

THE APPLICATION OF THE PRINCIPLE OF BALANCE IN LEGAL PROTECTION OF THE IMPLEMENTATION OF WORK AGREEMENTS: THE MECHANISM OF WORK AGREEMENTS IN AUTOMOTIVE SECTOR COMPANIES IN INDONESIA

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Abstract

This labor problem is quite complex especially in terms of implementing work agreements. Work agreements made between employers and workers prone to conflict, especially if there are problems with Termination of Employment, wages and conflicts of interest. The arrangement of the work agreement itself is contained in Article 56 up to Article 66 of Act Number 13 of 2003 concerning Employment but for the author the provision is still imperfect considering the format of the work agreement itself is not clearly regulated even though this provision is very important to protect workers' rights. Based on this, the author raised the contents of this study around the issue of work agreements and supervision of the implementation of work agreements, especially Unspecified Time Work Agreements and Specific Time Work Agreements. According to Article 1 number 14 of Act Number 13 of 2003 concerning Manpower ("Manpower Law"), the definition of a work agreement is an agreement between workers/laborers with employers or employers that contains the work conditions, rights and obligations of the parties. An Unspecified Time Work Agreement stipulated in Article 60 of Act Number 13 of 2003 concerning Manpower is a work agreement that can require a period of employment of no longer than 3 (three) months. In the probationary period referred to in paragraph (1), employers are prohibited from paying wages below the applicable minimum wage. Whereas legal protection in work agreements with automotive sector companies in Indonesia as stipulated in Law Number 13 of 2003 concerning Manpower aims to ensure a harmonious working relationship between workers/laborers and employers without any pressure from strong parties to weak parties.

Keywords: *Association of Balance, Work Agreement, Automotive Sector in Indonesia*

INTRODUCTION

Employment agreement, is one kind of agreement, because it is in the making can not be separated from the terms of the validity of a treaty in general. In its formation is necessary for an agreement, ability or skill to act against the law, their job the agreement that does not conflict with public order, decency, and legislation and the existence of a lawful cause.¹ Employment agreement must also be based on the principle of consensual, the principle of binding an employment agreement and the principle of freedom of contract.²

According Nieuwenhuis, there are three types of the principles of the treaty, namely the principles of autonomy, ie the authority to hold a legal relationship they choose among them, the principle of trust that is the confidence generated in the agreement, which needs to be protected (the principle of protecting the parties acting in good faith) and the principle causes, namely the

¹Rusli, Hardijan. *Hukum Ketenagakerjaan*, (Bogor : Ghalia Indonesia. 2011), hal. 52

²Henry P. Panggabean, *Penyalahgunaan Keadaan Sebagai Alasan (Baru) untuk pembatalan Perjanjian (Berbagai Perkembangan Hukum di Belanda)*. (Yogyakarta : Liberty, 2001).

interdependence in a way and purpose in connection with the engagement arising from perjanjian.³ principle of attachment (dependency) for an engagement to submit to rechtsregel (laws) that have been there, although there is freedom of contract.

Employment agreement as stipulated in Article 52 of Act Nomor 13 of 2003 on Labor is a copy of Article 1320 KUHPerdata⁴ namely:

- (1) A work agreement is made on the basis of:
 - (a) The agreement of both parties;
 - (b) The ability or competence to perform legal acts;
 - (c) The work of an agreement; and
 - (d) The contracted work does not conflict with order general, ethics, and laws and regulations in force.
- (2) A work agreement made by the parties to the contrary with the provisions referred to in paragraph (1) a and b can be canceled.
- (3) A work agreement made by the parties that contradict the provisions referred to in paragraph (1) c and d null and void.

Issues to be examined in the Writing of this Dissertation through Research on the Application of Law in the Work Agreement. The provisions in an agreement can be inappropriate or unfair if the agreement is formed in an unequal relationship or condition. If improper or unfairness occurs in an unequal relationship between the parties, this condition is called Undue Influence. While if injustice occurs in an unbalanced state (not relationship), then this is called unconscionability.⁵

The judge can interfere with an agreement because of the existence and to declare the existence of the Undue Influence, the plaintiff must Undue Influence be able to prove the relevant relationship and after that it is proven to be the defendant's obligation to be able to prove that he did not benefit and the relationship exists or in other words the defendant must prove that the transaction was made improperly or unfairly.

Research on the application of the principle of balance in legal protection to the implementation of work agreements: the mechanism of employment agreements in automotive sector companies in Indonesia, will answer the research question is How is the legal politics in the existence of statutory provisions governing employment agreements after independence? What about legal protection in employment agreements with automotive sector companies in Indonesia? and how are the principles of balance and protection in law related to compensation in the implementation of work agreements?

