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# Labour Response to Outsourcing Policy, Research in Industrial Intensive Area-Indonesia

AF Sigit Rochadi<sup>1</sup>

<sup>1</sup> Universitas Nasional, Indonesia. Email: sigitrochadi@yahoo.com

## Abstract

This paper describes the responses of manufacturing industry labours toward outsourcing policy in Indonesia. Written based on a research done in Karawang which is the most-dense industrial region in Indonesia. The research has successfully identified a number of violations conducted by businessman against outsourcing policy, and this research has also explored the responses of sustainable workers. An effort has been made by the government under the leadership of Susilo Bambang Yudhoyono system in the form of Ministerial Regulation of the Ministry of Labour Number 19 of 2012 which aims to eliminate ill practices of outsourcing employment. The regulation limits the types of jobs in which the outsourcing system can be administered. This regulation has somehow decreased the anxiety among labours. However, labour organizations still demand the ban of outsourcing system. They keep doing protests and demands to both regional and national government to eliminate the outsourcing system in various moments such as May Day. The major trigger of this problem is the different comprehension of the outsourcing system which leads to labour discrimination. Businessmen perceive outsourcing system as an applicable system to apply in all types of job, leading to discrimination toward outsourcing labours in terms of wage difference, fear to make the association, and work termination threat. The weak supervisory of government apparatus and the needs for local politicians to obtain fund from businessmen has caused the protection over labours less optimum. Moreover, the fragmentation inside labour organizations also made them unable to fight for this issue, and this condition has been utilized by businessmen to spay labour movements.

**Keywords:** Outsourcing Policy, Discrimination, Fear to Associate, Employment Encertainty, Karawang

## 1. Introduction

A keyword of global trade in the twenty-first century is the rapid growth of outsourcing. The strategy chosen by the company is to focus on the core business. In hiring workers, companies choose the outsourcing system. Academics immediately examine the effectiveness and impact of the system as it is done Kakabadse & Kakabadse, 2005; Harland, Knight, Lamming and Walker, 2005; Knights and Jones, 2007 and Kang, Wu and Hong, 2009. In Indonesia, the idea of implementing an outsourcing system emerged after the economic crisis in the late 1990s. Since its enactment in 2003, the Labor Law has continued to receive objections. One item that workers continue to question is about outsourcing. Outsourcing was a new system that entered the labor policy in Indonesia in early 2000 when the economic crisis was still ongoing. Although the practice of outsourcing has been going on since the colonial era, it does not become the top choice of entrepreneurs. The idea to liberalize the labor market in early 2000, originally came from the International Monetary Fund (IMF) to overcome the

economic crisis of the late 1990s. The IMF's recovery strategy is outlining a restructuring of the financial sector. Outsourcing can reduce labor costs significantly. Because the greatest crisis was contributed by the debt of private companies, the rationalization and efficiency were carried out by layoffs. Between 1997 and 2000, the number of unemployed workers being laid off reached up to 1.2 million people. The efforts for an economic recovery were made by rehiring the outsourced workers.

The outsourcing system was then adopted as a strategy for private companies to increase the number of workers. The main argument is that in unstable economic conditions, hiring employees remains not the primary choice. This reason is the same as that of companies in Malaysia (Hakim, Ahmad, C.F. Ho, & Ramayah, 2017). When the Labor Law plan was being drafted, the concept of outsourcing was included. No social forces including the labor unions involved in the drafting of the law criticized the proposed draft. Once the contracting and outsourcing system become the primary choice of employers, the labor unions oppose it. The biggest wave of rejection occurred in 2006 in which more than 2 million workers surrounded the House of Representatives and the main streets of Jakarta and industrial cities, rejecting the government's plan to revise the Labor Law. The refusal was made because the labor union leaders had information that the revision would precisely reinforce the position of the outsourcing system in the new law being prepared by the government.

