
The Role of Workers Unions in the Effort to Fight for the Rights and Obligations of Workers in Companies Declared Bankrupt In Indonesia*

Yusman Yusman,¹ Annissa Rezki,² Nur Rohim Yunus³

¹Universitas Pamulang Banten, ²Universitas Jayabaya Jakarta, Universitas Islam Negeri Syarif Hidayatullah Jakarta



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Abstract

A trade union is a group of workers who band together to promote, protect, and improve their members' social, economic, and political interests through collective action. A trade union is a workers' organization formed to defend the destinies of workers. In the world of work, there are two parties, namely workers and employers. Workers/labourers as citizens have equal position in the law, the right to get a decent job and livelihood, express opinions, gather in one organization, and establish and become members of a trade/labour union. The right to freedom of association has also been recognized by the international community. Settlement of disputes between business actors cannot be separated from the application of business ethics which is an inseparable part of the business law environment and business practices itself. This writing uses a qualitative methodology, which in its translation will make it easier for the writer to analyze and convey the intent and purpose of writing that has been adjusted to the author's background and goals.

Keywords: Labor Union, Bankruptcy, Labor, Public Company (PT)

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¹ **Yusman** is a lecturer at Universitas Pamulang Banten. Email: dosen00977@unpam.ac.id.

² **Annissa Rezki** is a researcher at Universitas Jayabaya Jakarta. Email: annissa.rezki2@gmail.com.

³ **Nur Rohim Yunus** is a lecturer at Universitas Islam Negeri Syarif Hidayatullah Jakarta. Email: nurrohimyunus@uinjkt.ac.id

A. INTRODUCTION

Labourers are part of society that needs to be prosperous socially, politically, culturally and economically. The existence of labourers in Indonesia has existed since the Dutch colonial era.⁴ The Indonesian labour ranks (BBI) were formed a month after Indonesia's independence, on September 19, 1945, to participate in the defence of the Republic of Indonesia's independence. Because of this overarching goal, as well as the fact that BBI was influenced by the political movements of the time, it resulted in pros and cons among its members. The pros want BBI to continue collaborating with politics, while the cons want to distance themselves from political influence.⁵

According to Swasto, industrial relations refer to the system of relationships that exist between workers and companies during the production process.⁶ One of the elements in industrial relations or company activities is workers. Meanwhile, according to Rivai and Sagala, a trade union is a place and means for workers to participate in a company to create a harmonious relationship in connecting the interests of workers and employers.⁷

One of the elements in industrial relations or company activities is workers.⁸ The tendency for the weak position of workers in the management of a company requires a strong forum, namely a forum that can fight for the rights of workers in company management in the form of a labour union. The purpose of forming a workers' union is to balance the position of workers with management (employers). Through the representation of workers in the Worker Union, it is hoped that the aspirations of workers can be heard by company management. In addition, it is hoped that through the Workers' Union, workers' participation in the production process will be realized as one of the efforts that can be made to improve industrial relations at the company level.⁹

⁴ Randi, *Buruh Vs Perusahaan (Studi Kasus Konflik Buruh/Pekerja Driver Go-Jek dengan PT Go-Jek Indonesia)*., Social Work Jurnal Volume: 7 Nomor: 2 pp. 1 -79.

⁵ RG. Kartasapoetra. 1986. *Hukum Perburuahan di Indonesia Berdasarkan Pancasila*, Jakarta: Bina Aksara, p.211.

⁶ Swasto, Bambang. 2011. *Manajemen Sumber Daya Manusia*. Malang: UB Press.

⁷ Rivai, Veithzal; Sagala, Ella Jauvani. 2010. *Manajemen Sumber Daya Manusia Untuk Perusahaan Edisi Kedua: dari Teori ke Praktik*. Jakarta : Rajawali Pers.

⁸ Zulkarnain Ibrahim, 2016. *Eksistensi Serikat Pekerja/Serikat Buruh dalam Upaya Mensejahterakan Pekerja.*, Vol. 23. Number .2 / DESEMBER.

⁹ Asri Wijaya, 2009, *Hukum Ketenagakerjaan Pasca Reformasi*, Sinar Grafika, Jakarta.