METHOD

Type study is a type of legal research normatif⁶ namely legal research aimed to examine the legal synchronization in its implementation in the field. In this case study the provisions of Law Undang No. 13 of 2003 on Labor relating to the implementation of labor agreements with the application of the principle of balance in terms of the perspective of justice theory, legal theory, especially the theory of natural law and legal theory of positivism.

The data source used in this study is secondary data from Primary Legal Materials, Secondary Legal Materials, and Legal Materials and as an effort to be able to answer or solve the problems raised in this study, then qualitative data analysis methods are used, because the data obtained are Qualitative statistical data are not needed. After data collection, an analysis is carried out so that conclusions can be drawn that can be scientifically justified.

RESULT RESEARCH AND DISCUSSION

Legal Politics The Existence of Legislation Regulating Labor Employment Agreements After Independence

Law No. 13 of 2003 concerning Manpower which is still valid today has been in force for at least 13 (thirteen) years as a reference for labor relations other than Law No. 21 of 2000 concerning Trade

³*Ibid*, hal 8

⁴Hardijan Rusli, *Hukum Ketenagakerjaan. Loc.,Cit.* hal. 52

⁵Hardijan Rusli, *Hukum Perjanjian Indonesia dan Common Law.* (Jakarta: Pustaka Sinar Harapan, 1993), hal. 113.

⁶Penelitian terhadap asas hukum dilakukan terhadap kaidah-kaidah hukum, merupakan patokan-patokan yang berperilaku atau bersikap tidak pantas. Penelitian terhadap asas-asas hukum merupakan suatu penelitian filosofis, oleh karena asas hukum merupakan unsur ideal dari huku, Soerjono Soekanto, *Pengantar Penelitian Hukum.* (Jakarta: UI Press, 1984), hal. 42.

Unions/Trade Unions and Law No. 2 of 2004 concerning Industrial Relations Disputes. If you look at the composition of the Manpower Act is divided into 18 (eighteen) Chapters and 193 (one hundred ninety-three) Articles.

For a dozen years of the existence of the Manpower Act in Indonesia is not a journey of a regulation that is not without obstacles from the pros and cons of differences in its application as one of the legislative products among three important elements in it namely the workers/laborers, employers/employers and the government. There are at least 15 (fifteen) filed the judicial review to the Constitutional Court diverse societies throughout 2003 (during enforcement) until 2016.

Test material or what we hear as the Judicial Review is an attempt to examine the provisions of both chapter and verse contents of a product of a law against the 1945 Constitution of the Constitutional Court as one of the state institutions of judicial authority reserves the right to interpretation of the laws against the Constitution 1945, which also has the final decision.

National law labor agreement regulating the employment begins at Soekarno in Early Reign of Independence is by increased consciousness of the workers will be a personal right which needs to be fought the socio-economic field. RIS Parliament during his inauguration speech on 15 Pebruari 1950 President Sukarno promised that within 2-3 months will be proposed draft law in the field of labor, among other things Agreement Employment and labor protections.

Politics of Labor Law in Indonesia have yet to find a clear and explicit form. Political permanent employment law (Constitution RI Tear 1945, the values of Pancasila and customs) has existed since the beginning independence, but its application was influenced by the political constellation in any regime it. Political law enforcement dimension may encourage the formation of the legal nuances of elitist, held for the purpose of supporting the regime, therefore the politics of law should be based either on the basis of policy and enforcement policy in a rational and balanced, so that the implementation of these regulations to accommodate the interests of all parties.

Legal Protection in Work Agreements at Automotive Business Sector Companies in Indonesia

In general, legal protection for workers/laborers has been regulated in Law Number 13 of 2003 concerning Manpower. But lately, there has been a lot of unrest in society especially about workers/laborers doing work under the contract system. The unrest of the community arises because in reality there is a very striking difference in welfare received by workers with a contract system when compared with permanent workers.

In reality, currently, in the midst of the unrest of the community, there are many companies that have a tendency to use workers with the contract system and are generally carried out through third parties or known as labor service providers. So a company that needs new workers to work in its company can ask the company providing labor services to find workers/laborers in accordance with the criteria they want.

Workforce protection as set out in Constitution Number 13 of 2003 on Labor aims to assure a harmonious working relationship between workers/laborers with employers without pressures from the strong to the weak. Therefore, employers are socio-economically have a strong position required to help implement the provisions of such protection in accordance with the legislation in force.

Natural labor agreement at the company's automotive sector in Indonesia, namely automotive industry is one of the leading sectors that continue to be prioritized development as instrumental to the growth of the national economy. Moreover, Indonesia is still the main destination country for investment in the automotive industry sector.

According to the Minister of Industry report, the national production of four-wheeled vehicles reached 1.1 million units per year with exports 200 thousand units per year. Whereas, for the production of two-wheeled vehicles to reach 6.5 million units per year with exports 228 thousand units per year. Furthermore, the automotive industry has been absorbing as many as three million people in Indonesia and, targeting total national production of four-wheel vehicles in 2020 amounted to 2.5 million units.⁷

At present Indonesia is a country that is so attractive bagi industry automotive. Dith a population of over 250 million people (per 2015), the country is not inexhaustible so "fertile field" to profit. Referring to data from the Association of Indonesian Automotive Industries (Gaikindo), until recently the "players" in the automotive industry amounted to 34. They consist of a sole agent, distributor, and manufacturing, not including players in the two-wheeler sector.

