REVIEWING OUTSOURCING CONTROVERSY IN INDONESIA: AN EXPLORATORY STUDY OF HUMAN RESOURCES OUTSOURCING CONTROVERSY IN SEMARANG CITY

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Abstract

Outsourcing in Indonesia is still a controversy. The different concept of outsourcing between employers (vendors and users), employees/outsourced workers, and government makes another problem in outsourcing implementation, especially in industrial relationship either in enterprise and macro level. This study aims to determine the concept of outsourcing of each element of the tripartite, the problems that arise in the implementation, and solutions from each party, in dealing with the practice of the working system. The problems under study, based on specific issues related to industrial relations, including: wages, welfare programs, health and safety, discrimination, job security, and dispute resolution, and termination of employment.

This qualitative research is an exploratory, with the data collection methods: focus group discussions, observations, interviews, and study documentation. The data collected from employers (vendors and users), the national unions, worker outsourcing, and government within the scope of Semarang city.

The results showed that the problems that arise due to differences in each party's conception of the tripartite elements. Uncertainty rules of outsourcing is a major problem, giving rise to labor flexibility in the implementation, which implies profitable for each party, especially the workers of outsourcing. In the end, the regulation enforcement related to the implementation of the outsourcing firm is badly needed, to compromise the disputes of workers and employer interests.

Keywords: outsourcing, conception, problems, industrial relations, tripartite, Semarang

I. INTRODUCTION

Trends in outsourcing and labor contract has been widely spread in Indonesia since the issuance of Law No. 13 of 2003 concerning Manpower. At first the company is quite strict in practice work systems outsourcing, where outsourcing system is separated from the main activity and the extent of supporting the part, so that employers can compete and focus on the core business. For example, cleaners and security guards. But in its development, due to the weak surveillance system and the decisiveness of government in providing sanctions, which in this case is the Ministry of Manpower and Transmigration, then outsourcing is applied in almost all sectors in terms of recruitment. These work practices were blowing up when Indonesia was affected by the global economic crisis in late 2008. Until now, almost every 1 May (Mayday), Labor Day, the problem is always highlighting workers, employers and government. An argument between opposing point of view between each element of tripartite makes this problem still unclear.

The outsourcing system, is not apart of Industrial Relations problem. Shortly, Industrial Relations can be defined as a system of relations that exists between the actors the production process of goods and / or services (Suwarto, 2009). The parties concerned in industrial relations are the workers, employers and government. Relations between workers and employers called bipartite, whereas the relationship between workers, employers, and government called a tripartite. The existence of knowledge and perception are not the same tripartite in terms of outsourcing, causing many problems in practice.

Starting from misconceptions about outsourcing, disagreement between the bipartite (employers and workers) in the implementation of outsourcing the work system, it caused other problems in the world of employment. The existence of throwing responsibility among workforce providers (vendors) and corporate users of labor (user), making the outsourced workers feel increasingly uncomfortable at work. The purpose of the execution of healthy industrial relations through industrial peace was not achieved; especially the company's main objective is welfare workers and employers.

When the practice of outsourcing cannot be avoided again in labor practices in Indonesia, then at the moment, we need how best solution for outsourcing work practices is and how to apply the practice of outsourcing work in health to have a middle to each side, which is based on the relationship mutual benefit.

Thus formulated problems to be studied in the form of questions are follows:

- 1. What is the perspective of workers, employers, and government about the concept of outsourcing the work system in the company?
- 2. What is the main problem of outsourcing work system based on workers, employers, and government, related to industrial relations issues?
- 3. What is the perspective of workers, employers, and government in responding to the problems of outsourcing practices in the company's working system as an effort to realize healthy working system within the company?

II . REVIEW OF RELATED LITERATURES

Literatures Study

Industrial Relation

Based on Law no 13 of 2003 on Employment, Industrial Relations is defined as the relationship between employers and employees based on employment agreement, which has elements of employment, wages, and commands. In industrial relations, known as the tripartite elements. The tripartite understanding among the elements will be explained as follows:

