

Cases of labour rights violations and harassment of labour leaders in Indonesia

Compiled by Abu Mufakhir

Union Busting and Mass Dismissal PT Panarub Dwi Karya

Name of Company: Panarub Dwikarya, Ltd, subsidiary of Panarub Industry, Ltd. <http://www.panarub.co.id/>. Address, Tangerang, Banten Province

Production: Sports shoes for brand Adidas, Mizuno, and Specs.

Name of affected union: SGBTS-GSBI

Type of Labor Violation(s): Union busting, 1300 mass laid off union officers and members.

Involved date(s): February 23, 2012 until now

Place of violation/incident: Panarub Dwi Karya, Tangerang

Background of the case:

On February 23, 2012, workers at PT. Panarub Dwi Karya (PDK), established a trade union called SGBTS GSBI PT. Panarub Dwi Karya. The union formation was triggered by the imposition of a new production system, piece flows system. This system caused the significant increase of the workload. To comply with the production demands, the workers do not even have time to go to the restroom, to drink water, and to pray. Women workers were also not given the right to take menstrual leave. Previously, the company also frequently violated the workers' fundamental rights, such as paying the workers under the minimum wage.

One day after the declaration of the union formation, the company unilaterally dismissed nine union officers. Some workers were prohibited to join the union as a member and worse, to become a union officer. On July 12, 2012, the situation led to a spontaneous strike, which was participated by about 2000 workers. The total number of workers in PDK at that time was 2650 workers). They demanded the payment of minimum wages shortfall for the year 2012, the implementation of annual leaves, the abolition of the "one-piece flow" production system, the reinstatement of the dismissed nine union officers, and the observance of the right to freedom of association.

The strike lasted for six days. To disperse the strike and to terrorise the union leaders and workers, the company deployed police and thugs.

On July 18, 2012, the company began to counter the spontaneous strike by laying off 1300 striking workers without severance pay. 1300 workers that were laid off then fight for their rights until now. They demand to be reinstated, or otherwise, demand severance pay according to labor laws. During the five-year struggle, they have been doing routine action, hearing with local and national Parliament, submitted their case to the Human Right Commission, Judicial

Commission, and Ombudsman. They also performed many protests, in front of Presidential Palace, Labor Ministry Office and representative offices of Adidas and Mizuno urged the parties to take responsibility. Until this report writing, at least they've done 158 times protests.

This case has also been reported to the Secretariat of the International Labor Organization, Geneva, Switzerland. At the end of 2016, ILO issued four recommendations to Indonesia Government;

First, the Indonesian government must provide a detailed response and investigation related to the involvement of police and other forces that intervened in the strike.

Second, the Indonesian government asked to take steps to ensure workers to receive compensation, if the recovery of the entire workers' rights can't be done because the closure of the company.

Third, the Indonesian government to immediately report the alleged intervention of company management in the establishment of trade unions, and give sanctions to prevent the same events don't happen again.

Fourth, investigations conducted by the Government of Indonesia should be able to reflect the complexity of the case, about wages, the formation of trade unions, restrictions on the right to strike, dismissal, barriers to participating in strike until the intervention of trade union activity. ILO recommendation stated if the company should be responsible for cases of layoffs, they have to hire back those laid off and pay them for the right to work. If the company is not willing to hire back, then it must pay severance to workers who have been laid off. Until today, it has not been implemented, and workers still fighting for it.

Criminalization of Union Leaders Petrokimia Gresik, Ltd

Name of Company: Petrokimia Gresik, Ltd. Adress, Gresik, East Java. <http://www.petrokimia-gresik.com/>. Gresik, East Java Province

Production: Fertilizer

Name of affected union: KASBI

Type of Labor Violation(s): Criminalization of union leader

Involved date(s):

Place of violation/incident:

Background of the case:

March 25, 2016, Gresik District Court sentenced two officers of FSPBI - KASBI, Abdul Hakam, and Agus Budiono, guilty and had to be imprisoned for three months. The case started since March 2013. FSPBI-KASBI had protested in front of Petrokimia factory, to demand the abolition of contractual workers. This protest is a continuation of some previous actions.