Workers as citizens have an equal status in law. Besides also having the right to get a decent job and livelihood, the right to express an opinion, the right to assemble in an organization, and the right to form and become a member of a trade union. The right to become a member of a trade union is a basic right of workers guaranteed in article 28 of the 1945 Constitution. To realize these rights, every worker must be given the widest possible opportunity to form and become a member of a trade union.¹⁰

A trade union is an organization of workers who join together to achieve common goals such as wages, hours and working conditions. According to Martoyo Rachmat, the Trade Union must be able to: a) Provide information to members, b) Explain workers' rights and obligations, c) Represent and help workers.¹¹

Industrial relations adhere to the principle of mutually beneficial relations and can improve welfare.¹² A worker facing a problem in a working relationship sometimes gets injustice. Therefore we need a forum or organization for the gathering of workers called a trade union or labour union.¹³

The business world is also impacted by the global crisis, which affects banks and other lending institutions. At the moment, it is undeniable that the majority of business actors obtain their business capital from banks or other third parties so that the global crisis has resulted in the business world or companies in Indonesia experiencing difficulties in continuing their movement, which has an impact on the business world's inability to repay its debts to banks or third parties, resulting in bad credit.¹⁴

As a result of not being able to return its debts, with all the applicable provisions the company will be declared bankrupt. The term "bankruptcy" comes from the French "Faillite" which means strike or stagnation of payments,

¹⁰ Abdul Kadir Arno, 2018. *Serikat Pekerja Dalam Kewajibannyamerumuskan Pembuatan dan Pelaksanaan Perjanjian Kerja Bersamadengan Manegemen (Implementasi Uu Nomor 21 Tahun 2000).*, Al-Amwal, Vol. 3, No. 1, Maret.

¹¹ Martoyo Rachmat. 1991. *Serikat Pekerja, Pengusaha dan Kesepakatan Kerja Bersama*, Fikahai Aneska, Jakarta.

¹² Payaman Simanjuntak. *Manajemen Hubungan Industrial*. Jakarta: Pustaka Sinar Harapan.

¹³ Sri Wahyu Handayani, 2016. *Jaminan Pemerintah Negara Republik Indonesia Terhadap Penyelenggaraan Serikat Pekerja Sebagai Hak Azasi Manusia.*, Jurnal Kosmik Hukum Vol. 16 No. 1 January.

¹⁴ Sri Redjeki Slamet. 2009. *Kepailitan Suatu Solusi dalam Memaksimalkan Penagihan Piutang Kreditur.*, Lex Jurnalica Vol. 6 No.3, Agustus.

while a person who stops paying in French is called "le failli", the verb "faillir" means to fail. In English, we know the word "to fail" with the same meaning. So it is with the verb "failire" in Latin.

If a company is declared bankrupt, there will be problems that will harm the workers/laborers due to the bankruptcy. The term "bankruptcy" comes from the French "Faillite" which means strike or stagnation of payments, while a person who stops paying in French is called "le failli", the verb "faillir" means to fail. In English we know the word "to fail" with the term "bankrupt" comes from the French "Faillite" which means strike or stagnation of payments, while people who stop paying in French are called "le failli", the verb "faillir" means to fail. . In English we know the word "to fail" with the same meaning. Likewise, the verb "failire" in Latin has the same meaning. So it is with the verb "failire" in Latin.

The principle of bankruptcy as such is the realization of the provisions of Articles 1131 and 1132 of the Civil Code, where the material becomes a joint guarantee for all creditors divided according to the principle of balance "Pari Pasu Prorata Parte". It is hoped that through this trade union, workers/labourers' rights can be obtained fairly and properly.

B. METHODS

This writing uses a qualitative methodology. David Williams argues that qualitative research is the collection of data in a natural setting using natural methods, and is carried out by naturally interested people or researchers.¹⁵ With this type of normative legal research, according to Soerjono Soekanto and Sri Mamudji, normative legal research is legal research carried out by examining library materials or mere secondary data. Normative legal research includes research on legal principles, research on legal systematics, research on the level of vertical and horizontal synchronization, legal comparisons, and legal history.¹⁶

¹⁵ Lexy J Maleong. 2007. *Metodologi Penelitian Kualitatif*. Penerbit PT Remaja Rosdakarya Offset. Bandung.