With so in terms of legal protection need to recognize the importance of worker/labor for companies, governments, and society to guarantee the welfare of workers,⁸ it is necessary to ideas so

⁷*Ibid.*

⁸Abdullah Sulaiman, *Jaminan Sosial Tenaga Kerja*, (Jakarta: Program Magister Ilmu Hukum

that workers can maintain safety in carrying out the work. In order to maintain safety and run the job workers/laborers shall enjoy the protection of labor, the protection of labor is intended to guarantee the basic rights of workers/laborers and ensure similarity, opportunity and treatment without discrimination on any basis whatsoever for the welfare of workers/laborers and family with regard to the progress of the business world.

Potential protective work can be done either by providing guidance, assistance, and by increasing recognition of the rights human, social and physical protection of the economy through norms apply at the company. Protection work can be done either by providing guidance, assistance, and clearly increasing recognition of the rights of human, social and physical protection of the economy through the norms prevailing in the company, thus, theoretically known by three different types of protection work, is as follows:

1. Social protection, which is a protection in relation to the business community, whose aim is to enable the worker/laborer his life got good and develop as people in general, and in particular as a member to people's family members. This protection is also called occupational health.
2. Technical Protection, which is a type of protection with regard to efforts to keep the workers/laborers to avoid the danger of accidents that can be caused by work tools or materials that do. This protection is more often referred to as workplace safety.
3. Protection of economical, which is a type of protection with regard to efforts to provide workers/laborers a income is sufficient to meet the daily needs for him and his family, including in the case of workers/laborers are not able to work because of something beyond his will. This type of protection is usually referred to as social security.

Third type of work protection above will be described as follows.⁹

1. Occupational Health

Occupational health as stated above is included in the type of social protection because the provisions regarding occupational health are related to social, that is, rules which contain restrictions on the power of employers to treat workers/workers "as they wish" without regard to applicable norms, by not seeing the workers/laborers as creatures of God who have human rights.

2. Work Safety

Work safety is included in the so-called technical protection, namely the protection of workers/laborers in order to survive the dangers that can be caused by working tools or materials that are done. In contrast to other work protections which are generally determined for the benefit of workers/laborers, this work safety not only provides protection to workers/laborers, but to employers and the government.

3. Social Security

Social security can be interpreted broadly and can also be interpreted narrowly. The broad meaning of social security covers a variety of businesses that can be carried out by the community and/or government, namely efforts in the form of prevention and development, namely businesses in the fields of health, religion, family planning, education, legal assistance, and others which can be grouped into social services. So a labor social security which is a protection for workers in the form of compensation in the form of money (work accident insurance, death, and old age savings), and health services in health care insurance.

According to the authors, the balance as a principle has not become an *ius constitutum* (positive law) in the field of employment agreements. But as a doctrine of balance, it can provide guarantees of legal certainty because employers and workers are in a balanced position (*ius constituendum*). In practice based on the author's research, the balance between workers and employers has never been found, meaning that the balance in the making of an employment agreement has never been realized. This is based on the results of the study found that the employment agreement was made unilaterally by the employer without involving prospective workers (standard of contract), even in its journey the employer often changes the implementation of the contents of the agreement, especially for workers who are undergoing probation, even mutation or rotation employment against permanent workers is only because according to employers the workers no longer have the same understanding (there is a dislike of the employer to the worker).

Balance in protection related to compensation from the company

1. Principle of Balance and Protection

Jeremy Bentham's famous as one of the leading law Utilitarianism, was born in London in 1748. Bentham lived during the changes in the social, political and economic. The industrial revolution with

Pascasarjana Univ. Islam Jakarta, 2011), hal. 1.

⁹*Ibid.*

the social and economic changes that massive him up, as well as French and American revolutions at all reflect the mind Bentham. Bentham legal thinking more or less inspired by the work of David Hume (1711-1776) who was a thinker with exceptional analytical skills, which break down the theoretical foundations of natural law, in which the core teachings of Hume that something useful will give you happiness. On the basis of these ideas, then Bentham build a comprehensive legal theory on the foundation that has been laid Hume's principle of benefit. Bentham is a radical figure and persistent fighter for law dikodifikasikan, and to overhaul the law which for him is something that is chaotic. He is the originator and leader of the benefit stream. According to the nature of happiness is a pleasure and a life free from misery. Bentham said that; "The aim of law is The Greatest Happiness for the greatest number".

