

Strengthening the Regional Wage Council Through the Formation and Construction of Unions in Regency/City

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Abstract—This study aims to obtain steps that can be done to form Wage Councils in Regency / City areas so that regency / city minimum wages can be set. The current position of the wage council is very strategic due to its recommendations by the governor and/or regent/mayor to set the minimum wage in certain region. The wage council was formed based on the decree of the minister, governor and/or the regency/district in accordance with its position at the national level. This study uses a sociological juridical approach method using Primary and secondary data obtained from research on the objects studied and document studies through literature research and interviews with the unions, labor agencies and the wage council of West Sumatra Province. The results showed that the wage council is a tripartite institution in the field of wage whose membership consist of government elements, labor union, and entrepreneurs. Those institutions must be in the wage council. Unions are a platform for worker to organize and fight for their rights. One of the functions of the Union is as one component that must be in the wage council as contained in art 25 No.21 of 2000, said that the unions are entitled to establish institutions or doing something who related to improve the worker's welfare/labour; the union is represented by one of the unions in the district/city for the wage council, and the union for the wage council in the provincial area. The existence of this union is very important in the organizational of the wage of remuneration in decisive and determined the size of wages set. The existing unions are not directly proportional to the number of companies, meaning that not all companies have unions. This is caused by the difficulty of workers to organize because various factors, among others, are influenced by the working relationship is a contract or outsourcing. Even though there is a union but the existence of unions which can represent workers there is no certainty because of differences in regulation within Act. No.21 of 2000 about Labor Union Act.No.13 of 2003 about Labor Law. According to Law No. 21, there are unions formed within a company and outside the company, as well as Law No. 13 of 2003, but it is not explained which can represent workers in a tripartite institution whether there are only unions in a company or can also be in outside the company. The obscurity raises debate thus difficulty of forming a wage council in some areas, including West Sumatera.

Keywords: *wage council, labor organization*

I. INTRODUCTION

Wage council was an important thing to determining the wage that have to pay by the employers. Which mean the wage council should have a clear structure who had a scientific competence and negotiation. The structure is: the government, the wage council dan the employers.

The task of the Wage Council is to establish a minimum wage that would prevail in the region as mentioned in the Labor Law and Government regulation No. 78 of 2015, which mean the wage will be paid taken by the wage council.

Three mechanisms in setting minimum wages, namely collective bargaining, consultation, government legislative [1]. The consultation approach whereby the Government only position itself as a legislator or guarantor in existing laws and legislation, and another option is a government legislation where the government directly sets the minimum wage without regard or listening to employers and employee's proposals. Before setting a minimum wage policy, the government certainly made a wage planning that is able to reward a fair wage for stakeholders in it. According to Friedman is an attempt to bridge knowledge with technical (scientific and technical knowledge) to actions in public domain. Good planning must be able to reflect the basic principles of governance (good governance) [2].

Wage council is one important element in a working relationship, because people who work in principle, expect a wage corresponding to the work he does. A working relationship is a legal relation that occurs between the employees and employer that contains about terms of employment. The importance of wages in working relations, the determination of wages is not necessarily submitted to employers and employment. this is due to working relations is differing from other civil relation such as buying, selling and renting. The position of parties is not the same so that need the government to manage. Through the union, there are many things that can be done in order to build harmonious industrial relations between employees and employers. Each worker has

the same rights to form or join in a union. The labor unions are in the company of a working relationship.

One function of workers' organizations is as workers' representatives in the Wage Council who represent their organizations in fighting for a decent wage set in the employment relationship. The existence of a wage council is at the National Level, Provincial and Regency / City Level. Currently the existing Wage Council and carry out its duties and functions at the national and regional levels, while at the Regency / City level can still function because there are still many regions that have difficulty in forming the Wage Council. This cannot be done maximally because of the lack of ability and opportunity given to workers to associate so that they can be represented in the tripartite Council of the wage Council.

In West Sumatra Province which has 19 Regency districts, there is one regency area which has a wage Council namely Padang Pariaman Regency [3]. This means that there are 18 regions that do not yet have a Wage Council. Even though the Wage Council already exists, Kota Pariaman has not been able to determine wages in the area. A very hard effort is needed to encourage and assist the components contained in the industrial world to immediately form unions, unions in order to obtain a wage council that has the competence in formulating wage policies and harmonious industrial relations.