Based on Law no 13 of 2003, the worker or the worker is any person who works with pay or compensation in other forms. Unions is an organization that was formed from, by, and for workers in both the enterprise and outside the company, which is free, open, independent, democratic, responsible in order to fight for, defend, and protect the rights and interests of workers / workers and improving the welfare of workers. Employers are any individual, partnership or legal entity that operates a self-owned enterprise, or independently run companies do not belong. Indonesian Employers Association (APINDO) is a container unit of employers who participate for social welfare in their operations and implement an integrated cooperation between government, employers, and workers (Sri Haryani, 2002). In general, the role of government in industrial relations is to regulate the relationship between trade unions with employers / employers' association. Tripartite Cooperation Institution is responsible for handling specific problems. Special Problems in Industrial Relations Pancasila (as applied to Industrial Relations in Indonesia) that require attention are: Wages, Welfare and Social Security Labour, Strike, and Closing the Company and Employee Separation (Sri Haryani: 2003). According Suwarto (2009) specific issue is meant here is a problem that needs to be handled fast and final, because the issue has the potential to cause more serious problems. Specific problems include wages, strike, termination, inspection, and welfare.

Outsourcing

Outsourcing is defined as having work that was formerly done inside the organization performed by an external organization. The vendor (hereafter the outsourcer and outsource are, respectively, referred to as vendor and client) may be an independent entity or a wholly owned subsidiary (Beaumont and Sohal, 2004).

In general, Priambada and Eka (2008) outsourcing divides into two main groups namely BPO (Business Process Outsourcing) and Labor Supply or commonly known in Indonesia by Provider of Manpower Services or Outsource Human Resource (HR-Outsourced). BPO or Business Process Outsourcing is a business process outsourcing, where outsourcing carried out by referring to the end of the job. BPO is actually a term that is a bit ambiguous. This is because the term outsourcing itself already contains the meaning of business process.

Outsource Human Resource (HR-Outsourcing) is diverting work or services performed by workers outsourcing company. Here the role of human resources as the workers is enormous, which is transferred is a human, not the result of a product. The second type of outsourcing is usually called outsourcing itself in Indonesia.

Theoretical Framework

Whatever the motivation for outsourcing all or part of the HRD function, if the process is not handled correctly, the move will be of limited benefit to the company (Nijhof, 2004; Ruona and Gibson, 2004 in Simmonds and Rebecca, 2007). In the implementation of outsourcing system, people respond in vary of perception about outsourcing workers/employees. Hereby the problems often encountered in the practice of HR Outsourcing in Indonesia, among others:

Wages are the rights of workers who accepted and expressed in terms of money as compensation from the employer or the employer to workers who are determined and paid work based the agreements, or regulations, including allowances for workers and their families for a job and / or services that have been or will be done. Wages acceptance between permanent workers and outsourcing workers are totally different (Nurachmad: 2009). For the same duty, basic wages that accepted by outsourced workers is smaller than permanent workers and temporary workers in all regions. (Indrasari, et.al., 2010 and Uti Ilmu Royen, 2009)

Welfare, is kinds of fulfillment of workers need and or something necessary, classified as physically or psychological, inner or outer work relationship, that directly or indirectly increase workers productivity (Simanjuntak, 2003). In general, substantial outsourcing workers in social security to workers remains the same, but the difference is the amount of the nominal. In addition, the company usually does not include workers outsourcing / contracts in health care administration program for workers with better benefits and use of basic health care insurance of social security. They just enter the outsourcing of workers only in employees' social security programs. Indrasari et. al. (2010) also said that as same as wages, welfares that accepted by outsourced workers is smaller than permanent and temporary workers. As the indicator is amount of outsourced workers in Jamsostek programs.

Occupational Health and Safety. Outsourcing has emerged as a major problem for occupational health and safety regulators. It increases the likelihood of multi-employer worksites, corner-cutting, and dangerous forms of work disorganization, as well as situations where the legal responsibilities of employers are more ambiguous and attenuated. (Johnstone, et al., 2005)

Discrimination in outsourcing is appears when outsourced workers placed into users place. Based on Sasirusm (2010), outsourced employees are often seen as second class employees, who receive less benefit for doing the same job as the directly hired. Based on Indrasari et. al, (2010), a policy that applied by companies (both users and vendors) to use outsourced workers limited by the age and marital status. Companies require that outsourced laborers they hire have to be within the age bracket of 18-24 years and single for productivity reasons.

Dispute. In implementing outsourcing, some potential dispute will be appears, for example violation of work agreement by employers or employees. Based on Law no 13 of 2003, article 66, resolution of disputes should be as the vendor responsibilities. So, even the problems come from the workers, vendor should be ready to avoid and to solve. *Job security*, is the probability that an individual will keep his or her job; a job with a high level of job security is such that a person with the job would have a small chance of becoming unemployed. With outsourcing work system, employees feel threated with the affraidness of losing their job.