Bentham known as Utilitarianism individual, which states that the merits of an action will be measured whether the act was to bring happiness or not. Bentham tried to apply it in the field of law that legislation where both the poor is also determined by the size. So many laws that give happiness to the greatest part of society will be judged as a good law. Therefore, it is expected that the legislators should establish laws that are fair to all citizens on an individual basis. Further Bentham argued that the existence of the state and the law solely as a means to achieve the ultimate benefit is the happiness of the majority.

Bentham's teachings are known as individualist nature in which the eyes move at a great attention to the interests of the individual. According to the law first of all give happiness to individuals not directly to the community. However Bentham taking the interests of the community. To that end, Bentham said that the interests of individuals who do one with another individual interests do not collide it must be limited so that the people that one does not become prey for other individuals (*homo homini lupus*). Moreover, Bentham stated that in order for each individual to have an attitude of sympathy with other individuals so that the creation of individual happiness is by itself the happiness of society will be realized.

2. Balance and Justice

- a. Principle of Balance As ethical principle
- b. Principle of Balance As juridical principle

3. Legal Protection

In running and provide legal protection needed a place or container in practice are often referred to by means of legal protection. Means of legal protection is divided into two kinds which can be understood as follows:

a. Means Preventive Legal Protection

This preventive legal protection, legal subjects are given the opportunity to file an objection or opinion before a decision is government got a definitive shape. The aim is to prevent disputes. Ppotential protective preventive law is of great significance for the acts of government based on freedom of action due to the absence of legal protection preventive compelled government to be cautious in making decisions based on discretion. In Indonesia there are no special arrangements regarding preventive legal protection.

b. Repressive Legal Protection Means

Potential protective repressive laws aimed at resolving the dispute. Handling of legal protection by the General Court and Judicial Administration in Indonesia, including the legal protection of this category. The principle of legal protection against government action rests and comes from the concept of recognition and protection of human rights because, according to the history of the west, the birth of the concepts of recognition and protection of human rights directed to the restrictions and placement of public liability and the government.

1) Role of Government

The role of government is one of the important keys in many matters relating to employment. Planning for Labor And Employment Information. In the context of, the government sets policy and develop a sustainable workforce planning, workforce planning that includes macro and micro workforce planning and employment information prepared on the basis that, among others;

- a) Population and labor;
- b) Employment opportunities;
- c) Training of employment including job competence;
- d) Labor productivity;
- e) Industrial relations;
- f) The condition of the working environment;
- g) Wages and labor welfare;

h) Social security workers.

Job training is organized and directed to equip, improve, and develop work competencies in order to increase the ability, productivity, and welfare by taking into account the needs of the labor market and the business world, both inside and outside the employment relationship organized based on training programs that refer to work competency standards and can be done in stages. Job training is carried out by government job training institutions and/or private work training institutions and is held in training places or workplaces and can work with the private sector. The Central Government and/or Regional Governments conduct work training and apprenticeship training aimed at increasing the relevance, quality, and efficiency of conducting work training and productivity carried out through the development of a productive culture, work ethic, technology, and efficiency of economic activities, towards the realization of national productivity.

Every workforce has the same rights and opportunities to choose, obtain, or changed jobs and earn a decent income inside or outside the country. Job placement is implemented based on the principle of open, free, objective, and fair and equal opportunity without discrimination. Job placement is directed to place workers in the right position according to the expertise, skills, talents, interests, and abilities with regard dignity, dignity, human rights and legal protections are carried out with due regard to equal employment opportunities and labor supply in accordance with the the needs of national and regional programs. Employers who need to recruit its own workforce manpower needed or through implementing employment.

Workforce placement by implementing referred done by providing employment placement services that are integrated in a job placement system that includes the following elements:

- a) Job seekers;
- b) The job vacancies;
- c) Labor market information;
- d) Inter-work mechanism; and
- e) Institutional employment.

Element job placement system as mentioned can be carried out separately devoted to the realization of employment. Implementing employment referred to consists of:

- a) The government agency responsible for labor affairs; and
- b) Private institutions are legal entities.

Private employment placement agencies as referred to in carrying out placement services are required to have written permission from the Minister or his representative. Implementing employment of government agencies responsible for workers referred to may not charge a placement fee, either directly or indirectly, in whole or part to the work force and the labor force. Private employment placement agency can only charge the employment of manual labor and of labor groups and certain positions as determined by the Minister.