¹⁶ Soerjono Soekanto; & Sri Mamudji, 1985. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: CV. Rajawali, pp. 34-41.

C. RESULTS AND DISCUSSION

1. Position of Workers/Labor Unions in Indonesia

After Indonesian independence, the development of trade unions in Indonesia developed very rapidly and many political parties formed trade unions to strengthen their position in society. Among other things, the Nahdlatul Ulama (NU) formed SARBUMUSI, then the Indonesian National Party (PNI) formed the KBM, the Indonesian Communist Party (PKI) formed the SOBSI.¹⁷ With the many choices of trade unions, it gives workers more options to join unions following the expectations they want to achieve. This freedom of choice allows workers to be able to participate more actively in the trade union.¹⁸

A Workers Union is not an organization that only collects fees from its members or (workers) who then only conduct activities when their birthday reception is approaching.¹⁹ A trade union is an organization of workers formed to promote, protect and improve all social, economic and political interests of its members through collective action.²⁰

Muchdarsyah Sinungun in his book explains that trade unions have capabilities concerning the roles of trade unions in the workplace and the community, including First, associational ability, namely the ability of trade unions to gather or unite employees or labourers who have the same interests. Second, Structural capability, namely the ability of trade unions to influence and regulate organizations, especially workers. Third, symbolic ability, namely the ability of trade unions to represent workers in solving problems in certain ways. Fourth, political capacity, namely the ability of trade unions to solve industrial relations problems in political ways.²¹

¹⁷ Uwiyono, 2000, *Serikat Pekerja dan Peningkatan Hak-Hak Asasi serta Standar Ketenagakerjaan di Indonesia*, Jurnal Pusat Studi Indonesia Vol. 10

¹⁸ Hamong Santoso. 2011. *Partisipasi Pekerja dalam Serikat Pekerja*, Program Magister Manajemen Universitas Diponegoro, Jurnal Ekonomi Pembangunan Volume 12 Nomor 2, Desember.

¹⁹ Mohamad Anwar. 2019. *Peran Serikat Pekerja Dalam Menetapkan Upah Minimum Sebagai Upaya Perlindungan Upah Bagi Tenaga Kerja.*, Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan, Volume 6 Nomor 1 Juli.

²⁰ Handoko, T. Hani, 2000. *Manajemen Personalia dan Sumber Daya Manusia*, Yogyakarta: BPFE, p. 16.

²¹ Eggi Sudjana, 2005. *Nasib dan Perjuangan Buruh di Indonesia*, Jakarta: Renaissance. p.27.

Article 1 paragraph 1 of Law Number 21 of 2000 concerning Workers' Unions / Labor Unions states that a Worker / Labor Union is a tool to fight for, protect, and defend the interests and welfare of workers and their families.²²

The right to freedom of association for workers in Indonesia is guaranteed constitutionally in the 1945 Constitution Article 28 E paragraph (3) which stipulates that everyone has the right to freedom of association, assembly and expression. Thus there is no reason for the government or other stakeholders in Indonesia not to give freedom to workers to exercise their rights to freedom of association, and to obstruct the formation of trade unions in Indonesia as long as they do not conflict with Indonesian positive law.

Trade unions have functions, among others, as parties in the making of collective labour agreements in the process of resolving industrial relations problems, thereby giving rise to agreements in granting employee rights and obligations. Trade unions are also a means of channelling aspirations and demands in fighting for the rights and interests of their members, as a means of creating industrial relations that are harmonious, dynamic and just following applicable laws and regulations to minimize disputes in industrial relations.²³

