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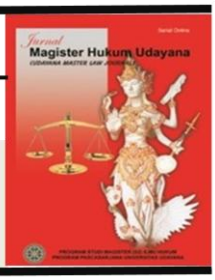

Position of Collective Labor Agreement as a Company Autonomous Law: Industrial Relation Dispute Settlement Approach

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Abstract

Collective Labor Agreement (CLA) is one of the main pillars that can be used in resolving disputes that occur in the company, However, there are problems concerning the implementation of CLA. The purpose of this research is to find and identify factors that can trigger disputes in the implementation of CLA, the probability of amendment of the CLA, identify the position of CLA in resolving Industrial Relation Disputes and find a mechanism of settlement in the implementation of the CLA. The research was carried out using empirical legal methods and analyzed using qualitative methods. The results are presented in a descriptive analysis report. The results of this research showed differences in interpretation, when unclear validity arrangements and adjustments of the new legislation happen were triggering disputes in the implementation of the CLA. Based on goodwill from the CLA parties, amendments could be made through negotiations in accordance with the mechanism stipulated in the Laws and Regulations. The position of CLA is an autonomous law that applies to the company and is an important element in preventing and resolving Industrial Relation Disputes. Finally, the settlement through bipartite, tripartite and Industrial Relation Court are the mechanism that can be taken for interest disputes.

I. Introduction

It is necessary to have a harmonious relationship between the Employer as the owner of capital and the Worker as a human resource who will later produce products in the form of goods and/or services to sell in order to return the Employer's capital and

expected profits. Based on the existence of a harmonious working relationship between Workers and Employers, the production process could be run well.[1]

However, it cannot be avoided even though in a good Industrial Relation, a dispute will definitely occur. Disputes in the framework of industrial relations can occur due to various factors, where these factors can be minimized by making regulations that contain conditions of work, rights, and obligations of each party that is related diametrical due to different interests, Workers with the interests of their livelihoods and Employers with their capital interests.[2]

One of the examples common disputes is concerning the workers' wages, where wages are all kinds of payments arising from labor contracts, regardless of the type of work and denomination.[3] In-Law Number 13 of 2003 concerning Manpower (Labor Law) every worker has the right to obtain income that fulfills a decent living for humanity, also towards their families and children, especially their basic rights.[4] Income that fulfills a decent living is the amount of workers' income from the work so they are able to meet the needs of workers and their families in a reasonable way.[5] For instance, disputes could have potentially occurred if the wages or one of the wage components such as benefits cannot be paid by the company due to the unhealthy financial condition of the company.[6] Other disputes may include and are not limited to work facilities, benefits, work climate and everything related to the implementation of industrial relations.

In the Labor Law, industrial disputes are limited to rights disputes, interest disputes, disputes over the termination of employment and disputes between labor unions in one company, which occurs between employers or joint employers with workers or labor unions. Regarding the rights of workers in industrial relations, it can be divided into two, namely the rights arising from the regulation in the legislation (normative rights) and the rights arising from an agreement as outlined in an agreement (non-normative rights).[7] Normative rights do not need to be regulated in company regulations or Collective Labor Agreement (CLA) because they are guaranteed by

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[1] Zulkarnaen, A.H. (2018). Konfigurasi Politik dan Karakter Hukum dalam Perumusan Perjanjian Kerja Perorangan dan Perjanjian Kerja Bersama, *Jurnal Hukum Mimbar Justitia*, 4(1), 89-111, doi: https://doi.org/10.35194/jhmj.v4i1.369, h. 103-104.

[2]Darma, S.A. (2017). Kedudukan Hubungan Kerja: Berdasarkan Sudut Pandang Ilmu Kaidah Hukum Ketenagakerjaan dan Sifat Hukum Publik dan Privat, *Mimbar Hukum*, 29(2), 221-234, doi: https://doi.org/10.22146/jmh.25047, h. 225-226.

[3]Bambang, J. (2013). *Hukum Ketenagakerjaan*, Pustaka Setia, Bandung, p. 159.