Petrokimia then reported to the police about their actions allegedly threaten and provoked other workers. Gresik Police then follow it up by making Hakam and Budiono as suspects, with allegations of committing criminal offenses unpleasant acts. Until then the High Court declared them both guilty. Union appeal to the Supreme Court was rejected. The reason was punishment under one year enough to be handled by the High Court. Since April 7, 2016, Hakam and Budiono must undergo a three-month jail sentence.

KASBI stated a lot of manipulation in this case committed by the police and courts. *First*, the police are more responsive to a company report, compared to reporting submitted by the union. *Second*, the judging panel was allegedly ignoring facts and witness testimonies from the worker's side. *Thirdly*, Article Unpleasant Acts, which was used by the courts, actually has been declared invalid by the Constitutional Court since January 2014. But the judges still used that article.

The criminalization of labor activists is one way to quell the protests of the people that fighting for their rights. KASBI demanded that Hakam and Budiono to immediately released, and stop all attempts to criminalize the people who are struggling.

Union Busting Honda Prospect Motor

Name of Company: Honda Prospect Motor (HPM), Karawang, West Java Province

Production: Motorcycle

Name of affected union: Serikat Buruh Kerakyatan (Serbuk)

Type of Labor Violation(s): Union busting and dismissal union leaders

Involved date(s):

Place of violation/incident:

Background of the case:

On 12 April 2016, five permanent workers, together with 2995 contractual workers at Honda Prospect Motor (HPM), declared a new union, which is affiliated with Serbuk Federation. Five permanent workers, who became union initiator, were joined in an old union that was established before. They decided to resign from the former union and organized new union together with 2995 contractual workers. This decision was made because the previous union had been considered failed in carrying out to functions as workers organization.

This union is as regulated by the Indonesian Law initiated by the workers of PT Honda Prospect Motor who has signed resignation letters from their previous union without coercion from any party and have filled in the registration forms of SERBUK HPM voluntarily and consciously.

Five union leaders were interrogated and threatened for initiating the SERBUK HPM. They were suspended with the reason that they had committed 'major offenses,' however, no details of those offenses were provided. After six months suspension, those five workers then were dismissed due to their organizational activities. After that, HPM Management also targeted the contractual workers who join the union, by not extending their working contract.

The HPM Management disobey the Indonesian Law on Trade union No. 21 of 2000 Chapter III Article 5 stating *"Every worker has the right to form or establish a trade union."* and Article 9, *"Every worker basically has the right to establish and or become a member of a trade union of his or her own choosing, and the worker must not be barred from exercising such right by anybody, either by his or her employers or government officials or by other trade unions."*

Union Busting and Union Leaders Dismissal Framas Indonesia, Ltd

Name of Company: Framas Indonesia, Ltd

Production: outsole for Adidas shoes

Name of affected union: SBGTS – GSBI

Type of Labor Violation(s): Union busting and dismissal union leaders

Involved date(s):

Place of violation/incident:

Background of the case:

Framas Indonesia is a company that produces outsole for other companies, such as Panarub Group, which produces shoes for Adidas, Mizuno, etc.

On July 19, 2016, Framas committed union busting by dismissing three officers and eight members of the union. The reason used by the company was for the sake of efficiency, by closing one part of the production site, namely Mold Setter, with 26 workers (including 11 leaders and union members were laid off). However, Framas then open a new section with the same production, with 28 workers. Those facts showed the company didn't impose efficiency, but rather the addition of two new workers for the same production.

The dismissal was happened when the union was demanding negotiations to form a Collective Bargaining Agreement, and other basic rights, such as food and transportation allowances. Until now, the union is still demanding Framas management to rehire 11 union officers, and members who were laid off illegally.