The government is responsible for seeking to expand employment opportunities both inside and outside the employment relationship by working together with the community to work towards expanding employment opportunities both inside and outside the employment relationship. All policies both central and local government in every sector directed to realize the expansion of employment opportunities both within and outside the employment relationship. Financial institutions both banking and non-banking, and businesses need help and provide facilities for any community activities that can create or develop the expansion of employment opportunities. The expansion of employment opportunities outside the employment relationship is done through the creation of productive and sustainable activities to leverage the potential of natural resources, human resources and appropriate technology made by pattern formation and development of self-employment, the application of labor-intensive systems, application of appropriate technology, and efficient use voluntary labor or other patterns that can encourage the creation of employment expansion. Government set employment policies and the expansion of employment opportunities and community jointly oversee the implementation of the policy referred to. In carrying out the tasks referred to may be established coordinating body with representatives of the government and the public. All provisions regarding the expansion of employment opportunities, and the establishment of a coordinating body referred regulated by Government Regulation. the application of labor-intensive systems, application of appropriate technology, and efficient use voluntary labor or other patterns that can encourage the creation of employment expansion. Government set employment policies and

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2) Role of Unions

Trade unions were formed by workers to ensure that the position and their rights as workers can be balanced with the obligation that they do for the employer. In relation to employee and employer or employers, there is no doubt that the position of workers is higher and sometimes it results in abuses by employers against workers.

To reduce and face the possibility of arbitrariness, workers should have a bevy any usually called unions. Union, workers can unite so as to balance their positions with employers. Therefore natural that every person has the right to join a trade union of his choice is free to join, promote and protect its interests. the state allowed a reasonable restriction to this right, to protect others.

There is essentially no workers' organizations in the form of trade unions or Serikat Labor is to carry out one of human rights, namely freedom of association and assembly as well as the issuing of mind which in turn is expected to fulfill the basic rights of workers to a decent wage, without discrimination in the job or occupation, their social security, protection and supervision of good work, and so on.

In Law No. 21 of 2000 spelled out what the objectives of trade unions/labor unions is to provide protection and protection of rights and interests, and to improve the well-being eligible for workers/laborers and their families. The role of trade unions in voicing the aspirations and participation in development basically including the right to development. Participation in development implies that individuals and groups will enjoy the results of development with the right of association is guaranteed. Conceptually it is through union/labor union is expected that;

- a) Can participate effectively in the formulation of policies and decisions and their implementation both at the local and national level. so that their aspirations are truly addressed;
- b) Formulate and carry out economic, social, political and cultural tasks based on their own choices based on wisdom wisdom to improve the standard and quality of life they also preserve and develop their culture;
- c) Participate in monitoring and reviewing the development process.
- d) The implications of the existence of Law No. 21 of 2000 concerning trade unions/labor unions are:
 - 1) For government agencies in the national and provincial labor sector: administrative regulations include: receipt of notification of union formation; ensuring union registration requirements are met; issuing registration number; and storing and updating union registration data;
 - 2) For workers and unions: understand their rights and obligations with respect to notification; develop

- 3) AD/ART of the organization; proper administration and financial reports; and the role of the union in representing members in making PKB and resolving industrial disputes;
- 4) For entrepreneurs: understand their obligation not to participate interfering in the formation or operation of unions, or discriminating against union members and administrators, and in dealing with new unions in all industrial matters and negotiations.

In industrial relations at the enterprise level, many institutions that can be used as a means to develop cooperation. Two of them are the most important is to establish a bipartite cooperation institution and create a Collective Labor Agreement (CLA) of course, assuming the company has been established unions.

(1) Bipartite Cooperation

Cooperation agencies Bipartir is a body at the level of the company or production unit formed by the workers together with employers. Bipartite members appointed under an agreement and expertise. Bipartiti institute a forum for consultation, communication, and consultation with the main task as a media application in the industrial relations practices of daily life performance, particularly in terms of efforts to improve labor productivity, peace of work and effort, as well as increased employee participation in setting the work.

(2) Collective Labor Agreement (CLA)

Employment agreement together are oriented institutional participation in the efforts to preserve and develop the harmony of labor relations, business and prosperity. Based on the expected role of collective bargaining perjanjian tersebut organisasi workers and employers/employers' organizations in formulating jointly work requirements must be grounded characterize the attitudes of openness oriented forward, kinship, mutual cooperation, deliberation and consensus, as well as responsible for the implementation of the agreement has been made.

(3) The Fair Wages and Decent

Fair pay and adequate remuneration are able to appreciate someone for achievement and devotion to the company. Fair wages are the remuneration given by taking into account education, experience and skills of a worker. The living wage is a wage that can provide life assurance in meeting the needs of workers with the whole family, both material and spiritual needs.

(4) Education and Training

Han association of industrial require not only a change of mental attitude and social behavior of the perpetrators, but also the knowledge and skills in the field of technical management and management of the company. Therefore, companies that want to be ready to compete in the free market must also prepare the conception of lifelong education and training at his company.

(5) Build Communication

Build communication motivation development by explaining to employees what to do, how they work, and what can be done to improve performance in order to improve the quality of work.

Asovereign, when elements of resilience company has been running well, it will be able to prevent social unrest. The main purpose industria relationship, wants to create peace efforts, increase productivity and improve the welfare of workers and rank in accordance with human dignity. Harmonious and sustainable relationship, will throw away the concept of balance or contention. Furthermore, to be cultivated are industrial relations to increase productivity, togetherness, decency and fairness. Therefore, the parties would not be against each other in production, fixed mutual respect, understand and liabilities in the production process, and help each other to increase the added value of the company, in the face of free competition.