[4]Hermanto, B. & Yusa, I G. (2018). The Ruling of the Constitutional Court of the Republic of Indonesia concerning Children Age Limit and its Rights, *Kertha Patrika*, 40(2), 61-70, doi: https://doi.org/10.24843/KP.2018.v40.i02.p01, h. 62.

[5]Sudiarawan, K.A. & Martana, P.A.H. (2019). Implikasi Hukum Pengaturan Upah Minimum Sektoral Kabupaten Badung terhadap Pelaku Usaha pada Sektor Kepariwisataan di Kabupaten Badung Provinsi Bali, *Supremasi Hukum: Jurnal Penelitian Hukum*, 28(1), 33-56, doi: https://doi.org/10.33369/jsh.28.1.33-56, h. 43.

[6]Fitriani, D. (2015). Penjabaran Hak Tenaga Kerja Perempuan atas Upah dan Waktu Kerja dalam Peraturan Perusahaan dan Perjanjian Kerja, *Jurnal Magister Hukum Udayana*, 4(2), 375-382, doi: https://doi.org/10.24843/JMHU.2015.v04.i02.p17, h. 375.

[7]Yhohasta, U. (2009). *Pelaksanaan Perjanjian Kerja Bersama (PKB) Antara Serikat Karyawan Dengan Manajemen Perusahaan PT. Telkom.Tbk Devisi Regional IV Semarang*, Tesis, Program Studi Magister Kenotariatan Program Pascasarjana Universitas Diponegoro Semarang, h. 13.

legislation. Related to the interesting dispute referred to in the Labor Law is an opinion discrepancy regarding the making, and/or amendments of the work conditions stipulated in the labor agreement, or company regulations or CLA.

To minimize the occurrence of industrial relations disputes, the first and generally done by employers is to make labor agreements with workers. Labor agreement was made between the employer and the workers as individuals who needed jobs. Because of the position of the workers who need jobs for their livelihood, the position of these workers tends to be weak. Moreover, the labor agreement is generally offered unilaterally by the employer. Indeed, the workers theoretically have bargaining power, but if it is associated with its position which requires a job for its social status and for its livelihood, the position of the worker is not as strong as the employer. Practically, employers can only limit the interests of workers by offering labor agreements that arising more benefits for the business. Thus, the labor agreement is less effective in minimizing the occurrence of industrial relations disputes because it tends to not accommodate the interests of workers.

In addition to making work agreements, employers can also make Company Regulations. The Company Regulation is a regulation made in writing by the employer that contains the terms of work conditions and company rules. The Company Regulation is a product of regulations made by employers unilaterally. Company Regulations are technical instructions from CLA and labor agreements made by workers/labor unions with employers. Obviously, because it is a one-sided product of the employer, although by taking into account the suggestions and considerations of the workers' representatives in the company, Company Regulations are still deemed not to accommodate the overall aspirations of the workers.

Another solution offered as regulated in the Labor Law is the formulation of a CLA. CLA is expected to minimize the emergence of industrial relations disputes because, in the formulation process, both employers and labor union are involved.[8] According to the Labor Law, the Collective Labor Agreement is "an agreement which is the result of negotiations between labor unions or several labor unions which are registered with the agency responsible for employment with the employer, or several employers or employers' associations that contain conditions of work, rights and obligations of both parties". Based on the arrangements in the Labor Law, it can be concluded that CLA is a reference for the implementation of industrial relations that contain work conditions, rights, and obligations of the parties and that CLA is the result of negotiations from a labor unions representing workers with employers or association of employers.

The labor union is an organization formed from, by, and for workers both in the company and outside the company, which is free, open, independent, democratic and responsible to fight for, defend and protect the rights and interests of workers and improve the welfare of workers and their families. Where the function of the labor union is one of them as a party in the formulation of CLA and industrial dispute resolution.[9]

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[8] Utami, T.K. (2013). Peran Serikat Pekerja dalam Penyelesaian Perselisihan Pemutusan Hubungan Kerja, *Jurnal Wawasan Hukum*, 28(1), 657-686, doi: http://dx.doi.org/10.25072.jwy.v28i1.63, h. 683.