Law Number 21 of 2000 provides an important role for trade unions, including a). Role as a party to a collective labour agreement. A collective agreement is the result of deliberations between the trade union and the employer, the results of which are based on an agreement from an optimal point reached under existing conditions by taking into account the interests of all parties; b). The role of resolving industrial disputes. Industrial relations disputes are the result of disputes that cause conflict between employers and workers and trade unions; c). The role of representing workers in bipartite institutions. Bipartite institutions are communication forums registered with employment agencies between employers and trade unions that discuss industrial relations issues within the company; d). The role of creating industrial relations that are dynamic, harmonious and fair. A dynamic, harmonious and just relationship can be created if the union can be wise to position itself as a business partner by considering the conditions of the company when fighting for the interests of workers so that they can be unified; e). The role of channelling the aspirations of its members. Trade unions are established democratically so that media implementation is needed, and activities that connect workers and trade unions in fighting for the rights and

²² Undang-Undang No. 21 Tahun 2000 tentang Serikat Pekerja/Serikat Buruh

²³ *Opcit.*, Mohamad Anwar.

interests of their members are realized through the creation of collective agreements; f). The role of fighting for share ownership. Share ownership which is fought for by trade unions aims to unite the interests of employers to increase production output and the interests of workers to increase income.

2. Rights and Obligations of Workers/Laborers towards Unions and Companies

The Manpower Law regulates the working relationship between workers/labourers and entrepreneurs, which means regulating the interests of individuals. The working relationship that regulates workers and employers contains the rights and obligations of the parties.²⁴

In industrial relations, there is an agreement that outlines the rights and obligations of employers, rights and obligations of workers, duration of work, responsibilities of workers in the production process, and wages received by workers.²⁵ Employees in a company are usually defined as workers in structural positions.²⁶

With the enactment of Law Number 21 of 2000 concerning Trade Unions / Labor Unions and Law Number 13 of 2003 concerning Manpower and the International Labor Organization (ILO) Convention Number: 87/1948 concerning the Right to Organize and Protection of the Right to Organize (Freedom of Association and Protection of the Right to Organization) which has been ratified by Presidential Decree No. 83 of 1993, so workers/labourers and employers have the right to; a). Establish and join organizations of your choice; b). Workers/labour organizations and employers have the right to formulate a constitution and are free to elect their representatives; c). The competent authorities must prevent interference with the organization from any party that may restrict the right to organize; d). Workers/labour and entrepreneur organizations may not be dissolved or their activities prohibited by the

²⁴ Suhartoyo., 2019. *Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional.*, Administrative Law & Governance Journal. Volume 2 Issue 2, June.

²⁵ Fitriyah; & Rakha Gusti Wardhana., 2019. *Hambatan Serikat Pekerja Dalam Penyelesaian Permasalahan Hubungan Industrial.*, Kesejahteraan Sosial, Jilid 20, Nomor 2, Oktober, pp.112-126.

²⁶ Yuliana Yuli W; Sulastri; Dwi Aryanti R. 2018. *Implementasi Undang-Undang Ketenagakerjaan Dalam Perjanjian Kerja Antara Perusahaan dan Tenaga Kerja Diperseroan Terbatas (PT).*, Jurnal Yuridis Vol.5. No. 2, Desember, pp.186-209.

administrative authorities of the state / administrative authorities; e). Workers' / labourers' and employers' organizations have the right to establish and join federations or confederations, and federations or confederations have the right to join international organizations.

To overcome problems that often occur in industrial relations, Indonesia has issued Law Number 13 of 2003 concerning Manpower, especially Chapter 10 which contains the following workers' rights:²⁷ a). Protection of the basic rights of workers/labourers to bargain with employers; b). Protection of occupational safety and health; c). Special protection for women workers/labourers, children, and people with disabilities; d). Protection of wages, welfare and social security for workers.

Legal protection arrangements for the normative rights of workers are very important and interesting to discuss because they are related to the normative rights of workers. Rights are things that should be received by workers according to the agreement or agreement with the employer, in this case receiving wages and so on.²⁸

Law Number 21 of 2000 determines the rights and obligations of trade unions/labour unions as follows: First: Rights of Trade Unions / Labor Unions; a). Make a Collective Labor Agreement (PKB) with entrepreneurs; b). Representing workers/labourers in resolving disputes in industrial relations; c). Representing workers/labourers in manpower institutions; d). Establishing an institution or carrying out activities related to efforts to improve the welfare of workers/labourers, e) Carrying out other activities in the manpower sector that do not conflict with the prevailing laws and regulations. Second: Obligations of Trade Unions / Labor Unions; a). Protect and defend members from violations of rights and fight for the improvement of the welfare of members and their families; b). Fight for the improvement of the welfare of members and their families; c). Responsible for the activities of the organization to its members following the articles of association and by-laws.