Factory Explosion Mandom Indonesia, Ltd

Name of Company: Mandom Indonesia, Ltd. Located in Bekasi, West Java.
<http://www.mandom.co.id/>

Production: Cosmetic and perfume, for brand like Gatsby

Name of affected union:

Type of Labor Violation(s):

Involved date(s):

Place of violation/incident:

Background of the case:

July 10, 2015, there was an explosion in Mandom Indonesia Tbk, which located at MM 2100 Industrial Estate, Bekasi Regency. The explosion caused 28 workers died, and 31 workers suffered from serious injury.

Through the police investigation, the explosion occurred due to leakage flexible tube machine that ignited by the heater dryer machine. It started when the installation of LPG (liquid petroleum gas) in the production line by a subcontractor company named PT Iwatani. In the production line, eight flexible tube machines are connected with the installation of LPG. Police have named two people as suspects, one of them is the general manager of PT Iwatani, as it is considered has violated safety procedures which resulted to the incident.

This incident is one of the worst occupational accidents. KSPI (Indonesian Trade Union Confederation), demanding that the management of Mandom should be criminally charged with the alleged of murder. KSPI found that Mandom, have hired apprentice workers in critical works process, those requires special skills without giving any prior OSH training.

Sued Because of Strike Bangun Busana Maju, Ltd

Name of Company: Bangun Busana Maju, Ltd. Cakung, EPZ, North Jakarta

Production: Textile product

Name of affected union: Federasi Serikat Buruh Indonesia (FSBI)

Type of Labor Violation(s): Right to strike violation

Involved date(s):

Place of violation/incident:

Background of the case:

Bangun Busana Maju, Ltd, sued the Federation of Indonesia Union (FSBI), because of the strike, which was caused loss over then Rp. 21 billion for the company. This case started when the company went through acquisition process, without prior notice to the workers, as stipulated by the law. FSBI then asked for negotiation and demanding the explanation about the acquisition process. However, after several negotiations, there was no agreement between the management and union. This situation prompted the union to take a strike, from December 28 until 31, 2015.

After the strike, in February 2016, the union was subsequently charged by the company through North Jakarta, District Court. The reason is that the strike had caused a loss of 21 billion. Previously, management also closed the factory, and didn't pay the wages from January to February 2016.

Management has closed the factory without fulfilling the rights of workers according to the law. Besides that, the North Jakarta District Court has no authority to examine and decide the case. This case should be processed through the Industrial Relations Court. Until now, FSBI continues to occupying the plant to protest, also demanding wages payment by the company.

Criminalization of Union Leaders Mustika Manis Utama, Ltd

Name of Company: Mustika Manis Utama, Ltd. Tangerang

Production: Chewing gum

Name of affected union: Indonesia Metal Workers Union (FSPMI)

Type of Labor Violation(s):

Involved date(s):

Place of violation/incident:

Background of the case:

On August 18, 2016, Tangerang District Court sentenced 4 Manis Mustika Utama union leaders 28 days imprisonment, on charges of provocation and violent action. The punishment was decided despite the weak evidence that failed to prove the union activists guilty.

The case began in October 2015. At that time, thousands of workers in Tangerang demonstrated demanding a minimum wage increase. At the rally, the mass stopped briefly at the MMU factory, to demand the company to allow some workers to participate in the action. This kind of thing not only happened in the MMU factory. Previously, the rally was also stopped at some factories which passed, to demand companies to allow most of workers to join the demonstrations.

MMU trade unions have been willing to join the rally. However, the management forbids it. Then clash was happened with the security guard. Later, company reported four union leaders to the police, accused them with provocation and violent action.

The allegations are obviously exaggerating. First, there were thousand workers gathering at that time, in fact it was never clear whether the four union leaders were doing neither provocation nor violence. Second, if the company guard has suffered from violence, then why the report was made by the management, and not by the guard themselves? Third, why is there is no evidence vise included in the court? That is why union noted this is part of criminalization and to bust the union.