[9] Adhyaksa, G. (2016). Penerapan Asas Perlindungan yang Seimbang menurut KUHPerdata dalam Pelaksanaan Perjanjian Kerja untuk Waktu Tertentu dihubungkan dengan Undang-

By involving labor unions instead of workers as individuals, it is expected that workers' interests are not fought individually but collectively through labor unions. By the collective method, the employer is seen as difficult to suppress, reduce or limit the rights of workers. CLA as one of the means of industrial relations has a status above Company Regulations because CLA is the result of negotiations agreed upon by labor unions and employers.[10] By the formulation of the CLA by labor union and employers, it is expected that the result will be a regulation that provides legal certainty and protection not only for workers but also employers equally in an industrial relations.

Formulation of the CLA even though it has involved both parties which is diametrical, namely the workers and employers, but can still cause disputes in its implementation. Thus, it needs to be formulated how the position of the CLA in solving problems in the company and then classified the factors that could trigger disputes in the implementation of the CLA in a Company.

Based on the background above, the author was then interested to conduct a legal journal writing upon the title: **"Position of Collective Labor Agreement in Industrial Relation Dispute Settlement: an Overview of Collective Labor Agreement as a Company Autonomous Law".**

Some of the problems that will be discussed in this research concerning the factors that could trigger disputes in the implementation of a Collective Labor Agreement in a Company, the possibility of Collective Labor Agreement that has been applied to a company able to be amended based on company conditions, the position of the Collective Labor Agreement in Industrial Relations Dispute Settlement that occurs in a company, and the settlement form/mechanism that can be taken if one of the parties has different views regarding the matters that have been regulated in the Collective Labor Agreement.

2. Research Method

The research was conducted using empirical legal methods. The data used in this research consisted of primary data and secondary data. All data collected were analyzed using qualitative methods. The results of this study are presented in a descriptive analysis report.

3. Result and Discussions

3.1. Factors Triggering Occurrence of Disputes in Implementation of Collective Labor Agreement in a Company

In a civil or private legal relation, it is customary to achieve the fulfillment of the rights and obligations of the parties making legal relations that are characterized by being subject to a contract or legal agreement. With the '*consent to be bound*' or '*pacta sunt*

undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan, *Jurnal Unifikasi*, 3(2), 77-87, doi: https://doi.org/10.25134/unifikasi.v3i1.411, h. 81-82.

[10] Santoso, B. & Hito, R.D.P. (2012), Eksistensi Asas Kebebasan Berkontrak dalam Perjanjian Kerja, Arena Hukum, 201-209, doi: https://doi.org/10.21776/ub.arenahukum.2012.00503.6, h. 203.

servanda' subject to an agreed agreement or contract, it is expected that parties can carry out the contents of the contract or agreement with the fulfillment of rights following the contents of the contract or agreement.

The process of formulating until an agreement and the implementation of a contract is driven by several legal principles or principles in the field of contract law,[11] namely the principle of consensual (that an agreement or contract is born on the basis of an agreement of the parties, especially on the type of consensual contract), the principle of freedom contract (as stipulated on Article 1338 *juncto* Article 1320 of the Indonesian Civil Code[12] that the agreement made legally applies as a law for those who make the agreement.[13] It means the guarantee of freedom to determine whether or not to enter into an agreement, freedom with whom to enter into an agreement, freedom to determine the contents or clause of the agreement, freedom to determine the form of the agreement, as well as other freedoms that do not conflict with the law),[14] the principle of *pacta sunt servanda* (as Article 1338 paragraph (1) of the Indonesian Civil Code that the agreement made legally applies as a law for those who make it), as well as the good faith principle (as Article 1338 paragraph (3) of the Indonesian Civil Code emphasizes the good faith of the parties in the preparation, negotiation, signing up to the implementation of the agreement or contract). These principles are also applied in terms of labor agreements or Collective Labor Agreement as specified in Article 1601a of Indonesian Civil Code that contains elements in the form of elements of work agreed upon (as an object of agreement) in accordance with Article 1603a of the Indonesian Civil Code,[15] elements of the order according to the work agreed upon, as well as elements of wages or wages from the employer to the workers. This is also when it is explored further in Article 52 paragraph (1) of the Labor Law jo. Article 1320 of the Indonesian Civil Code, must be based on the agreement of both parties, legal ability in carrying out legal actions, the existence of the work agreed (object of the agreement), and the object of the agreement shall not conflict with public order, decency and positive provisions of legislation, which is cumulative shall be fulfilled as a valid agreement.