Running the organization takes time. Therefore, the entrepreneur must give the management and/or members of the trade/labour union the opportunity to carry out trade union/labour union activities during working hours agreed by both parties and/or stipulated in the collective working

²⁷ Undang-Undang No. 13 tahun 2003 Tentang Ketenaga kerjaan

²⁸ Ah Sanwani., 2018. *Peranan Serikat Pekerja Berdasarkan Undang-Undang No. 13 Tahun 2003 Tentang Ketenagakerjaan (Studi Kasus Pembelaan Hak-Hak Buruh Oleh Kspci Di Kabupaten Tangerang).*, Jurnal Mozaik Vol. X Edisi 2 Desember.

agreement. The government guarantees the rights of workers/labourers to organize and organize their activities through labour inspectors following applicable laws.

In countries where trade unions are still weak, such as Indonesia, Cambodia, Myanmar and the Philippines, all labour laws and regulations require the government to take part in trade union affairs. The labour regulations in the country give power to the government to control trade union activities so that they are in sync with the development process, or at least not deviate too far from the development guidelines in the country concerned. This condition reflects the existence of restrictions on the right to organize according to the will or will of the government.²⁹

3. Efforts to Resolve Company and Worker / Laborer Problems Against Companies Declared Bankrupt

The working relationship between workers and employers is not always harmonious, there are disagreements in dealing with the labour law.³⁰ Workers are Indonesian citizens who have the right, either as individuals or groups of people, to associate and establish organizations as a form of protection and enforcement of their normative rights. However, this applies as long as the right to organize an association is used in line with and does not conflict with statutory regulations.³¹

John Locke by using the legal construction examines the social agreement which aims to guarantee the life, freedom and property rights of the people and that the government must respect human rights, hereinafter referred to as HAM. The meaning of the agreement lies in the guarantee of these rights. Human rights according to this way of thinking have a preconstitutional character. Human rights are rights that are received

²⁹ Bahder Johan Nasution, 2015. *Fungsi Kebebasan Berserikat Bagi Pekerja Dalam Hubungan Industrial Pancasila*, Jambi: Jurnal Inovatif, Volume VIII Nomor I Januari. p.12.

³⁰ Tanti Kirana Utami. 2013. *Peran Serikat Pekerja Dalam Penyelesaian Perselisihan Pemutusan Hubungan Kerja.*, Jurnal Wawasan Hukum, Vol. 28 No. 01 Februari.

³¹ M. Nurdin Singadimedja, M. Holy One N. Singadimedja., 2018. *Kepastian Perlindungan Hukum bagi Pengurus Serikat Pekerja Dari Tindakan Union Busting.*, Jurnal Hukum POSITUM Vol. 3, No. 1, Juni, pp. 104-116.

regardless of state ties (statsverband). A state bond that does not guarantee human rights has lost its basis of existence.³²

A conducive labour relation will be able to increase the business climate and favourable investment which in the end will greatly affect the running of the economy. The relationship between workers and employers or employers or investors has shown an antagonistic rather than a harmonious relationship. The company has an interest in getting the maximum profit according to the wishes of the owners of capital.³³

The Workers Union / Labor Union has the function and objective of fighting for the welfare of its members. The struggle for welfare begins with fighting for the amount of Minimum Wage that must be received by members or workers/labourers. The determination of the Minimum Wage is very important for workers/labourers because the Minimum Wage will be a basic reference for the application of wages in companies. Therefore, when the Minimum Wage is set by the Governor, it is not uncommon for workers/labourers or Workers/Labor Unions to take action against the Minimum Wage set by the government because it is considered far from meeting the needs of the workers/labourers. The rejection of the determination of the Minimum Wage becomes as if it has become a tradition every time there is the determination of the Minimum Wage. It is not wrong when viewed from the perspective of the workers/labourers. Even though the determination of the Minimum Wage has involved all elements with an interest in the implementation of industrial relations, namely the Workers/Labor Unions, employers, the government and also including experts and academics who are members of the Wage Commission or Wage Council.