3) Role of Entrepreneurs

In Article 1 paragraph 5 of Law No. 13 of 2003 on Labor explain Entrepreneur against;

- a) An individual, partnership or legal entity that operates a self-owned enterprise;
- b) An individual, partnership or legal entity that independently operates a company not its own;
- c) An individual, association or legal entity located in Indonesia represents the companies referred to in letters a and b domiciled outside the territory of Indonesia.

Functions of employers and entrepreneurs:

- a) Creating partnerships;
- b) Develop a business;
- c) Expanding employment opportunities;
- d) Providing the welfare of workers/laborers in an open, democratic and fair manner.

Industrial Relations Dispute Settlement:

- a) Industrial relations disputes are disagreements that resulted in a conflict between employers or employers combined with workers or unions, because of the dispute about the rights, interests and disputes over termination of employment, as well as disputes between trade unions within one company;
- b) Should be implemented by employers and workers/laborers or union/labors in deliberation. (Article 136 of Law No. 13 of 2003);
- c) In the case amicably untukmufakat settlement is not reached, the employers and workers/laborers or union/labor resolve industrial disputes through industrial dispute settlement procedure regulated by law;

Settlement of industrial relations disputes and termination of employment are settled in stages, starting from;

- a) The level of the Company or bipartite
 - (1) Through negotiation deliberation, performed a total of three (3) times within a maximum period of 1 (one) month and every negotiation is made treatise delivered to the parties concerned;
 - (2) Made a written agreement signed by the parties and witnessed by a union or other worker organizations;
 - (3) If there is no agreement then the dispute is referred to the level of intercession, namely through arbitration or through the offices of the Department of Labor with pemerantaraan.
- b) The level of Mediation (must be completed at the latest within 30 days, under Article 9 of Decree No. KEPMENAKER No. KEP 15A/MEN/ 1994);
 - (1) Through Arbitration,¹⁰ is a binding settlement of a dispute by a person or a body chosen by the parties to the dispute. Arbitral would be legally enforceable as a decision of the central committee after being passed by the central committee, and the verdict can not be requested for re-examination or in other words have the nature of a final and binding. (Article 19-21 of Law No.13 of 2003);
 - (2) Through the Department of Labor's Office, no later than 7 days employees intermediary (Department of Labor) must have conducted instrumentality, including efforts to conduct research and solution of the problems that are normative through labor inspectors conducted deliberation;
 - (3) When reaching the settlement agreement, then made a mutual agreement in writing signed by the parties and known/seen by an employee of an intermediary. Within 7 days already must continue to panitai area (or to the central committee to the question of termination of mass);
 - (4) If it does not reach an agreement then the intermediary employee must make a written recommendation that includes the settlement proposal stating the basis for its consideration. The parties submit responses to these recommendations no later than 7 (seven) days of receipt of such recommendations;
 - (5) When you receive a suggestion then made a mutual agreement in writing and no later than 7 (seven) days must have been forwarding to the local organizing committee (or the central committee for mass layoffs);
 - (6) If the recommendation is not dietrima the employee intermediary reports pemerantaraan II in full form so as to provide a clear overview of the pnyelesaian case.
- c) The level of the Regional Committee, received a written consent of the parties have reached an agreement on the settlement of industrial disputes, a report submitted to the regional committee (central committee) with a copy of the local Department of Labor office area.;
- d) The level of the Central Committee, received the written consent of the parties have

¹⁰Abdullah Sulaiman, *Arbitrase Perburuhan*, (Jakarta: Program Magister Ilmu Hukum Pascasarjana Univ. Islam Jakarta, 2013), hal. 70-72.

reached agreement on the settlement of industrial disputes, especially regarding the mass layoffs, reports are submitted to the central committee.

Balance in employment agreement of the parties described must fulfill and implement the agreement in a balanced and there is no element of coercion. Employment law (Law No. 13 of 2003) set as a legal basis industrial relations and engineered to maintain order, as well as social control, primarily provide the right foundation for the perpetrators of production (goods and services), as well as projected employment law legal umbrella for the tool in building partnerships. It is expressly provided for in Article 102 (2) and (3) of the Act. No. 13 of 2003). This provision is seen as a rule of law that must be obeyed parties (without any further explanation of what is meant by the meaning of the partnership). Glance in the provisions of Article 102 (3) of Law No. 13 of 2003, states that: "... the entrepreneur has the function to create a partnership..." It is not given concrete clarity for general industrial society lay in understanding the provisions of the law.