In terms of CLA as stipulated in Article 1 number (21) of the Labor Law, the emphasis is on agreements that are the result of negotiations or negotiations between labor union on a date or collectively that have been recorded at the Ministry of Manpower or the Manpower Office with the employer either a date or a collective and it contains fulfillment in the form of work conditions as well as the rights and obligations of the parties.

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[11] Miru, A. (2014). *Hukum Kontrak & Perancangan Kontrak*, Cetakan Keenam, RajaGrafindo Persada, Jakarta, p. 3-5.

[12] Trisnamansyah, P. (2017). Syarat Subjektif dan Objektif Sahnya Perjanjian dalam Kaitannya dengan Perjanjian Kerja, *Syiar Hukum: Jurnal Ilmu Hukum*, 15(2), 158-183, doi: https://doi.org/10.29313/sh.v15i2.2373, h. 162-163.

[13] Muljadi, K. & Widjaja, G. (2014). *Perikatan yang Lahir dari Perjanjian*, Cetakan Keenam, RajaGrafindo Persada, Jakarta, p. 4,7.

[14] Salim, H.S. (2017). *Hukum Kontrak Teori dan Teknik Penyusunan Kontrak*, Cetakan Kedua Belas, Sinar Grafika, Jakarta, p. 9-10.

[15] Putra, C.V.A. (2017). Urgensi Klausula Definisi dalam Perjanjian Kerja, *Kertha Patrika*, 39(1), 61-77, doi: https://doi.org/10.24843/KP.2017.v39.101.p05, h. 67-68.

However, it does not exclude the possibility of disputes in the practice of implementing CLA by employers or workers (Labor Union in a Single or Collective), which are usually caused by an unequal position between the workers/labor union with employers[16] which occur from time to time, which encourage discrimination against workers[17] individually or labor union collectively. Based on research conducted on companies that already have labor union and CLA at least some of the driving factors that trigger the dispute over the implementation of the CLA are:

First, the factor of difference in interpretation, where the difference in interpretation originates either from the employer or from the Workers (Labor Union) upon the provisions stipulated in the CLA. **Second**, the regulation of matters excessively in CLA which in this case does not take into consideration the company's future conditions. This condition should be avoided for the parties in the formulation of CLA, although in the formulating process, the parties are possible to regulate beyond what has been stipulated in the legislation. Arrangements that do not consider all aspects are likely to harm one party that triggers a dispute in the future. **Third**, one party denies the provisions in the CLA unilaterally. This condition occurs in several companies, but one of the parties injured in accordance with the provisions of the Industrial Relations Dispute Settlement Law can choose the steps specified either through a bipartite, tripartite mechanism or through the Industrial Relations Court. **Fourth**, the unclear arrangement of the validity period of the CLA when one party intend to revise the CLA (the other party does not agree) which in this case is contrary to the Law and the Minister of Manpower Regulation, in which the Law and the Minister of Manpower Regulation mandate the CLA to continue applied repeatedly, but in this case, one party did not agree, while the other party wanted to amend one of the provisions of the CLA but did not meet the agreement resulting in a legal conflict between the workers and the employer. **Fifth**, adjusting the arrangement of the points in the CLA with the enactment of the relevant new legislation. This condition also has the potential to create conflict in the implementation of CLA.

3.2. Possibility of Collective Labor Agreements that have Validated a Company to be Amended Based on the Conditions of the Company

Labor Law jo. Minister of Manpower and Transmigration Regulation Number 28 Year 2014 concerning Procedures for Formulation and Ratification of Company Regulations and Formulation and Registration of Collective Labor Agreements ("Permenakertrans 26/2014") defines Collective Labor Agreements as agreements that are the result of negotiations between labor union or several labor unions registered with the agency responsible for manpower affairs with the employer or several employers which contain conditions of work, rights and obligations of both parties.