Termination of employment is the end of an employee's duration with an employer. In the context of human resources outsourcing, termination are a natural phenomena. Due to the length of time that regulates the working relationship is a vendor with the user, then the worker has no power to regulate such employment agreement.

III . METHODOLOGY

Qualitative Research

Moleong (2005) defines that qualitative research is research that aims to understand the phenomenon of what is experienced by research subjects such as behavior, perception, motivation, action, etc., holistically and with the way the description in the form of words and language, in a special context that naturally and by utilizing a variety of natural methods. This research is using exploratory study in qualitative research. An exploratory study is undertaken when not much is known about the situation at hand, or when no information is available on how similar problems or research issues have been solved in the past (Sekaran, 2004).

Data Collection Method

This research use four methods to collecting data. Focuss Group Discussion is essentially a qualitative data collection techniques that interview were guided by a moderator with either structured or unstructured, depending on the intent and purpose of the interview (Denzin & Licoln (1994) in Moleong (2005)). This research held three focuss group discussions, which invited tripartite elements (worker union, employers, and government) in year 2009-2010.

The writer also use observation to ensure the problems before and after focuss group discussion. An actor as an observer is chosen as the type of observation which is include on moderate participation, means that researcher maintains a balance between being insider and being outsider.

In depth interview also done to see the perspective of outsourcing, especially from outsource workers. The writer took twelve interviewees in different job and different company. At last, documentation is used to find some data historically, related to outsourcing in practice at Semarang city.

Data Analysis Method

Miles and Huberman (1984) in Sugiyono (2009), suggests that activity in the qualitative data analysis conducted interactively and continuously until completed, so the data is saturated. Activity in the analysis of data in question, namely: data reduction, data display, and conclusion drawing / verification. Triangulation in this test of credibility is defined as the checking of data from various sources in various ways, and different time (Sugiyono, 2009). In this research, triangulation of sources is using

IV . RESULT AND DISCUSSION

Semarang is the capital of Central Java, has population 1,433,699 people. The economy in Semarang, depending on the trade sector (35.45%), industry (31.69%), services (13.12%), Transportation (7.34%), Finance (6.37%), and property buildings (3.6%), and other sectors (2.34%).

Based on data from the Ministry of Manpower and Transmigration city of Semarang, recorded 64 outsourcing vendors, with a total of 1660 workers from 2007 to 2009. The number of registered vendors from year to year also increased. Outsourced workers in the city of Semarang, was dominated by male workers as many as 1359 people. The rest, as many as 300 people working women

Result

Outsourcing in Tripartite Perspective

In outsource workers perspective; fewer jobs available also affect employment opportunities, so there is no choice except through outsourcing. Workers thought that being an outsource worker is an opportunity to gain experience, so that in later days, they are ready to compete in the wider world of work. After working as outsourced, they are generally not aware of an issue in the relationship between workers and employers, and workers and vendors. However, after finding the problem, workers feel it is to be fair because there is no other choice and the workers cannot do anything to express the rights that should be obtained. If voicing their rights, they are afraid to be dismissed from work or not renew the contract.

To the union, the issue of outsourcing practices will full of labor conflict is latent and manifest. Outsourced workers rights continue to be crushed and closed the opportunity to become permanent workers. In addition, social inequalities and sowing unrest jealousy

among co-workers, also has eliminated the certainty of work, continuation of contracts, social security, health, pensions, wage increases, career path, and so forth. So the impact on the emergence of increased uncertainty, reduced welfare workers, and the degradation of working conditions. Other adverse effects are felt is the struggle of unions, that the proliferation of this outsourcing system, it is likely to impact on regeneration and the courage to take charge of workers' unions. The workers do not have a chance association because they must think how to have his contract renewed by his superiors. If this continues, then union members will decline even did not exist.

To the employers, PT API as one of the sample, argued that with the outsourcing, just to help them in conducting the procurement workforce, especially if employers want workers with large numbers such as national companies with many branches and movement of human resources needs of the company very quickly. Another interview, HRM International Private Bank said that Outsourcing will greatly assist employers in managing human resources within the company.

To Indonesian Employers Association (APINDO), basically, employers are not willing to make a working relationship with the employee with a contract system of employment / outsourcing beside they do not support the establishment of corporate culture, workers do not have a sense of belonging of the company. But there is no other option in times of crisis due to lack of space for businesses to survive.