Likewise with respect to Article 102, paragraph 2 of Law No. 13 Tear in 2003 that essentially workers in the conduct of industrial relations is obliged to carry out the work in the continuity of production, promote the company, and the other side accepts the right of an appreciation in carrying out their duties, in addition to perform other functions, through the union to fight for the welfare of members and their families to remain maintaining order and continuity of production of goods and/or services and seeks to develop skills and promote the company. Implicitly it is a form of participation of workers in keikutsertanya maintain order, promotion of companies, as well as the welfare, but this editorial is less understood by the parties, thus meaning even less their concern, particularly on the part of employers.

If the meaning is understood as a partnership, it will be removed from the various private interests. In contrast, if the industrial society understood as the rule of law that must be obeyed without a strike of government in accordance with Article 102 (1) of Law No. 13 of 2003, and understanding as a cornerstone in building a partnership, only disobedience in building partnerships no legal sanctions are binding for the parties. This is an obstacle in creating a partnership.

Related to balance and protection of the compensation is the entire remuneration of employees for the work of the employee in the organization. Compensation can be either physical or non-physical and must be calculated and provided to employees in accordance with the sacrifices that have been given to the organization/company where he worked.

Company in providing compensation to workers in advance by calculating performance by creating a fair appraisal system performance.¹¹ Such systems generally contain criteria assessment of each employee who is for example, from the number of jobs which can be completed, the speed of work, communication with other workers, behavior, knowledge of the work, and so on.

Employees may calculate the performance and sacrifices himself with compensation. If employees are not satisfied with the compensation obtained, then he can try to find another job that gives better compensation. It is quite dangerous for the company when competitors hire/plow disgruntled employees because it can divulge confidential company/organization.

Good compensation will have some positive effects on the organization/company as follows below:

- a. Get good quality employees
- b. Encouraging workers to work harder and achieve brilliant achievements
- c. Attract quality job applicants from available job openings
- d. Easy to implement in administration and legal aspects
- e. Having more advantages than competitors/competitors

To develop employment thoroughly and integrated program aimed at increasing and independence of workers or laborers, improving work agreements and company regulations, guaranteeing welfare, protecting work and freedom of association.¹²

The most important thing to achieve labor welfare is the issue of wages, although the wage component consists of salaries and other benefits, the increase in wages here means that the increase in salary in general is always adjusted to the development or monetary

¹¹Abdullah Sulaiman, *Kesejahteraan Buruh*, (Jakarta: Program Magister Ilmu Hukum Pascasarjana Univ. Islam Jakarta, 2007), *Op. Cit.* hal. 92.

¹²Abdullah Sulaiman, *Kesejahteraan Buruh*, (Jakarta: Program Magister Ilmu Hukum Pascasarjana Univ. Islam Jakarta, 2007), hal. 1.

policy. The magnitude of the increase in income-welfare in general or salary adjustment with the development of the ability of the economic-monetary conditions is determined based on the results of negotiations between the Indonesian Workers Union (SPSI) with the Indonesian Employers' Association (Apindo) in general and specifically an internal unit of the company.

In the Work Agreement of PT. D Compensation has several benefits, such as transportation allowance, position allowance, housing allowance and many more. There are several benefits, such as transportation allowances, position allowances, housing allowances and many more. Based on the statistics of average salary income for the Production/QC/Staff/Executive/Officer level ranges from a minimum of 5.53 million and a maximum of 7, 15 million.

CONCLUSION

Based discussion of the issues that have been raised, can be summed up as follows below:

1. Politic legal existence of the statutory provisions governing the employment agreement employment after independence have yet to find a clear and explicit form. Political permanent employment law (Constitution of Republic of Indonesia Year 1945, the values of Pancasila and customs) has existed since the beginning of independence, but its application was influenced by the political constellation in any regime it. Political law enforcement dimension may encourage the formation of the legal nuances of elitist, held for the purpose of supporting the regime, therefore the politics of law should be based either on the basis of policy and enforcement policy in a rational and balanced, so that the implementation of these regulations to accommodate the interests of all parties.
2. Potential protective labor laws in the agreement on the company's automotive sector in Indonesia as it has been regulated in Law Number 13 of 2003 on Labor aims to assure a harmonious working relationship between workers/laborers with employers without the pressures of a strong party to the weaker party. Therefore, employers are socio-economically have a strong position required to help implement the provisions of such protection in accordance with the legislation in force. In a labor agreement in the automotive sector company in Indonesia, namely automotive industry is one of the leading sectors that continue to be prioritized development as instrumental to the growth of the national economy. Moreover, Indonesia is still the main destination country for investment in the automotive industry sector. Protection work can be done either by providing guidance, assistance, as well as by improving the recognition of human rights, economic social and physical protection through the norms prevailing in the company. Protection work can be done either by providing guidance, assistance, and clearly improved recognition of human rights, economic social and physical protection through the norms prevailing in the company. The three types of protection work that consists of; Occupational Health, Safety, and Social Security. compensation, as well as by improving the recognition of human rights, economic social and physical protection through the norms prevailing in the company. Protection work can be done either by providing guidance, assistance, and clearly improved recognition of human rights, economic social and physical protection through the norms prevailing in the company. The three types of protection work that consists of; Occupational Health, Safety, and Social Security. physical and socio-economic protection through the norms prevailing in the company. The three types of protection work that consists of; Occupational Health, Safety, and Social Security. physical and socio-economic protection through the norms prevailing in the company. The three types of protection work that consists of; Occupational Health, Safety, and Social Security.
3. Balance and protection related to compensation, the balance in the employment agreement of the parties described must fulfill and implement the agreement in a balanced and there is no element of coercion. Employment law (Law No. 13 2003) defined as the legal basis industrial relations and engineered to maintain order, as well as social control, particularly memberikan basis for rights for perpetrators of production (goods and services), in addition to as an umbrella law, employment law projected for the tool in building partnerships. The balance and protection of the compensation is the entire remuneration of employees for the work of the employee in the organization. Compensation can be either physical or non-physical and must be calculated and provided to employees in accordance with the sacrifices that have been given to the organization/company