Negotiations in CLA shall be conducted based on good faith and the free will of both parties. As for what is stipulated in the CLA may not conflict with applicable laws and regulations. CLA could stipulate the provisions (including technical matters) that not

[16]Muhtaj, M.E. (2012) *Dimensi-dimensi HAM Mengurai Hak Ekonomi, Sosial, dan Budaya*, Cetakan Kedua, RajaGrafindo Persada, Jakarta, h. 167-168.

[17]Li, T.M. (2017). The Price of Un/Freedom: Indonesia's Colonial and Contemporary Plantation Labor Regimes, *Comparative Studies in Society and History*, 59(2), 245-276, doi: 10.1017/S00104175117000044, p. 247-248.

yet stipulated by law. Collective Labor Agreement could also stipulate provisions beyond what is stipulated in the legislation based on the agreement of the parties. CLA is autonomous laws that applied as material laws in a company.

In the CLA that has been applied to the Company, based on the good faith of the parties, the CLA could be amended accordingly through negotiations in accordance with the mechanism stipulated in the legislation. Including if there is an intention of one party to reduce some of the benefits that previously stipulated in the CLA. The amendment could be applied based on the agreement of the parties (provided that it does not reduce workers' rights as stipulated in the legislation).

In principle what has been arranged better in the previous CLA should not be reduced. However, on the basis of good faith and the real conditions of the company, matters that were different from the conditions of the company at the time of the company's development today are very relevant to be renegotiated between the Company and Labor Unions so that harmonious industrial relations can be maintained and the condition of the Company could be saved.[18]

Based on correspondence with the Department of Manpower and Energy, Mineral Resources of Bali Province, information is obtained which then strengthens the conditions under which the Company is allowed to make amendments to the CLA that was previously valid based on the current real conditions of the Company while still referring to the legislation apply. Therefore, amendments to the CLA are permissible as long as they follow the laws and regulations and are based on the agreement between the parties.

However, if one party does not agree, the CLA returns according to the provisions of the legislation. In terms of one of the parties' intend to amend the CLA but the other parties disagree, the parties can take the procedure or legal steps in accordance with the Industrial Relations Dispute Settlement Law. Amendments to the CLA can only be made if in a bipartite, tripartite process or at the Industrial Relations Court an agreement is reached for peace (set forth in the form of a Mutual Agreement). If that does not happen, then a court decision that has legal force remains the final choice that can be used as a basis for making changes to the CLA that still applies in the company.

3.3. Position of Collective Labor Agreement in Industrial Relation Dispute Settlement that occur in the Company

Collective Labor Agreement is governed by the provisions of Labor Law, namely Chapter XI regarding Industrial Relations Part Three and Article 133 of Labor Law. The regulation has been affirmed in the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number KEP-48/MEN/IV/2004 concerning Procedures for Formulation and Ratification of Company Regulations and the Formulation and Registration of Collective Labor Agreements which have now been replaced by Regulation of Minister of Manpower and Transmigration Republic of Indonesia Number PER.16/MEN/XI/2011 concerning Procedures for Formulation and Ratification of Company Regulations and Formulation and Registration of Collective

[18]Situmorang, R.L. (2013). Tinjauan Yuridis tentang Perjanjian Kerja Bersama ditinjau dari Undang-undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan, *Lex Privatum*, 1(1), 115-122, p. 118.

Labor Agreements, in which Collective Labor Agreements are interpreted as agreements resulting from negotiations between labor union or several labor unions registered with the agency responsible for labor with employers, or some employers or employers' associations which contain work conditions, rights and obligations of both parties.[19]

In this case, the CLA is positioned as an autonomous law that applies in the company that stipulates the rights and obligations of both parties in detail as determined in national legislation, which is a preference or more specific provision than the Law.[20] As an autonomous law that applies in the company as follows the principles of making contracts, in this case, shall be based on negotiations between the two parties and the goodwill of each party as determined in the legislations as also stipulated in the Minister of Manpower and Transmigration Regulation of the Republic of Indonesia Number PER.16/MEN/XI/2011 concerning Procedures of Formulation and Ratification of Company Regulations and Formulation and Registration of Collective Labor Agreements.