II. RESEARCH METHODS

This research is a sociological law research that examines how the law applies to the community, especially the people related to Manpower. The data used is primary data obtained directly from the object being reviewed and tested with applicable laws and regulations and supporting documents. Data obtained through interviews with related parties namely the Ministry of Manpower in District / City and Province of West Sumatra, Unions and Employers. The data obtained were analyzed qualitatively.

III. RESULTS AND DISCUSSION

A. *The Position of Trade Union on the Wage Council*

Unions / labor unions are organizations formed from, by, and for workers / laborers both in companies and outside companies, which are free, open, independent, democratic, and responsible for fighting for, defending and protecting the rights and interests of workers / laborers and improving the welfare of workers / laborers and their families. The existence of unions has been recognized by the issuance of Law No. 21 of 2000 concerning unions as stipulated in Article 4 paragraph (2) of Law no. 21 of 2000. Unions are an embodiment of the exercise of the right to association and assembly. The existence of unions is very important for the continuity of industrial relations. Labors are expected to be able to carry out their functions optimally in order to improve industrial relations at the company level.

The function of unions / workers formulated in Law no. 21 of 2000 cannot be implemented optimally. Function comes from the word function, meaning something that performs a function: or operation [4]. The function can also be interpreted as a position (work) performed: if the chairman is not present

then the vice chairman performs the chair's function; function is the use of a thing; function means domiciled, served as; carrying out its duties [5]. The function of unions / workers can thus be interpreted as the position, usefulness, position of the union / worker.

Based on the provisions of Article 4 of Law No. 21 of 2000, i.e.

- (1) Unions / labor unions, federations and confederations of unions / labor unions aimed at providing protection and protection of rights and interests, and to improve the well-being eligible for workers / laborers and their families.
- (2) To achieve the objectives referred to in paragraph (1) of unions / labor unions, federations and confederations of unions / labor unions have a function:
 - a. as a party in the manufacture of the collective agreement and the settlement of industrial disputes;
 - b. as representatives of the workers / laborers in cooperation institution in the field of labor according to its level;
 - c. as a means of creating harmonious industrial relations, dynamic and fair in accordance with legislation;
 - d. as a means to channel aspirations in the fight for the rights and interests of its members;
 - e. as planners, implementers and the person in charge of a strike by workers / laborers in accordance with the legislation in force;
 - f. as representatives of the workers / laborers in the fight for ownership of shares in the company.

The absence of provisions for the implementation of Law No. 21 of 2000 on the function of unions / unions resulted needed their interpretation of the provisions of article 4. In the Law No.21 of 2000 concerning Workers union made possible to form more than one trade union in the company even according to Law No.13 of 2003 on Labor, unions can also be formed outside the company. This situation caused confusion in the community about the industrial unions which one can represent workers in the container liaison between employees and employers / employer, for example in the manufacture of the Collective Labor Agreement (CLA) or representation on the wage council [6].

For workers, the wage is the goal, because with wages will be used for the cost of subsistence. For employers, the wage is the cost of production, so that he will be very careful in setting wages. For the government, the wage should be set in accordance with the limits of feasibility standard minimum nutritional needs of workers and their families, improving productivity and purchasing power. On the other hand is a tool to encourage investment, encourage economic growth and curb inflation [7].

CLA as a party in the making today turned out to cause problems. After the Act No. 21, 2000, it is possible to form more than one unions/worker in the Company. This is unprecedented. At that time for union / labor is recognized only one in Indonesia that unions throughout Indonesia (SPSI), the only SPSI unit PT X is entitled as a party in the manufacture of CLA if they meet the provisions of the number of members is at least 50% of the number of workers exist in the company. It is governed by Article 130 paragraph (2) of Law No. 13 of 2003.

Under the provisions of Article 2 of ILO Convention No. 87 on freedom of association and protection of the right to organize that employers and workers have the right to form, and subject only to the rules of the organization concerned, to join organizations of his choice. Their union monopoly at that time in the container SPSI according Sentanoe can only be made in conjunction with the representatives (representative) for the purpose of collective bargaining, consultation by the government, or the appointment of representatives to the organization international. But should not be used to prevent the functioning of minority organizations. Minority organizations should at least have the right to make representation on behalf of its members and representing members in individual complaints [8].