where he worked. Companies in providing compensation to workers in advance calculating performance by making a fair performance appraisal system. the system generally contain assessment criteria of any existing workers for example, from the amount of work that can be done, the pace of work, communication with other workers, behavior, knowledge of the work, and so forth.

SUGGESTION

As for the suggestions put forward in writing are as follows:

1. It is recommended that in carrying out a work agreement must meet the legal requirements of an agreement in the Civil Code because it is the main point in an agreement, in addition to the legal conditions of an agreement. work that must be fulfilled with the elements of work, wages, and orders must also be fulfilled so that the agreement especially law No. 13 of 2003 concerning employment.
2. The government through the Minister of Manpower must be more careful and thorough in supervising work agreements made by employers against their workers, as well as promoting active and continuous evaluation of the company regarding labor legislation.
3. For employers in making work agreements it should be more obedient and meet the provisions governing the work agreement contained in the applicable laws and regulations only based on freedom of contract, so that there are no relevant provisions besides which ultimately do not there are more specific time work agreements for types of work that are permanent or continuous. other than that employers must pay attention to the basic rights of workers such as health insurance and safety guarantees to work both inside and outside the company, the provisions of wages both for years of service and because of achievement must have certainty including with a job career where all of them can be realized according to what is mandated in Law number 13 of 2003 concerning manpower, so that workers do not feel that the company does not discriminate between workers, both in terms of service to work or in terms of career, which will have an impact on future employee performance.
4. Legal politics, the existence of statutory provisions governing employment agreements after independence has not yet found a clear and explicit form. The politics of permanent labor law (the 1945 Constitution of Pancasila values and customs) have existed since the beginning of independence, but their implementation has been influenced by the political constellation in each of these government regimes. Legal politics in the dimension of enactment can encourage the formation of laws with elastic nuances, which are held for the purpose of supporting the ruling regime, therefore legal politics should be based on both basic policies and policies of rational and balanced enforcement, so that the implementation of these regulations accommodates the interests of all parties. 2. Legal protection in work agreements for automotive sector companies in Indonesia. as stipulated in law number 23 of 2003 concerning manpower, it aims to ensure a harmonious working relationship between workers/employers and employers without any pressure from the strong to the weak. Therefore, socio-economic entrepreneurs have a strong position must help implement the provisions of the protection with the applicable laws and regulations. in the automotive sector company's work agreement in Indonesia, namely the automotive industry is one of the mainstay sectors that developers continue to prioritize because it plays a major role in national economic growth. Moreover, Indonesia is still the main destination for investment in the automotive industry sector. work protection can be done either by providing guidance, compensation, or by increasing recognition of human rights, physical and social economic protection through prevailing norms in the company. work protection can be done either by providing guidance, compensation, and clearly increasing recognition of human rights, physical protection and socio-economic norms that apply in companies. three types of work protection consisting of occupational health, work safety and social security. 3. balance and protection related to compensation, the balance in the work agreement is explained by the parties in the agreement must fulfill and carry out the agreement in a balanced manner and there is no element of coercion. labor law (law number 13 of 2003) is stipulated as a legal umbrella in the field of industrial relations and engineering. to maintain order as well as social control primarily provide a basis for the rights of actors in production (goods and services) other than as a legal umbrella, labor law is projected to be a tool in building partnerships. towards balance and protection against compensation are all benefits received by the employee for the work of the employee to the organization. Compensation can be physical or non-physical and must be calculated and given to employees in accordance with the sacrifice that has been given to the organization/company where he works. companies in providing compensation to workers first perform performance calculations by creating a fair performance appraisal system. The system generally contains a

criterion for assessing each existing employee for example ranging from the amount of work that can be completed, the speed of work communication with other workers' behavior, knowledge of work behavior, and so forth.

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