

PERLINDUNGAN HUKUM TERHADAP KEBEBASAN BERSERIKAT BAGI PEKERJA DI INDONESIA DAN MALAYSIA

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Abstract

Everyone, including the government of a country needs to be aware of the importance of human rights as one as the natural right. One of them is the freedom to associate, including the freedom to associate for the employees. The intention of the author in this thesis is to make a review about provision of legal protection for employees in the State of Indonesia and Malaysia, in terms of providing fulfillment to employee's right, as one of human rights.

The methodology by author in this research is used the normative legal research based on comparative law. The data in this research is used secondary data obtained from the study of literature (library research). After the required data has been collected, it will be processed and analyzed to find the object of legal issues. Furthermore, the authors will provide a conclusion and describe the conclusion descriptively.

The result of this research indicates that the State of Indonesia and Malaysia already have provisions on freedom of association for employees. The difference between provisions of Indonesia State and Malaysia State is the Indonesian State has a firmer provision than the State of Malaysia, Indonesia also provide the better law protection for freedom of association for employees in the country.

Keyword : Unions, Indonesia, Malaysia.

A. Latar Belakang Masalah

Hak asasi manusia merupakan hak dasar yang melekat pada diri manusia secara kodrati yang bersifat universal.⁵³ Oleh karena itu, hak asasi manusia harus dilindungi, dipertahankan dan tidak boleh diabaikan, dikurangi ataupun dirampas oleh pihak manapun. Salah satu contoh hak asasi manusia yang harus dijamin menurut hukum adalah mengenai kebebasan berserikat.

Pengaturan mengenai kebebasan berserikat bagi pekerja di Indonesia berasal dari hasil ratifikasi *ILO Convention No. 87 Concerning Freedom of Association and Protection of the Right to Organise* dan *ILO Convention No. 98 Concerning the Application of the Principles of the Right to Organise and Collective Bargaining*. Ketentuan tersebut diatur lebih lanjut dalam Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan dan Undang-Undang Nomor 21 tahun 2000 tentang Serikat

⁵³ Agus Santoso, *Hukum, Moral, dan Keadilan Sebuah Kajian Filsafat Hukum*, (Jakarta : Kencana Preneda Media Group, 2012), hlm. 138.