Although the outsourcing system is commonly known in industrial relations in the world, its application in Indonesia has faced serious challenges from the workers. Every year, especially on the celebration of May Day, the workers call for the abolition of this system. The Decree of the Minister of Manpower and Transmigration No. KEP. 101/MEN/VI/2004 concerning Procedures of Licensing of Workers / Employers Companies and Decree of the Minister of Manpower and Transmigration Number KEP. 220/MEN/X/2004 in terms of submission of Parts of the Implementation of Work to Other Companies does not reduce the disappointment of the workers. Even the decree of the Minister of Manpower number 19 of 2012 in terms of submission of some implementation of work to other companies that accommodate the full demands of labors, the demands of elimination of outsourcing system does not stop. This shows that the main demands of the workers are not in the areas of employment that can be accommodated and the rights of contract workers. When being more carefully scrutinized, the core demand of workers is that workers aspire to become permanent workers of a company with mechanisms before the economic crisis of 1997/1998 (Rochadi, 2014). According to the old mechanism (Regulation of the Minister of Manpower No. 5 of 1995 and Regulation of the Minister of Manpower No. 2 of 1993), a worker was appointed permanent worker after one-year probation. During this probation, the worker earns 80% of the wages of permanent workers.

The status of being permanent workers remains the hope of all workers in the manufacturing industry. With this status, workers have a clearer and safer status, peace of mind in working, access to financial resources and careers. Other statuses such as honorary workers, contract workers, and outsourced workers are the second and third levels of the company's workforce structure. In addition, rejection is also intended to remove various discrimination as a result of the outsourcing system.

## **2. Literature Review**

Studies of outsourcing have been carried out by researchers. Lahiri (2016) who examined 57 articles in journals published between 1996 -2015 concluded that outsourcing had been practiced in different industry sectors. If the goal is for efficiency, outsourcing is a good choice. The study of 100 small and medium-sized industries in Malaysia also revealed the same conclusions. Not the dynamics of the environment and the strategic orientation of the company that provides benefits, but the characteristics of business owners (Hakim et. all, 2017). While the implementation of outsourcing in the field of information systems is able to change the control structure of the company and create new challenges for management. In addition to changing the control system by utilizing technology, companies also change employee work patterns (Christ, Mintchick, Chen, Bierstaker, 2015).

Empirical research is carried out in a number of companies in Australia when outsourcing is still a new system. The researchers concluded that outsourcing supports cost efficiency, companies get a superior workforce

(experienced), specialists and save about 10 percent in net costs (Clegg, Bourdon, & Nikolova, 2005), (Young, 2000). These findings have a broad impact on the use of outsourcing systems in Australian companies including those abroad. Most companies in Developing Countries utilize advance comparatives such as natural resources and the amount of labor. The use of outsourcing systems in India shifts the conventional strategy to competitive advance because companies get superior and experienced workforce, thus focusing more on developing and improving product quality (Sreedevi & Tanwar, 2018).

Because the goal is for efficiency, innovation and product quality improvement, the outsourcing system can be applied in all types of work. As stated by Garaventa & Tellefsen, 2001), outsourcing as "the contracting out of functions, tasks, or services by an organization for the purpose of reducing its process burden, acquiring specialized technical expertise or achieving expense reduction." In other words, outsourcing is a company's step to reduce process load, gain technical expertise and save costs. In that sense, the type of work transferred to the other party is unlimited. As stated by Yasar (2012) the transfer of work may include parts of the production, along with its workforce, facilities, equipment, technology, and other assets as well as decision making in the activities of the company.

However, the management consultant who is a member of CIO Indonesia (2017) stated that the type of work transferred is the non-core work that was originally done internally to other companies with expertise and specialization. This concept is then adopted by the Minister of Manpower Regulation no. 19 in 2012. The outsourcing that is defined as the transfer of non-core work in line with the thinking to realize efficiency, quality of work, focus on core business and improve innovations to win the competition. Such a goal has been made by John Naisbitt (1995) in the early 1990s about "the small, lean and flexible will win the competition.

Outsourcing is a real practice of flexible employment markets globally. The flexible employment market is an institution in which users, workers and job seekers meet at a certain level of wage in which the parties have the discretion to work together without social and political barriers (Tjandraningsih and Nugroho, 2008). This flexibility is based on the consideration of both companies and workers need each other and need a free agreement. The company prepares itself to compete in the global arena and therefore not only network, product quality, and efficiency but also a conducive business climate created jointly among government, employers, and workers (tripartite). Thus, the rapid changes in the business environment require rapid response and together as a business adaptation strategy.

