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Law Waging Protection for Putting Out System Workers

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Abstract

Wages as workers' compensation often become an issue in an industrial relationship. It is shown in the research on the Putting Out System workers waging protection that has less attention from the government. It is caused by the existence of the workers (or them whose job is in the production field) which is still in the medium and small enterprises. The working agreement which is done orally often causes unclear right, obligation, and indefinite terms for the workers. Minimum wages are often being ignored for them who did not achieve the target. This should be an issue when wages are not given as it is supposed to be, which is to enhance the welfare of workers, labours, and family. The research is done with a normative juridical method based on the constitutive norms. The result showed that there had not been an arrangement in labour regulation on workers waging for putting out system explicitly in Regulation Number 13, 2003 on Labours. In this condition, a concept of protection on the right waging law to manage waging regulation is needed in an inevitable flexible market work during this 4.0 industrialization era. Therefore, a governmental policy for protecting putting out system workers' wages is urgently needed for the workers' welfare.

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The Association of Muslim Community in ASEAN (AMCA), to arrive at the intended goal elaborated earlier, annually organizes International Conferences on Community Development (ICCD). ICCD 2019 shared insight how science and technology contribute to the further development and solutions on community's problems in ASEAN. This year, the 6th conference is organized and hosted by AMCA in collaboration with University of Muhammadiyah Malang (UMM) Indonesia and supported by 15 Co-Hosts such as; Universitas Muhammadiyah Sumatera Utara; IKIP Budi Utomo, Malang; Univet Bantara Sukoharjo; Universitas Muhammadiyah Jakarta; Universitas Muhammadiyah Jember; IAI Diponegoro, Nganjuk; Universiats Muhammadiyah Purwokerto; Universitas Wisnu Wardhana Malang; Universitas Wijaya Kusuma Surabaya; Universitas Ahmad Dahlan; Institut Ilmu Keislaman Zainul Hasan, Probolinggo; Universitas Tadulako, Palu; Universitas Panca Bhakti, Pontianak; Sekolah Tinggi Keguruan dan Ilmu Pendidikan, Sumenep; Flipmas Legowo. It was held in Wafa Hotel and Apartment, Annajat Complex 23-25 of July 2019.

On behalf of AMCA, therefore, we would like to deliver our appreciation and express our prodigious gratitude to all of our partners for facilitating and making this event successful. There were 227 participants attended the conference and 175 papers were selected to publish. Before they were published, 3 (three) reviewers were assigned to review each paper. First, each reviewer reviewed the paper in terms of content and language use. Second, the rejected paper was then sent back to the author, and the accepted paper with minor revision was also sent back to the author to revise.

This precious event is projected to explore and provide best practices in the advance of science and social policies with an intense emphasis on the enhancement of qualified human in the ASEAN region.

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Law Waging Protection for Putting Out System Workers

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Abstract. Wages as workers' compensation often become an issue in an industrial relationship. It is shown in the research on the *Putting Out System* workers waging protection that has less attention from the government. It is caused by the existence of the workers (or them whose job is in the production field) which is still in the medium and small enterprises. The working agreement which is done orally often causes unclear right, obligation, and indefinite terms for the workers. Minimum wages are often being ignored for them who did not achieve the target. This should be an issue when wages are not given as it is supposed to be, which is to enhance the welfare of workers, labours, and family. The research is done with a normative juridical method based on the constitutive norms. The result showed that there had not been an arrangement in labour regulation on workers waging for putting out system explicitly in Regulation Number 13, 2003 on Labours. In this condition, a concept of protection on the right waging law to manage waging regulation is needed in an inevitable flexible market work during this 4.0 industrialization era. Therefore, a governmental policy for protecting putting out system workers' wages is urgently needed for the workers' welfare.