Collective Labor Agreement that has been formulated has fulfilled the criteria of an agreement or contract that is in line with the principles of contract drafting both in accordance with the law and based on the agreement in the negotiations of the two parties, is expected to encourage the creation of a harmonious working relationship in the company which has been accommodated in a balanced manner the rights and obligations of workers in the CLA.

CLA is one of the main pillars that can be used in resolving industrial relations disputes. It is because of the nature of the CLA is an agreement that is naturally formed based on a consensus between the Labor Union and the Employer.[21] Because it is formed based on consensus, the results are seen as rules that must be obeyed and respected by both the Workers and Employers. With the existence of CLA in a company, it is viewed that it has provided legal certainty and legal protection in the implementation of harmonious, dynamic and fair industrial relations.

From the above explanation, it is reflected that the CLA has a very important position in the company. CLA is a medium that can be maximized by companies and labor unions in stipulating rights and obligations in a balanced and equitable manner. CLA as an autonomous law that applies in the company if it is prepared in good faith and is able to clearly and explicitly regulate the conditions of work that apply in the company, it will become an important element in preventing and resolving Industrial relations disputes that occur in the company. Preventing in terms of the formulation of CLA carried out in good faith and in accordance with statutory provisions will be able to minimize the potential for disputes that occur in industrial relation. Likewise, the arrangement of a comprehensive and clear Labor Agreement can be used as a reference/guideline in resolving disputes that occur in the company.

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[19]Harikedua, M.T. (2015). Perjanjian Kerja antara Pengusaha dan Pekerja menurut Undang-undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan, *Lex Administratum*, 3(6), 138-148, h. 140-142.

[20]Umbas, R. (2014). Aspek Hukum dalam Perjanjian Kerja Bersama (PKB) antara Karyawan dengan Perusahaan, *Lex Privatum*, 2(3), 167-179, p. 174-175.

[21]Pamungkas, D.S. (2017). Keberlakuan Perjanjian Kerja Bersama bagi Pekerja yang Tidak menjadi Anggota Serikat Pekerja, *DiH: Jurnal Ilmu Hukum*, 243-255, doi: https://doi.org/10.30996/dih.v010.1586, h. 253-254.

3.4. Settlement Forms/Mechanisms that can be Taken upon Interest Disputes in Implementation of Collective Labor Agreement

In the dynamics related to labor or employment law in Indonesia, the International Monetary Fund and the International Trade Union Confederation, there are several problematic areas regarding Indonesian labor or employment law, as follows:[22] (1) illegal or inappropriate use of contract labor; (2) statutorily imposed negotiation and dispute resolution procedures biased toward employers, which undermine the ability of unions to engage in legitimate, legal strike activity; (3) government officials turning a "blind eye" to businesses that openly violate labor laws; and (4) government officials more prone to side with employers than workers in interpreting, or ignoring labor law abuses.

This condition encourages the opportunities for disputes in the practice of implementing CLA either by employers or workers, which then becomes an industrial relations dispute as stipulated in the Industrial Relations Dispute Settlement Law.

If a company has a dispute regarding conditions of work in a CLA, then industrial relations dispute settlement is carried out by basing the mechanism stipulated in the Industrial Relations Dispute Settlement Law. As for the first step, it shall first be attempted to resolve it first through bipartite negotiations by deliberation to reach consensus.

In every industrial relations dispute, statutory provisions stipulate the obligation of workers or labor unions with employers to strive for settlement in advance through bipartite negotiations. With this arrangement, any disputes related to employment (rights, interests, termination of employment, disputes between labor unions in one company) must first go through the bipartite negotiation mechanism before entering the next stage of settlement.

Practically, bipartite negotiation could be carried out internally directly by the worker or union with the company or through a request for facilitation to the relevant labor agency. Bipartite negotiations must be completed no later than 30 working days from the date of the start of negotiations and each negotiation shall be made minutes signed by both parties.[23] There are several conditions that must be fulfilled by the parties in order to be able to declare the bipartite negotiation a failure so that it can continue at the next stage, namely tripartite at the relevant labor institution.