Accordingly, the idea of a flexible labor market that overshadows the operationalization of outsourcing systems is actually rooted in the classical economy. According to the classical school, free job seekers find work according to their tastes and abilities. Similarly, users are free to choose workers with rational considerations. By applying the principle, it will create efficiency for both parties so that economic growth will continue to be guaranteed. Moreover, since the worker is free to determine the type of work under the current conditions of economic growth, the flexibility of the labor market can create greater employment opportunities as well as equal distribution of income in society. Such views are embraced and advocated by the World Bank to countries that seek to restore the economy from a crisis (World Bank, 2006).

The decree of the Minister of Manpower and Transmigration Number KEP. 101/ MEN/VI/2004 concerning Procedures of Licensing of Workers/Employers Companies and Decree of the Minister of Manpower and Transmigration Number KEP. 220/MEN/X/2004 in terms of submission of part of the implementation of work to other companies as the implementer of Labor Law (13/2003), clearly facilitates the working of a flexible labor market in the form of outsourcing system. The policy was born in response to a rigid labor system that benefits formal workers. The deindustrialization phenomenon marked by the declining contribution of the industrial sector in the formation of national income and the decline in economic growth is caused by a rigid labor market that frightens investors. Deregulation of the labor market through Labor Law 13/2003 and its derivatives are intended to attract more foreign investment.

Article 59 of Labor Law 13/2003 concerning the work system of the contract referred to as the employment agreement for a certain period, it is mentioned that, "The temporary employment, work estimated to be completed within three years, seasonal work, or work relating to new products and activities, or additional products still in trial or exploration". This chapter implies that contract workers are temporary, at most 3 years. After that time, a worker has the right to be appointed as a permanent worker. However, there is no article that instructs employers to assign workers to permanent workers after 3 years. Regarding the time limit of 3 years is reaffirmed in Article 59 paragraph 4 that states: "A certain time employment contract based on a certain period of time may be held for a maximum period of 2 (two) years and may only be extended 1 (one) time for a maximum period of 1 (one) year".

The absence of a provision that mandates appointment as a permanent worker weakens the status of the workers is used by employers to seek productive young workers. With such situations, the mobility of workers to find new jobs is very high, especially workers in the productive age. The provisions of outsourcing under the Labor Law 13/2003 are stated as follows: "The Company may deliver part of the work to other companies through employment contracts or the provision of written/written labor services" (Article 64). Jobs that may be submitted to other companies shall meet the following conditions: performed separately from the main activities, carried out by direct or indirect orders from the employer, constitutes the overall supporting activities of the enterprise, and does not impede the production process directly (Art. 65 paragraphs 2). These limits are still vague resulting in various interpretations. The decree of the Minister of Manpower No. 19 of 2012, in terms of submission of some implementation of work to other companies, mentions in detail that 5 types of work that can be transferred or encouraged, i.e. the cleaning service, food supply business for workers/laborers (catering), business of security personnel (security/security units), supporting services business in mining and oil, and freight business for workers/laborers.

### **3. Method**

This research was conducted in Karawang regency-Indonesia. This district was chosen because it is the largest industrial area in Indonesia. In 2016 the number of large and medium companies in Karawang was 2,952 units, employing 214,464 workers (BPS Karawang, 2018). The data used in writing of this article is a combination of primary data obtained through interviews with the chairman of the Indonesian Labor Union Confederation, the labor inspector of Karawang Regency and a staff member at the regency employment service that receives reports on the use of outsourced labor in companies. The rest, this research used secondary data, both findings that have been produced by previous researchers, the data generated by the Central Bureau of Statistics and the statements of relevant officials published in the mass media. Books, journals, and magazines have provided very useful information, both concepts, theories and conditions of employment. The data analysis is done by analytical descriptive, that is describing a symptom in detail and systematic, the meaning of the phenomenon and position it in concepts or social theories. Karawang Regency was chosen as the focus of study because it is the largest industrial area. In addition, this regency has the highest minimum wage in Indonesia.