Keywords: Protection, wage, putting out system

INTRODUCTION

Partnership is one of the efforts of populist economic development based on the industrial sector. This research aims to understand the law protection on putting out system workers. There are three categories of home workers; the first is independent home workers where the production is done for personal business. The second is middle person home workers; it is employers who hire people and themselves in business at home or a certain location. The third is home workers who work in the Putting Out System, where workers bring their job home and get paid based on working target like the number of the product that can be produced [1].

The existence of home workers working with *Putting out Systems* is still invisible. Thus it causes their working condition is still below standard of formal working condition. There are some issues faced by those home workers; they are the lack of written working agreement (working contract), under regional minimum wage, working hours, lack of social security, wage guarantee, health and safety guarantee, no leaving, and holiday.

That is why their basic rights as workers are also not protected, secured, and fulfilled [2].

The complexity of production, market, and development chain of global economic open a various chances of supplied raw materials, the existence of cheap cost for production, and economic competition; by that, the narration of *putting out system* becomes one of the answers especially for an industry as the end of the production chain. This causes the connector to take parts in the production. Production connector comes to connect the *principal* and home workers in *putting out system*, which then causes the small chance of the home workers/*putting out system* who work to get enough wages and economic profit. In that form of home working, it could be categorized as industrial *putting out system* which means the workers do the same job as the workers in the factory; but they do it in their own house. The main reason for this kind of worker is the response of the entrepreneur to avoid the cost and risk, which is usually related to hiring the workers.

According to the data by the Ministry of Manpower and Information, there have been 54.398 cases of work accident happened during 2009 in Indonesia. Previously, the number of the accident categorized as K3 violation was 20.086 cases. It means workers' security and protections have always been something which is intolerably given to each Indonesian worker, including home workers. The fact is that Regulation Number 13, 2003 on Employment has not been explicitly given protection to the home workers. Meanwhile, the number of home workers has reached 2.593.399 people, including 688.132 child labour (Survey by ILO-IPEC 2003). Constitutive regulation on employment is yet capable to reach the workers in *putting out system* field due to the problem that the system is through informal mechanisms. The effect of this system is indirect accommodation by the government/nation; and not achieving the benefits of the programs held by the government.

METHOD

This research is normative legal research, studying the data based on the law material on literature, which is a process to figure out law regulation, as well as law doctrines to answer the following legal issues. In addition, the research uses a statute approach and conceptual approach.

DISCUSSION

Putting Out System Workers. Life and job are one entity for human beings, which mean that if they want to live, they need to get a job so that they can get income for lives. The right to work has been explicitly stated in Regulation 1945, Article 27 [3].

Putting out system is used as an effective method to ease entrepreneur (in their inter-production) to simplify the production process, which is decreasing lift and cost. This is to arrange, to control, and to mobilize production process, starting from raw materials to finished goods conducted outside the company. In this system, the worker is categorized as a home worker. The home workers get a job from an entrepreneur without a formal working agreement. They bring and do the jobs at home without any supervision, supply their own work facilities, be responsible for their own production risk, and get salary based on the output they produce [4].

Putting out system as a method is a form of commercial sub-contract or industrial sub-contract. The *putting out system* can be classified into two models: 1) Commercial Sub-contract Model, which means putting a company who runs the production not to get involved in a real production process, and 2) Industrial Sub-contract Model, which means the entrepreneurs are involved in a production process. The producer is going to cooperate with a subcontractor to do certain jobs in the whole process of production. Meanwhile, the seller could arrange the production by using sub-contract of the company or individual (the chosen one) to produce based on the certain legitimated standard.

The worker in the framework of *putting out system* is integrated with the community or living in community, thus is hard to be identified by their appearance. In this system, the sub-contracts are contacted by the central agent to finish the jobs at home, whether in their garage or other places.

There are three categories of home workers: 1) home workers who work with *putting out system* (POS) where all workers bring the job home. Here, the employer gives the needed facilities or materials to do the job; 2) home workers who act as *middle persons*. Here, the employer hires other people to hire themselves in a business in a house, and 3) home workers who act independently. The process of the production is done and directed for personal business.