Forms of injustice that are often experienced by workers are the low wages received, the absence of social security, the unavailability of a safe work environment, and so on.

If no agreement is reached in the deliberation, then the settlement of the formation of a collective working agreement is carried out through the industrial relations settlement procedure. While going through the industrial relations settlement process, company regulations or collective working

³² Harifin A Tumpa. 2010, *Peluang dan Tantangan Eksistensi Pengadilan HAM di Indonesia*, Jakarta: Prenada Media.

³³ A Novius. 2017. *Fenomena Kesejahteraan Buruh/Karyawan Perusahaan Di Indonesia (Phenomenon Employee/Laborer's Benefit in Indonesian Corporates)*. Fokus Ekonomi, Vol. 2, pp. 81-91.

agreements that are still in effect can temporarily be used so that there is no legal vacuum in the company, until the time the company regulations are in effect, they can then be replaced with a collective working agreement. The formation of a work agreement must fulfil the conditions so that the agreement can be enforced.³⁴

Criminalization of workers and deprivation of the right to associate. For a society that is developing, the law is always associated with efforts to improve people's lives in a better direction. Because through the intended legal norms, it is hoped that order and certainty can be fulfilled so that they can realize what they aspire to in people's lives.³⁵

Justice that is built by taking into account the natural rights, natural obligations, and social obligations of humans who live together can be divided based on the classification as stated by Aristotle regarding commutative justice and distributive justice.³⁶

Some of the principles for resolving business disputes among business actors are based on Articles 1131 and 1132 of the Civil Code, which state: First, according to Article 1131, all movable and immovable objects of the person owed, whether existing or new, will be the responsibility of all individual engagements at a later date. Second, according to Article 1132, this material becomes a collective guarantee for all people who owe it; income from the sale of these objects is divided according to the balance, that is, according to the size of the respective receivables, unless there are valid reasons for prioritization among the debtors.

Based on the two Articles mentioned above, there are 2 (two) principles of business dispute resolution, namely; a). Whereas all movable and immovable assets of the Debtor, whether currently owned or that will be owned at a later date, are bound to debt settlement (Article 1311 of the Civil Code); b). The assets serve as collateral, the proceeds must be distributed proportionally to creditors, except creditors who have special privileges.

Based on these two principles, the settlement referred to is settlement through a bankruptcy institution which is subject to the provisions of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment

³⁴ F.X Djumaldi, 2010. *Perjanjian Kerja*, edisi 10, Penerbit Sinar Grafika, p. 73.

³⁵ Sami'an. 2019. *Pelaksanaan Perlindungan Tenaga Kerja sebagai Wujud Kepastian Hukum.*, Majalah Ilmiah Solusi., Vol. 17, No. 4 Oktober.

³⁶ Bahder Johan Nasution. 2015. *Hak Anggota Serikat Pekerja Perspektif Hak Asasi Manusia.*, Volume 5, Nomor 2, Oktober; ISSN 2089-0109

Obligations. This principle determines that, "Bankruptcy includes all assets of the Debtor at the time the decision to declare bankruptcy is pronounced as well as everything obtained during the bankruptcy (Article 21)."

There are two ways to settle business disputes: through Alternative Dispute Resolution (ADR), as stipulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which has been in effect since August 12, 1999, and through litigation at the District Court, namely the Commercial Court, which is carried out in this case through bankruptcy and postponement institutions (PKPU).