### **4. Result and Discussion**

Developing countries face the problem of implementation of policies and development programs as Israel (1991) points out in the World Bank's aid in developing countries. The main problem is the lack of program continuity and clear responsibility. However, it examines the outsourcing policy, the barriers to program implementation is not only by the continuity of the program and the clarity of the responsible person but also the clarity of the policy, the commitment of the program implementers, the political will and the responses of the labor unions. Viewed from a political perspective, only programs that provide political backing to the government are seriously supported by the government. Policies that are implemented in earnest are only those that allow political officials to be re-elected in the district, provincial and central government.

Taking note of the timing of policymaking, the main challenges faced by the governments in the early 2000s and development strategies, it is difficult to expect the government's favor to the workers. Employment strategic

policy was prepared in the early 2000s where the economic crisis still overshadowed Indonesia. Massive labor demonstrations of the 1990s are seen as one of the causes of the economic crisis. The labor demonstrations depleted millions of working hours and reduced production. In addition, demonstrations that are often accompanied by physical violence by both the security forces and the workers cause a disturbance of security and instability. Some factories are closed to restore security, and for employers, that action is a loss. Indonesia is considered unattractive for investment and investors move their companies to Vietnam, Thailand, and Cambodia. Furthermore, the main challenge faced by the government is an economic recovery. This challenge can only be answered by attracting as many investors as possible. Incentives such as ease of investment, tax breaks, friendly industrial relations, investment-friendly land policies, and a large market are proposed to attract investors. In this strategy, it is impossible to involve laborers. The strengthening of workers is considered a threat to investors. In dealing with the workers, Soeharto's and post-Soeharto's development strategies are not much different. Labor remains positioned as a leftist force that threatens the position of a new oligarchy formed from entrepreneurs and officials raised by the New Order (Robinson & Hadiz, 2004) (Winters, 2011). This means that labor is not seen as part of a strategy to solve the problem of post-Suharto political economy. Therefore, it is not difficult to explain the workers "sacrificed" in the strategy of economic development through outsourcing system. Some gaps between concepts and implementation in the field are described as follows.

#### a. Differences Understanding of Outsourcing

Although the contract system has been implemented in Indonesia since the 1900s, this system has not been internalized among workers. The workers recognize only two types of worker status: permanent workers and honorary workers. With respect to the period of employment (usually 1 year), the honorary workers are designated as permanent workers. So all workers after being declared accepted in a company expect a maximum of one year later changed status as a permanent worker. Therefore, when employers apply the outsourcing system, almost no workers are prepared to accept it. This unpreparedness is added up with the employer's treatment of workers with outsourced status.

The next debate leads to a job that can be outsourced. Human resource management experts such as Sparrow (2003), Yasar (2012) and John K. Halvey and Barbara M Melby (2012), stated more positive aspects of outsourcing than conventional systems. The main argument is that in any hyper-competitive market and relying on the network, and the labor outsourcing system is the most profitable option. Another advantage is, first, the company can improve its business focus. As stated by Vaxevanou and Konstantopoulos (2015) the philosophy of employers to implement outsourcing to focus on core business and build competitive advantage. It deals with work efficiency, and the company is able to create quality products. Second, outsourcing makes the operational risk of the company can be divided into other parties so that the company's losses can be reduced. Third, the decreasing cost of expenditure (capital expenditure) because the funds previously used for investment, can function as operational costs. Fourth, the company can employ competent human resources (HR) because the workforce provided by the outsourcing company is trained and competent in their field.

System outsourcing is also an option for new industrial nations. South Korea's success in the electronics, automotive and telecommunications industries since the crisis of 1997/1998 preferred the outsourcing system. The choice was made to increase the number of formal workers. In 2013, the number of temporary workers in South Korea was around 38% and had continued to rise in the following years (Kim & Jaffe, 2013).