Among those three, the first group tends to have a bigger health risk and working security in comparison with other groups. According to Imam Soepomo, the protection of workers is divided into three [5]: 1) Economic protection, which relates the business to give enough income to the workers to fulfil their daily needs, including the case when the workers are not able to cooperate outside their will. This protection is called social security; 2) Social protection, which relates the social business to assist the workers in developing their lives as a part of community and family. This protection is called work health, and 3) Technical protection, which relates the business to keep the workers from accidents

caused by tools or working equipment managed by the company. This protection is called work safety.

Putting out system has produced many products with at least 6.500 home workers spread out in Kabupaten Semarang for around 3.000 people hired in 810 companies, in Semarang City for around 300 people hired in 6 companies, in Pekalongan City for around 2.500 people hired by several textile companies, in Surakarta City and Kabupaten Sukoharjo for around 500 home labours, and in Kabupaten Batang for around 1.000 people hired by garment company, textile company, or any other companies[6].

The Arrangement of Law Protection for Putting Out System's Workers. The right to work and the right in work are not merely a socio-economic right, but also fundamental human rights [7]. The Putting out System in a liberal economy is marked by the fragmentation of craft of the workers as the base of paid distribution that the workers receive.

Putting Out System is generally held by a non-formal relation; what regulates this practice is simply trust. Generally, this practice is done by an intermediary who connects the workers and the employer. The requirement for the home workers is not in direct supervision, so independency is essential to work based on a schedule. It implies in the state of responsibility to facilitate and protect the workers so they can receive a worthy payment to live properly and to fulfill their daily needs [8]. Hence, planning is needed to provide legal protection for labor. The government should provide proper rights, which include the right for child labor to avoid exploitation, discriminations, or right violations.

One form of interventions from the government is in the economics and social health for the workers to have proper living. They are expected to have proper jobs which can sustain the workers' lives, not jobs full of exploitations. Therefore, rules from the Department of Work Force, Social Department, Education Department, and other related departments are essential.

On the other hand, legal culture in some values functions as the bond of the substantial system in the middle of the national culture [9]. As stated by Friedman, legal culture is none other than the overall manner of the people and the value system which exist within the society which drives how the law should be applied in the society. Moreover, Friedman claimed that "the legal culture provides fuel for the motor of justice." [10] The legal culture can also be bounded like legal awareness with the indicators of people knowledge about the law understanding, legal manner, and the legal social pattern. All of these indicators are interesting to discuss in relation to legal culture, because the law can be used as a means to change people's behavior, especially in a rural area.

Legal protection for the *Putting Out System* workers is not specifically regulated. The Laws which regulate legal protection include: 1) Article 27 Paragraph (2) UUD RI 1945; 2) Paragraph 1601-1602 Civil Code; 3) Article 1 Number (30), Article 88-98 and Article 185-189 Regulation Number 13, 2003 about Employment,

and 4) Government Rule Number 8, 1981 and Number 78, 2015 about Waging and Wage Protection.

Since the existing laws have not regulated *Putting Out System*, the needs to arrange the policy are urgent due to the development of industrial era 4.0 which allows more job opportunities, including *Putting Out System*. From a legal point of view, as one of countries entering the welfare state [11] marked by the development of laws to protect disadvantaged parties [12], Indonesia needs to maintain the orders and also to intervene the business to guarantee the welfare of its citizens [13]. Currently, the role of the National Administrative Law is dominant and ultimately becomes the social service.

CONCLUSION

The role of government as the balancer in a relationship between the workers and the employers is always an issue. The waging of *Putting Out System* workers also matters. There has not been a national constitution regulating the issue. The existing waging regulation only manages general issues such as the minimum wage of regional or working for less than a year. Meanwhile, the number of home workers with *Putting Out System* is different because the waging system is often unnoticed. Policy on waging to protect *Putting Out System* workers need to be implemented to give them security and social guarantee in enhancing welfare.

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