The pattern of business dispute settlement as regulated in Law Number 37 of 2004 can be pursued in 2 (two) ways, namely through Bankruptcy or Postponement of Debt Payment Obligations (PKPU). These settlement patterns are considered the most effective and open to the disputing parties, as well as mutually beneficial to both parties, both the Debtor and the Creditors.³⁷

If there is an industrial relations dispute, whether over rights, interests, layoffs, or disputes between trade unions/labour unions, the procedures that can be taken are regulated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (UU PPHI), beginning with bipartite negotiations, Mediation/Conciliation/Arbitration, and ending with the Industrial Relativity Tribunal.³⁸

Types of Industrial Relations Disputes in Article 2 of Law Number 2 of 2004 concerning Industrial Relations Disputes Settlement include a). disputes over rights, namely disputes arising from non-fulfilment of rights, due to differences in the implementation or interpretation of statutory provisions, work agreements, company regulations, or collective working agreements; b). disputes of interest, namely disputes arising in a working relationship due to non-conformity of opinion regarding the manufacture and/or changes in the working conditions stipulated in the work agreement, or company regulations, or collective working agreement; c). Disputes over Termination of Employment, namely disputes arising from the absence of conformity of opinion regarding the termination of the employment relationship carried out by one of the parties; d). Disputes between trade unions/labour unions in only one company, namely disputes between trade unions/labour unions and other trade unions/labor unions in only one company, because there is no agreement

³⁷ *Opcit.* Sri Redjeki Slamet

³⁸ Agus Suprayogi., *Perbedaan Hukum Perburuahan di Negara dengan Sistem Hukum Civil Law dan Common Law; Studi Kasus Singapura dan Indonesia..*

regarding membership, the exercise of rights and obligations to the workers union.³⁹

The payment of workers/labour to a company experiencing bankruptcy is regulated in Article 165 of Law Number 13 of 2003 concerning Manpower. This explains that the entrepreneur can terminate the worker/labourer due to the bankruptcy of the company, provided that the worker/labourer is entitled to severance pay, long service awards and compensation as regulated in this law.⁴⁰

In the case of bankruptcy, as written in Article 95 paragraph 4 of Law Number 13 of 2003 concerning Manpower, the wages and other rights of workers are debts that must be paid first. In the case of bankruptcy, the payment of workers' wages is categorized as a general privilege (prevalent creditors) in which before the bankruptcy estate is distributed to creditors, the payment of wages and other rights of workers must take precedence.

As explained in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU), bankruptcy is a general confiscation of all the assets of the Bankrupt Debtor whose management and settlement is carried out by a curator under the supervision of the supervisory judge as regulated in this Law.⁴¹

The company was declared truly bankrupt based on a decision from a Commercial Court which placed all bankruptcy assets under the status of public attachment. In which case, the responsibility for the bankruptcy estate is transferred to the curator to carry out the management and settlement of the bankruptcy estate.

The government's efforts to protect occupational health and safety through the law did not run smoothly, because of the Industrial Revolution. The concept of a legal state that has developed is a liberal legal state or a classical law state with a *laissez-faire* doctrine.⁴²

³⁹ Undang-Undang No. 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial.

⁴⁰ Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan

⁴¹ Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang (PKPU).

⁴² Sonhaji., *Organisasi Serikat Pekerja Terhadap Kesejahteraan Pekerja atau Buruh di PT. Apac Inti Corpora.*, *Administrative Law & Governance Journal*. Volume 2 Issue 4, Nov 2019.

D. CONCLUSIONS

The presence of multiple Worker/Labor Unions in a company demonstrates the workers' democratic attitude. Trade unions must support workers rather than employers, but their support must be objective, open, and responsible. This is following the mandate of Law Number 21 of 2000, jo. Article 28D (paragraph 1), such as guarantees of protection, legal certainty, fair and equal treatment before the law, jo. Article 28D (paragraph 2), which is equivalent to the right to fair and proper remuneration in a working relationship, all of which are stated in the 1945 Constitution.

A trade union can be formed by at least ten workers, and once formed, a trade union has the right to form and have an umbrella as a member of a trade union federation or confederation.

Following article 102 of the 2003 Manpower Act, in carrying out industrial relations, workers and trade unions have the function of carrying out work following their obligations. Apart from being obliged to maintain order for the sake of production continuity, channel aspirations in a democratic manner, develop skills and expertise as well as participate in advancing the company and fight for the welfare of its members and their families.

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