include:

#### **1. Effectiveness and Efficiency**

The effectiveness on an organisation can be measured by goals achieved in accordance with plans, so efficiency can be related to the amount of sacrifice incurred in achieving some goals.

#### **2. Responsibility**

Responsibility is an inseparable part as a result of authority ownership.

#### **3. Discipline**

Discipline follows applicable laws and regulations. Labour discipline involves employee obedience by respecting work agreements.

#### **4. Initiative**



A person's initiative is also related to the power of thought and creativity in the form of ideas to achieve organisational goals. Each initiative should be appreciated by appropriate superiors.

The aforementioned factors must be carried out by advocates of the implementation of Law No.21 of 2000 at the time of advocacy to support the creation of sustainable professional development. If sustainable professional development is achieved through deliberation to reach consensus, it can be carried out properly and correctly by the company and employees. Labor union advocacy is urgently needed to build sustainable professional development to achieve harmonious industrial relations, which also affects the performance of labour unions, because a company can accept any function of labour unions as a mediator between companies who protect the interest of employees, improve the welfare of employees and their families and improve company performance. Thus, it can be concluded that a higher level of harmonious industrial relations correlates with the performance of labour unions (Geger, 2013).

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