In accordance with the argument above and paying attention to the rapid flow of labor globalization, then outsourcing is an easy option. Its application in Indonesia faces serious challenges from labor unions due to the lack of protection of workers. The practice of outsourcing in various companies tends to be exploitative, violating the rules of employment and employers are not concerned with the fate of workers. A common practice found in all firms is that outsourced workers do all kinds of work (Romdoni, 2018). This practice continues despite contradictory to the Decree of the Minister of Manpower number 19 of 2012 in Terms of Submission of Some Implementation of Work to Other Companies and the continuous pressure of the labor unions. The

entrepreneur's argument is that such practices are in line with the business climate, not violating the existing regulations and more favorably for both employers and workers.

b. The discrimination to the outsourced workers

The practice of permanent and contractual employment relations has created fragmentation or grouping of workers based on the status of work relations at the factory level. In this practice in one factory, there are three groups of workers, i.e. permanent workers, contract labors and labors. In contrast to the findings of Tjandraningsih, observations of researchers in the industrial area of Karawang West Java, the grouping of workers on the basis of work "soft skills" and "hard skills" and "permanent workers" and "outsources." Factories engaged in the metal field, banking and automotive, the classification of workers is more based on administrative work and unskilled labors. Those who work in the field of operators by managers are called workers (labors). This is the lowest level in the workforce structure of the factory. While those who work in the field of administration are called staff by the manager and they call themselves "employees." This latter classification does not perceive itself as labor, although some of them are outsourced. These findings suggest that the consciousness of the labor as genuine labor (genuine labor) has not grown among the labors.

Meanwhile, workers in labor-intensive industries such as the textile, garment, footwear, food and beverage and printing industries, the more dominant classifications are "permanent workers" and outsourced workers. Compared to capital-intensive industries, in the labor-intensive industry, the division is more apparent and has an impact on the manager's treatment to workers. The treatment can be briefly described as follows:

1) Wage difference

Although Article 29 of Ministry of Manpower regulation No. 19 of 2012 states that the right of outsourced workers is the same as permanent workers, but in practice, discrimination occurs. Outsourced workers in the industrial area of Karawang Regency receive lower wages than the regular workers do. According to West Java Governor Decree No. 561/Kep.1065- Yangbangsos/2017, the minimum wage in Karawang Regency in 2017 is 3.9 million Rupiahs (equivalent to 278.5 USD). In practice, some entrepreneurs especially in labor-intensive industries, pay the wage laborers below the regulation. For outsourced workers, almost no one receives wages according to the minimum wage of the city let alone on it.

Article 29 of Ministry of Manpower regulation No. 19 of 2012 clearly states:

"In the case of employment relationship is based on a certain time work agreement whose work object still exists as referred to in paragraph (1) must contain at least: guarantee of continuity of work, guarantee of the fulfillment of workers' rights in accordance with laws and regulations promised and guarantee of working period in the event of a change in the enterprise of the provider of workers/labors to determine wages. Workers/labors' rights as referred to in paragraphs include: the rights of to leave when they meet the terms of employment, social security, a holiday allowance, a rest within a period of 1 (one) receives compensation in the event that the employment relationship is terminated by the company of the worker/labor provider before a certain period of time of employment and ends not in the employer's fault, the right to a wage adjustment calculated from the accumulated employment period"

It can be stated that employers are prohibited from discriminating in any case to workers. All workers have equal rights including wages, freedom of association and career development. In fact, the three cases discrimination is openly made to outsourced workers. Wage discrimination constitutes a serious violation of the decision of West Java Governor No 561/Kep.1065- Yangbangsos/2017. Labor inspector of the Department of Social Affairs and Labor Karawang regency, Sisca Yuliska (2018) stated that such practice is done in many companies, especially labor-intensive industries. In this type of industry, profit margins are small, so employers affect the ability of employers to pay wages. Prohibiting employers has an impact on the low absorption of labor because entrepreneurs can replace with machines. There is no data about the financial condition of labor-intensive enterprises in Karawang to know the small profit. Although, in the last 5 years there are no labor-intensive companies that go bankrupt.

The condition is better than the situation in South Korea. According to Kim and Jaffe's observations, non-permanent workers generally only earn half the wages of permanent workers and do not receive welfare benefits. Most of them could not join labor unions because of status as casual workers (Kim & Jaffe, 2013). Nevertheless, since 2004 the working conditions in South Korea have improved, especially with the policy of 5 working days per week and a minimum wage of 1.35 million won or the range of Rp14 million in 2017.