After the enactment of Act No. 21, 2000 the provision stating that the only union that is supported by 50% of the existing number of workers who require legal interpretation because if the provision is enforced then the union that is not supported by 50% the number of workers there will not be domiciled as a party in the manufacture of CLA [9]. The Unions should seek support to increase the number of members, for 50%. Other difficulties would arise if it is found in a company there are more than one trade union temporary union has existed it has not reached the support by 50% the number of workers there [9].

The legal interpretation of which is to abolish the provisions of the many presentations of support for the unions of the number of workers there. All unions / workers who have been in the company that has the same position and is entitled as a party in the manufacture of CLA without regard to presentation support of the number of workers there. The number of members of the union will participate in the formation of CLA negotiate determined based on the presentation. For example, in a company there are five labor unions, namely:

- the A Unions is supported by 30% of the number of workers there,
- the B Unions is supported by 20% of the number of workers there,
- the C Unions is supported by 10% of the number of workers there,
- the D Unions is supported by 30% of the number of workers there,
- the E Unions is supported by 10% of the number of workers there

All unions are ABCD and E have the same status in the case as a party in the manufacture of CLA. Only representatives of the unions that have been there was to be a party to the negotiations is determined based on the presentation of acquisition support. It is referred to in Article 130 paragraph (2) of Law No. 13 of 2003 by assigning the whole union / workers in the company to establish a negotiating team proportionately.

For example, for 5% of existing trade support, it can be represented by one person. Labor unions then A has the right to place 4 people representatives, the Labor Union B 4 person entitled to place his representative, the Labor Union C entitled to place 2 representatives, Unions D entitled to place 6 E representatives and trade union representatives have the right to put two people. Thus, the labor union that majority and minority alike can channel their aspirations and can take an active role in the manufacture of Collective Labor Agreement (CLA).

B. The Role of Unions as Part of the Wage Council

As stated in Article 102 of the Labor Law that to create harmonious industrial relations, the actors in the production process have their respective roles which are very strategic. These roles are interrelated, cannot only be focused on one party. Furthermore, according to Article 103 that the suggestion to create harmonious industrial relations are Unions, Employers / Employers' Unions, bipartite cooperation institutions, Tripartite cooperation institutions, company regulations; collective labor agreement; labor laws and regulations; and industrial relations dispute resolution institutions.

Unions / labor unions are organizations formed from, by, and for workers / laborers both in companies and outside companies, which are free, open, independent, democratic and responsible for fighting for, defending and protecting the rights and interests of workers and workers. Based on this understanding, the existence of a workers' organization as an expression of freedom of association and assembly of workers greatly determines the conditions of work relations between the workers and employers [10]. This is because basically the relationship between the two parties is a civil relationship that is full of bargaining between the rights and interests of workers with the rights and interests of employers. Civil relations between the two parties must be based on a balance of position and power so that the outcome of the bargain will provide a "win-win" outcome for both parties. If this condition can be achieved, then there will not be too much interference from the government through strong and independent workers' organizations, where workers will have collective bargaining power that will provide a balanced position with employers [11].

Every worker has the right to form and become a Trade Union Member. Unions in companies are characterized as follows:

1. Formed from and by workers in a democratic manner through deliberation of workers in the company.
2. Independent, democratic, free and responsible.

3. Formed based on the business sector / employment.
4. Employers are prohibited from preventing workers from forming Unions and becoming managers of Unions, and
5. Workers who occupy certain positions and / or function of their duties can cause conflict between employers and workers who cannot be administrators of unions that are legally registered with the Ministry of Manpower have two rights:
 - a. Entitled to conduct negotiations in the manufacture Collective Labor Agreements (CLA)
 - b. Entitled as a party to the Industrial Dispute Settlement.

C. Wage Council

The wage council is one of tripartite with the Government, the workers, the employers this can be seen in Article 127 paragraph (3) of Act 13 of 2003 which states that the tripartite Cooperation Institution representatives from the government, employers' organizations and unions / labor unions. The councils referred to in paragraph (1) is composed of representatives from governments, employers' organizations, unions / labor unions, universities, and experts. Institutions tripartite cooperation is communication, consultation and deliberation about labor problems members consist of representative's employers' organizations, unions / labor unions, and the government. In Article 98 of Law No.13 of 2003 on Manpower mentioned that to provide recommendations and considerations, and to formulate wage policies to be defined by the government, as well as for the development of national wage system established National Wages Council, Provincial and District / City.