Provisions of Article 3 paragraph (2) of the Regulation of Minister of Manpower and Transmigration Number Per.31/Men/XII/2008 concerning Guidelines for Settling Industrial Relations Disputes through Bipartite Negotiations stipulates that "In terms that one party has requested written negotiations 2 (two) times in a row and other parties refuse or do not respond to negotiations, then disputes can be recorded to the agency responsible for the local manpower field by attaching evidence of the request

[22]Warnecke, T. & Ruyter, A.D. (2012). The Enforcement of Decent Work in India and Indonesia: Developing Sustainable Institutions, *Journal of Economic Issues*, 16(2), 393-401, doi: 10.2753/JEI0021-3624460214, pp. 397-398.

[23]Handayani, P. (2017). Penyelesaian Sengketa melalui Mediasi terhadap Pemutusan Hubungan Kerja di Kota Batam, *Lex Librum Jurnal Ilmu Hukum*, 4(1), 589-596, doi: http://doi.org/10.5281/zenodo.1257783, p. 591.

for negotiations."[24] The provisions generally govern one of the indicators (evidence) which can be used by one party to declare the failure of bipartite negotiations. Another indicator, which can be used as evidence of bipartite negotiations, has failed, if within 30 (thirty) days from the date of the negotiation, one of the parties refuses to negotiate or negotiations have taken place but do not reach an agreement.[25] In terms that one of the parties is unwilling to continue negotiations, the parties or one of the parties may register the dispute with the agency responsible for the labor affairs of the district/city where the workers work even though it has not reached 30 (thirty) working days. This certainly needs to be proven with the final treatise stating that bipartite negotiations failed by noting in the minutes that one party refused to continue the negotiations. Minutes of Bipartite Negotiations, in general, must contain at least: the full name and address of the parties, the date and place of negotiations, the issue or reasons for disputes, the parties' opinions, conclusions or the outcome of the negotiations and the date and signature of the parties to the negotiations.

When Bipartite negotiations fail, one or both parties can record their disputes with the agency responsible for the local manpower by attaching evidence that efforts to resolve through Bipartite negotiations have been carried out, usually, this step is referred to as Tripartite negotiations.[26] If the file is declared procedurally complete referring to the Industrial Relations Dispute Settlement Law, the relevant labor agency will offer the parties whether to settle the dispute through conciliation or choose to settle it through arbitration. If after 7 working days the parties do not choose a settlement through conciliation and arbitration, the agency responsible for the labor sector delegates the settlement of the dispute to the mediator or through mediation.

The Ssttlement of disputes through mediation is carried out by Mediators who are in each office of the agency responsible for the Regency/City manpower field. If an agreement is reached at the mediation stage, a Mutual Agreement will be made as a form of the dispute resolution agreement. However, if it fails then the mediator will issue written recommendations as a form of written suggestion proposed by the mediator to the parties in resolving their dispute.[27] In this mediation process very much needed data (documents) related to problems, oral statements from the parties, it is even possible to be presented by witnesses or experts if deemed necessary as specified in Regulation of Minister of Manpower and Transmigration Number 17 the Year 2014 concerning Appointment and Termination of Mediator Industrial Relations and Mediation Work Procedures. The entire supporting evidence is part of the strong and objective argumentation of each of the disputing parties.

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[24]Simarmata, J. (2018). Urgensi Bantuan Hukum Relawan Pendamping, Pekerja Sosial dan Serikat Buruh setelah Putusan MA No 22 P/HUM/2018, *Jurnal Hukum dan Pembangunan*, 48(4), 670-698, doi: http://dx.doi.org/10.21143/jhp.vol48.no4.1798, p. 689-690.

[25]Remen, O., Suhartini, E. & Yumarni, A. (2018). Penyelesaian Perselisihan Hubungan Industrial pada PT. Haengnam Sejahtera Indonesia di Tingkat Mediasi pada Dinas Tenaga Kerja Kabupaten Bogor, *Jurnal Hukum De'rechtsstaat*, 4(1), 81-92, doi: DOI: http://dx.doi.org/10.30997/jhd.v4i1.1240, p. 90.

[26] Pradima, A. (2013). Alternatif Penyelesaian Perselisihan Hubungan Industrial di Luar Pengadilan, *DIH Jurnal Ilmu Hukum*, 9(17), 1-18, DOI: https://doi.org/10.30996/dih.v9i17.251, p. 6-7.