## 2) "Prohibition" to Join Organization

Entrepreneurs build mechanisms in such a way that outsourced workers do not dare to associate. Freedom of association is guaranteed by Labor Law of 13/2003, ILO Convention No. 87/1948 on Freedom of Association and Protection of the Right to Organize and Law no. 21/2000 on Labor Unions. The mechanism is that since the outsourced worker contract is only valid for one year and after it has to be renewed, the outsourced workers who enter the union, the contract of work will not be renewed. Thus, the workers lose their legitimacy to be active in the union. According to the 2016 Economic Census, there are 592.031 workers in Karawang. Of that number, only around 100 thousand or 15-17 percent of workers are members of the union. In 2018 the union estimated that the number of workers who joined the union was less than 100 thousand (interview with Agus Zaenal leader of SPSI Karawang and Abda Khairi leader of Singaperbangsa Workers Union July 2018). The same phenomenon occurs at the national level. In 2007 the number of unionized workers was 6.1 million people, then in 2018, there were only 2.7 million. This is what the workers fear. Getting a job is the hope of every human being especially in conditions of unemployment. In 2016, the open unemployed in Indonesia reached 7.02 million people and in 2017 rose to 7.04 million. Taking into account a large number of unemployed, the workers are more defensive than claiming rights including normative rights such as wages.

Against such situation, the State's protection is required to enforce the law. However precisely, there is the weakness of law enforcement. In addition to the less assertive apparatus, lacking the courage to align with the law, most of the apparatus in the region is too close to the employers. In the era of decentralization and direct regional head elections in which candidates for regional heads need enormous funds to campaign, cooperation with employers is one of the sources of funding. There was so many negative cooperation in the period of 2004-2017, there were 392 regional heads who were involved in the law from 542 regional heads. Mostly because of corruption involving employers. The implication of such cooperation is the non- unequivocal state apparatus to entrepreneurs.

Another factor is the owner of a company or foundation that recruits and employs an average former bureaucratic and military official. They have a strong network, especially in the security field. The employment apparatus is not the least raised by them and therefore has no courage to enforce the law either to the employers or to the outsourced worker supplier's foundation.

## 3) Dull Future of Outsourced Workers

One of the factors driving the continued demands of workers to eliminate the outsourcing system is the dull future of workers under this system. By working in a company that is not based on working relationships (work agreements are made with companies that buy jobs), there is no career path for outsourced workers. Perhaps within 1-3 years when the main need is to get a job, this condition has not been a problem. However, after more than 5 years of work where workers need recognition of the status of senior workers, social esteem, and self-actualization according to Maslow's needs, are psychological pressures that can lead to disharmony, workplace conflicts and decreased work productivity. Under these conditions, it is clear that the worker is harmed. Therefore, the outsourcing system only selects single and productive workers.

## 5. Conclusion

Based on the analysis and field findings, the conclusion that can be put forward is that, first, the ongoing and sometimes violent response of workers with the outsourcing system is done not only to fight for labor rights as perceived by permanent workers but also to fight for their self-esteem the presence of other workers and

employers. It is because it relates to self-esteem, existence, and survival, labors collectively dare to struggle for rights on an ongoing basis.

Second, the struggle of the workers even though it has been carried out from 2005 to 2018, has not produced satisfying results because the labor force is divided. In addition to being split by status as administrative staff, clerks, hired labors and outsourced workers, the equally serious split is a divide between trade unions. By 2018, there are 6 confederations, 100 federations and 6,808 enterprise-level unions with 2.7 million workers. In addition, the lack of government's partisanship in the struggle of the workers helped weaken the struggle. The government in its development strategy does not require labor participation.

Third, the labor response to the outsourcing policy with the aim of revoking the policy is difficult to realize. In addition to the global business climate that tends to choose the outsourcing system to create efficiency in winning the competition, the policies of successful industrial countries such as South Korea, Taiwan, Thailand, and European countries also apply outsourcing system. What is more necessary is the humane treatment of labor, whether outsourced or not, as long as the workers are adequately entitled to their rights, will establish mutual beneficial industrial relations.

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