In vendor perspective, PT. AFJ as the sample, therefore, outsourcing is a highly competitive opportunities in an effort to increase the company's performance. Employment agreement as a reference in regulating relations between workers and employers, have an important role in the division of responsibilities between vendors, users, and outsourced workers. A good relationship is needed to maintain outsourcing in proper.

To the government, the fact shows that the practice of outsourcing has existed before Act No. 13 of 2003 enacted. Various problems outsourcing practices that do not fit, with Law No. 13 of 2003, such as: submission of work that is not supporting, not a legal entity outsourcing company, providing sub-standard wages, and so forth. In addition, other facts indicate that the weak legal protection for outsourced labor is very minimal considering there are no more comprehensive rules to regulate the working system.

Problems in Practice

Wages accepted by outsourced workers is higher or at least the same with regional minimum wage. It will be not become a problem when vendors give the wage deduction information. Level of education and level of duties are not influence with wages acceptance; means all wages that accepted are same.

Welfare programs are not accepted by all outsourced workers, especially on social security programs (Jamsostek). Another welfare programs are varied based on users capabilities.

Not all outsourced workers got health insurance, but they health and safety in their workplace are guaranteed by the users.

There is no social discrimination treatment between outsourced workers with another worker (contract or permanent) in their workplace. All people doing professionally, and assumed they are same. But, the discrimination is about acceptance of compensation packaging.

Related to job security, all outsourced workers afraid of their long lasting work, even the contract is not ended yet. The outsourced workers need a status in their work, but in the other hand, they are hanging on by the users. Some of outsourced workers were extend to

work until more than three years/three times contract as not seen as in Law no 13 of 2003. There is no violation of an agreement that impact on termination and employers gives secure solution to outsource workers related to keep their work. But this problem is threat permanent workers in unions (SPN). As far as there is no serious problem that ruled on Law no 13 of 2003, there is no dismissal/layoff.

As far as outsourcing in practice, there is no dispute between employees with employers. The problems were done based on the kind of problems where it comes from, either users or vendors. At last, about termination, there is no dismissal in practice, but mostly resignation is dominating this work system.

Solutions

Outsourced workers cannot rely on the government, because in reality, the government legalized the existence of outsourcing, and even some government agencies to procure workers through outsourcing, but they hope to become permanent workers to users. *National Workers Union* (SPN) in the FGDs suggests that there is no solution in dealing with problems in addition to eliminating the practice of outsourcing work of outsourcing the work system itself.

Users and Vendors in the FGD expressed the same thing that we should create a healthy working system outsourcing. The revision of Law No. 13 of 2003 will facilitate the implementation of outsourcing in the corporate environment.

APINDO in FGD, sound some statements that avoid unhealthy outsource working system, such as: government need to control act for outsourcing implementation, because there are a lot of company that violating some rules, so it makes paradigm to our society that outsourcing is bad and must be deleted in Indonesia.

Government response there to in the FGD, reveals that the practice of outsourcing work that does not comply with the rules should be dealt with firmly. Such Orders can be from a warning, revocation of business licenses, to other criminal penalties. Therefore, it requested from the SPN and the others to participate in supervising the work practices.

Discussion

Uncertain of Outsource Working System

The implementation of outsourcing in Indonesia caused many problems both in the normative or the interests of each party. Issues related to industrial relations such as wages, welfare, health and safety, disputes and termination becomes very complicated to be solved by the uncertainty of implementation of the outsourcing system. There was no center line of each party for mutual benefit that caused by lack of regulation in outsourcing practice. The existence of management as an art is a form of flexibility in dealing with employment issues, particularly within the scope of bipartite. Each party agrees that the revision of Law No. 13 of 2003 is the answer to the uncertainty of outsourcing the work system in Indonesia, both will be profitable or not for each party.

Outsourcing in the Name of Flexibility

Based on result of this research above, a lot of problems around outsourcing in practice were found and it will be growing to another new problems. Growing of the outsourcing work systems, will lead to further lack of government's role in controlling the workforce system in Indonesia, which means that the existing policy would constitute a form of labor flexibility policies.

Labor flexibility is the flexibility of employers to reduce of labor using, including changing working hours. Using labor flexibility, means that employers are free to conduct the procurement of human resources in accordance with the needs and capabilities. In

essence, the flexibility of working relationship there is discretion to mobilize and implement a system of labor relations in accordance with market need so the main requirement in this flexibility is the lack of government intervention in regulating the work relationship.

If this system applied, workers do not have bargaining power in their work, related to their job security, and employment in Indonesia can not guarantee by the government. All the regulations are made by the employers.