As a forum for communication, the existence of strategic Wage Council in formulating policies relating to industrial relations, rights and obligations of employers and workers including wage. Therefore, each element contained in the Wages Council shall be persons who have the ability and willingness to fight up the fate that he represents. One of the elements contained in the Council of Unions is the unions.

Position the wage Council contained in the national level, provincial and district / city the task of formulating a wage policy that will apply in the region. Law No. 13 of 2003 requires the wage specified in each regency / city, but if you cannot set wages in the area then provincial minimum wage will be set by the Governor on the recommendation of regional wage councils Province.

Setting the minimum wage is a form of legal protection for workers as a safety net to prevent suppression of one party against the amount of wages that would be accepted by workers. As mentioned above that in order to provide decent wages, the Government needs to set by the Minimum Wage Fixing with couple of other components. Consist of a minimum wage: Minimum wage by province or district / city, and the minimum wage by sector in the province or regency / city; which in practice is directed towards meeting the need for decent living. According to the Labor Law the authority to

determine the amount of the minimum wage in each region determined by the Governor with regard to the recommendation of Provincial Wage Council and / or the Regent / Mayor. In other words, the authority to determine how the prevailing wage for each region is under the authority of the governor by taking into consideration of the Regional Wage Council. It referred to in this provision is an institution established by the Government in order to assist the Government in formulating policies and developing national wage system which consists of representatives from the Government, organizations of employers, unions / workers, of elements of the college and experts. The National Wage Council, based in Jakarta, appointed and dismissed by the President. As the district level appointed and dismissed by the Governor. Unions / workers, of elements of the college and experts. Minimum wages (minimum wages) is the lowest wage that is used as a standard by the employers to determine wages received by workers regardless of education. The minimum wage is usually determined by the Government based on the recommendation on district / national level of Wage Council, minimum wages goal is: to highlight the significance and role of labor as a sub-system in a working relationship, to protect the working group of the very low wage system and materially unsatisfactory, to encourage the possibility of giving a wage in accordance with the value of what he does, to seek tranquility and peace of work within the company, to seek for increased boost in normal standard of living.

The minimum wage set by the government based on the need for decent living by taking into account productivity and economic growth. Wage fixing is conducted every year through a long process. Based on Government Regulation No.78 Year 2015. Wage Council of West Sumatra last Province formed by West Sumatra Governor Decree No. 562-159-2019 on the Establishment of the Wage Council West Sumatera filial time 2019-2020, membership consists of the elements of the Government, the Labor unions, the Employers and Academics. Wage Council in the area can be established if it has fulfilled the elements / components that must be present the elements of Unions, Employers element and Government. But now, the Wage Council is only on Pariaman by 2015 and have not been able to set the minimum wage yet [12], due to the wage council that have been formed are inactive and necessity minimum wage in the districts of the city should be higher than the UMP. Moreover, because the trade union may be formed more than 1 (one) in the company so that it also often causes conflicts and are easily exploited by employers to support their interests.

D. Condition of Regency / City Unions

The position of the Unions is very important as mentioned in the Act No.21 2000, then mentioned in the Act that the right of association is the right of every worker. Furthermore, determined that the union had the right as follows: first, a) make a collective agreement with the employer; b) represent work / labor in resolving industrial disputes; c) represent workers / laborers in labor institutions; d) establish an institution or conduct activities related to efforts to improve the welfare of workers / laborers; e) perform other activities in the field of employment that do not conflict with the legislation in

force. Second, the obligation Unions / Labor Unions: a) protect and defend the rights of members of the infringement and fight for their interests; b) fighting for the improvement of the welfare of members and their families; c) account for the activities of the organization to its members in accordance with the statutes and by laws.

Implementation of new Unions / Labor Unions in managing the organization, must apply the democratic standards that grow from the bottom. Union / Labor Union handy fight, defend and protect the rights and interests of workers / laborers and improve the welfare of workers / laborers and their families [13]. The unions on Wage Council as representatives of West Sumatra are met composed of three people from the Confederation of Unions which is a combination of the existing Union companies.