[27] Yetniwati, Hartati, dan Meriyarni, (2014). Reformasi Hukum Penyelesaian Hubungan Industrial secara Mediasi, *Jurnal Dinamika Hukum*, 14(2), 250-261, doi: http://dx.doi.org/10.20884/1.jdh.2014.14.2.294, p. 253-254.

As for the settlement through Tripartite Negotiations, after receiving a minute from one of the parties, the agency that responsible for the local manpower field must offer the parties to agree to choose a settlement through conciliation or arbitration. In terms that the parties do not set a settlement option through conciliation or arbitration within 7 (seven) working days, the agency responsible for labor shall delegate the settlement of the dispute to the mediator.

Settlement through conciliation is carried out to settle interest disputes, disputes over the termination of employment, or disputes between labor unions. Settlement through arbitration is carried out for the settlement of interest disputes or disputes between trade labor unions. In terms that a settlement through conciliation or mediation does not reach an agreement, one of the parties may file a lawsuit to the Industrial Relations Court.

As for the settlement through the Industrial Relations Court in question is the difference between the interests of the labor union with the Employer/company on problems or problems that arise from the Collective Labor Agreement,[28] Industrial Relations Court has a Final and binding Decision. There are no further legal steps that may be taken if, in an interest dispute, the judge of the Industrial Relations Court has ruled. This provision is different from the type of dispute over rights and Termination of employment disputes that can be filed by Cassation. In terms of working conditions disputes in the Collective Labor Agreement after being declared final through the decision of an Industrial Relations court that has permanent legal force,[29] then the decision is then used as the basis for amending the Collective Labor Agreement.

4. Conclusion

Based on the analysis of some issues discussed in this research, some conclusions are determined as follows:

Triggering Factors in the Implementation of Collective Labor Agreement in a Company include differences in interpretation of the provisions stipulated in the Collective Labor Agreement, Compilation of Collective Labor Agreements that do not consider the condition of the company, Denial of one party to the provisions stipulated in the Work Agreement Together, there is a lack of clarity over the terms of the agreement of the Collective Labor Agreement when one of the parties wants to revise, and adjustments to the provisions of the provisions in the Collective Labor Agreement with the release of new relevant legislation.

Collective Labor Agreement that has been applied to the Company, on the basis of goodwill from the parties, the Collective Labor Agreement can be made through negotiations according to the mechanism stipulated in the Laws and Regulations. If there is a desire from one party to reduce some of the benefits previously stipulated in the Collective Labor Agreement, amendments can be made at the agreement of the

[28] Charda, U. (2017). Model Penyelesaian Perselisihan Hubungan Industrial dalam Hukum Ketenagakerjaan setelah Lahirnya Undang-undang Nomor 2 Tahun 2004, *Wawasan Yuridika*, 1(1), 1-23, doi: http://dx.doi.org/10.25072/jwy.v1i1.124, p. 12-13.

[29] Bedner, A. (2013). Indonesian Legal Scholarship and Jurisprudence as an Obstacle for Transplanting Legal Institutions, *Hague Journal on the Rule of Law*, 5(2), 253-273, doi: 10.1017/s1876404512001145, p. 256.

parties and if one of the parties disagrees, the mechanism can be adopted as stipulated in the Industrial Relations Dispute Settlement Law.

Collective Labor Agreement has a very important position in the company, namely as a medium that can be maximized by companies and workers/unions in regulating rights and obligations or work conditions in a balanced and equitable manner. Collective Labor Agreement as an autonomous law that applies in the company if it is prepared in good faith and is able to clearly and explicitly regulate the work conditions that apply in the company will be an important element in preventing and resolving Industrial relations disputes that occur in the company.

Differences in views regarding the implementation of the terms of work in the Collective Labor Agreement in the company belong to the type of dispute of interest. The form of resolution that can be taken in the event of a conflict of interest in the company refers to the mechanism stipulated in the Industrial Relations Dispute Settlement Law which includes bipartite, tripartite (mediation, conciliation, arbitration) and the Industrial Relations Court. For the types of disputes of interest, the Industrial Relations Court's Decision is final, binding and also no further legal actions can be made upon the decision.

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