New Rules is not Truly Solution

Outsourcing work system is come from a new rule at Law or Labor Employment no 13 of 2003. A year later in 2004, some of problems are comes and our government released two regulations: : (1) Decree No. 101 of 2004 on licensing procedures service provider company workers, and (2) Decree No 220 of 2004 about vendor requirements. But, this decrees are not define clearly about outsourcing work system. This can make opportunities for several employers that don't want to play good in their company, with violating some agreement.

Avoiding some problems in outsourcing, employers make some regulation about outsourcing procedures and mechanisms. In implication, some of regulation that made by companies, make outsource workers feel safe in their work. But, all of those boundaries can be violate, in the name of flexibility. Thus, with flexibility, both of employers and employees, might be unfavorable, and they need a new regulation that made by a government.

To the writer, the serious problem about agreement and regulation violation. Agreeing APINDO said on FGD, government need to control act for outsourcing implementation, because there are a lot of company that violating some rules. It means that a new regulation will not answer for some problems that appear caused by violation of outsourcing. Strength and tight supervising are needed to take action against bad outsourcing practice. Hereby, commitment of employees, employers, and government are needed to support health working system related to outsourcing.

V. CLOSING

Conclusion

Outsourcing is a working system whereby companies can transfer part or all of the parts in their production processes within a certain period. Outsourcing demand professionalism from vendors, users, and workers to create a conducive working atmosphere and mutual benefit. The implementation of outsourcing work in Indonesia, mired in controversy since the work system does not have a clear law yet, that provides the opportunity for each party to take advantage.

Problem solving in the practice of outsourcing has been done by the respective parties, especially employers. Regulations are made to make outsourcing working properly, but flexibility is needed in practice. Even there is any new regulation related to outsourcing, strength and tight supervising are needed to take action against bad outsourcing in practice

Suggestion

Outsourced workers are unfavorable position in human resources outsourcing work system. So, they should be brave to ask and get some information about their work to users or vendors. It's very useful to minimize the misunderstanding that their accepted.

Vendors as they concern with outsourcing business, gain a lot of benefits from this working system. Professionalism of management should be heading to keep outsourced workers safe. If they are not professional, users will not extend the contracts or agreements. It means that some workers will be dismissed or layoff even the period is unfinished yet.

Users, although only as company that using outsource services, employers should pay attention to outsourced workers problems. Assumed they are same with permanent workers that hired by the company. Violation of labor regulation is not solution of human resources problems in enterprise level, but the key is how to conduct the great relation between each parties.

Unions, have no direct role in this outsourcing system. But this situation makes them endangered because later realized that the employers will replace permanent workers with outsourced workers. Therefore, to minimize these changes, the role of unions should have a good strong bargaining power to employers and government.

Government as the regulator should guarantee the public to get a decent job. With the minimal role of government in the enforcement of labor regulations the public will not be able to work properly, and get the rights that should be accepted.

Limitation

In Focus group discussions, each discussion does not meet the tripartite elements in the context of outsourcing. The first FGD does not meet the criteria because there is no element of workers, the FGD two did not meet because there is no outsourcing vendor, and third FGD not meet because there is no user. However, if all three FGDs were combined, the researchers expected to gain insight about each party's perspective on the issue of outsourcing.

The second at in-depth interviews, purposive sample were not collected by the outsourced workers with minimal criteria, for example have been working one or one-year contract. The interview conducted research to users and vendors are minimal due to the difficulty in obtaining access to human resource information. Human resources within companies are a secret to the company so to access it is not easy.

The third weakness, because this research is qualitative, there are no parameters or indicators in the research and the limitations of research time. Qualitative research ended when the data is already saturated and stagnant. Although the future will evolve in the long run, case study would be meaningless because the study examined the phenomenon or phenomena that exist at the time, and become expired if it is too long to be reported.

Suggestion for Future Research

Much can be developed from this research in the future for both qualitative and quantitative research. For quantitative research, researchers are expected to discuss the next several organizational behavior and psychology related organizations working system outsourcing. Research can be done by taking a sample of employers and workers of outsourcing. In addition, researchers also can develop in the field of outsourcing research effectiveness by using the instrument of macroeconomic input-output analysis of the productivity of outsourcing.

The next researcher to develop a qualitative study. Topics that could be developed such as: exploratory study of outsourcing workers in relation to organizational behavior, industrial psychology and management functions. Subsequent research also allows Business Process Outsource (BPO) as one of the other forms of outsourcing, are also widely applied in multinational companies in Indonesia.

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