While the existence of wage councils at district and town difficult to form because of the 19 areas haven't the wage council yet, there is only 1 Regency wage council namely Pariaman, due to difficulty for workers to exercise their rights to make a union because they were afraid of losing their jobs [14]. Under terms it is known that the presence of unions at the company is very important as the voice and the welfare of workers through a position in the membership of the Council of Labor Unions. The thing is not easily formed in each company, if any, unions but not so function properly. There are several obstacles by Unions today include:

- The existence of unions may be more than one in a company led to the splitting of the strength of the organization, so the company will take advantage of the other unions to defend its policies [15].
- Unionization difficult because tenure is limited to contracts that can only be a maximum of 2 years and only can extended to one year.
- There is still a sense of anxiety for workers to form or be a member to workers caused by there are some employers who do not want or objection formed the organization, because they thought the organization only as an inhibit production process.

Based on the data obtained it can be seen that the existing Unions in the sample regions in the study are, the data showing in table 1:

TABLE I. SAMPLE REGIONS

| No. | Area District / City | number of companies | The number of unions |
|-----|----------------------|---------------------|----------------------|
| 1. | West Pasaman | 52 | 21 |
| 2. | South coast, | 53 | 19 |
| 3. | South Solok. | 19 | 9 |
| 4. | Dhamasraya | 122 | 16 |
| 5. | Pariaman | 85 | 2 |
| 6. | Payakumbuh | 60 | 2 |

Source Research Data

From the description can be seen that the number of companies do not necessarily reflect the number of unions let alone exceed the amount of the company if it is associated with the right to freedom of association guaranteed by the Law on Unions which determines that the union can be formed if the

company already has 10 workers or more. In the law it is also mentioned that the workers' organizations can be formed more than one in one company.

This condition certainly raises the question, why the containers that have been provided under the Act are not utilized by workers to form organizations even though the organizations they form have very important roles and functions to fight for their rights. This is clearly illustrated how unbalanced the number of companies there are with unions.

Even though the Wage Council already exists, Kota Pariaman has not been able to determine wages in the area. A very hard effort is needed to encourage and assist components in the industry to immediately form unions, employers' associations in order to obtain a wage council that has the competence in formulating wage policies and harmonious industrial relations so that the stipulated wages can meet the living needs of workers and not burdensome entrepreneurs.

As explained above, workers are not so easy to form unions due to various things, including years of service that are always limited by work contracts, the formation of unions that must be with the employer's agreement and the fear of losing their jobs.

In addition to the arrangements that have been made by the Government so that workers can use their rights to organize, several things need to be done in the formation and formation of unions.

E. Efforts to Increase the Role of Unions

The Minimum Wage that applies in West Sumatra to date is only one for all districts and cities that have as many as 19 regions. In other words, only one amount of wages that applies in West Sumatra is determined by a Governor Decree. Meanwhile according to Law No. 13 of 2003 and PP 13 of 2003 The minimum wage should be determined based on the condition of the regency / city area with a clearer consideration of the determination of wage indicators. The reality is that the district / city minimum wage cannot be determined because the requirement is that in the city district area there must be a regional Wage Council and the minimum wage must be higher than the Provincial Provisional UMP.

The steps in question are:

- Encourage workers to always improve their knowledge related to their rights that are guaranteed by the law so that their awareness will grow to organize.
- Accompany the worker to form a union at the place where he works
- Conduct coaching to existing unions through increasing their knowledge and increasing their skills in making collective labor agreements, how to negotiate wage increases and settling industrial relations disputes.

It also needs to be done continuously by the Government so that the organization of workers that have been formed can function properly. This must be done considering the legal relationship between the parties in labor law is a typical relationship that is an unbalanced relationship and even subordinate relationships are caused by very different

socioeconomic status. Based on this fact, it is necessary for the presence of the Government to bridge the unbalanced relationship at least to reduce the gap and differences in the interests of the parties through arrangements to create harmonious industrial relations as expected in Article 1 number 16 of Law No. 13 of 2003 concerning Labor.

IV. CONCLUSION

The position of the union is very important in determining wages so that workers need to be given space to organize so that wage councils can be formed in each district / city area. If a union has been formed at a company, then the Tri Partite Board of Trustees can also be formed. But the formation of unions is very difficult due to several factors for example: the form of labor relations made difficult (contracts and outsourcing) for workers to take the time to organize. In connection with this it is necessary to conduct socialization so that workers realize that organizing is a worker's right.

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