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Resolution of employment termination disputes in the industrial relations court cocerning works rights specifically in relation

Sunarno[*], Universitas Krisnadwipayana, Indonesia
M. Iman Santoso, Universitas Krisnadwipayana, Indonesia
AM Tri Anggaraini, Universitas Krisnadwipayana, Indonesia
Anwar Budiman, Universitas Krisnadwipayana, Indonesia

[*]Email for Correspondence: sunarno.mohammad@gmail.com

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ABSTRACT

This paper examines how future arrangements can enhance legal certainty and foster a sense of justice for workers in Indonesia, thereby positively impacting the overall business environment. The study provides a conceptual framework for evaluating and proposing legal and policy reforms that can ensure justice for the workers. The research serves as a foundation for policymakers to design and implement effective labor laws that promote fairness and equity. The findings of this study have practical implications for businesses operating in Indonesia. This research contributes to the understanding of the intersections between legal frameworks, workers' rights, and business practices in the Indonesian context. The results of this research provide valuable guidance for stakeholders, including government agencies, businesses, and labor organizations, on the importance of creating arrangements that support worker justice.

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INTRODUCTION

Industrial Relations Settlement (PHI) does not reflect the value of proportional justice, where the judicial mechanism in the industrial relations court takes time and money; so that workers often just surrender to accept whatever amount of severance pay the company provides. Philosophically formed to create a breakthrough in industrial dispute resolution that is fast, precise, fair, and inexpensive. This ideal in its development, turned out to be inversely proportional to the facts that occurred at the level of practice. For example, since 2006-2013 as many as 2619 appeals have been submitted to the Supreme Court, consisting of 1,427 or 54% of applications made by employers and 1202 or 46% of applications made by workers. Then for reconsideration, during 2006-2013 as many as 374 applications for reconsideration were made. P.F. Muhammad Isnu in Haikal Arsalan, Dinda Silviana Putri said that employers made more requests for reconsideration than workers – of which 378 applications, 143 applications or 39% were made by workers and 221 applications or 61% were made by employers (Arsalan & Putri, 2020).

The fact that the decisions of the PHI did not reflect justice in terms of the interests of workers, this can be seen from the many decisions related to workers' demands regarding workers' rights in the form of processing wages which were not granted and tended to be set aside. This can be seen from the Central Jakarta Industrial Relations Court, from 2015 to 2015. with the year 2020. The location of the Industrial Relations Court, which is only in provincial capitals and certain cities/districts with a high level of industry, is also an obstacle for workers who want to seek justice, because of course it will cost a lot of money. The PHI may have the principle that the value of the dispute is below 150,000,000 IDR (one hundred and fifty million rupiah) will not be charged. In case of litigation at the PHI, there are not only court fees that must be incurred, but also other costs that must be incurred by workers in the proceedings at the PHI, namely accommodation costs (transportation, meals, lodging), not to mention that workers have to be pressured by not receiving wages due to disputes.

The facts show that the severance pay article in the Manpower Law, in its implementation, only 7% of companies comply with this provision. Often workers/labourers have to fight for their rights to severance pay through a judicial mechanism in the industrial relations court. Judicial mechanisms are costly and time

consuming, so that workers often just surrender to accept whatever amount of severance pay the company provides. This problem should get a solution from the government through a mechanism of supervision and strict law enforcement for business actors. There is also no guarantee that by lowering the severance rate the company will be more obedient. The existence of a criminal sanction of one year to four years and a minimum fine of 100 IDR million and a maximum of 400 IDR million for employers who do not pay severance pay as stated in Article 185 paragraph (1) of the Manpower Law as amended in Law Number 6 of 2023 concerning Job Creation. small meaning without being accompanied by a supervisory function from the government (Anggraeni, 2019).

In addition, the legal basis for giving workers the right to report employers to agencies is not explicitly regulated in the labor law regulations. For example, the occurrence of disputes resulting from the actions of entrepreneurs violating Article 167 paragraph (5) of Law no. 13 of 2003 may be subject to criminal sanctions. Thus, it can be said that the adverse employment law sanctions lead to the weak party, namely the workforce/labor. The lower the socioeconomic stratification, the further away from a sense of justice and legal protection. The entry of investment in Indonesia is expected to encourage the creation of the widest possible employment opportunities for all Indonesian people. There is a need for innovation from the Government to attract investors, one of which is through simplification and streamlining of regulations or what we know as the Omnibus Law (Tohadi, 2020).

This study explores the potential of future arrangements in Indonesia to ensure worker justice and legal certainty, positively impacting the business environment. It provides a framework for evaluating and proposing reforms that promote fairness and equity in labor laws. The research emphasizes the importance of integrating social justice principles into economic policies, enhancing discourse on labor rights and emphasizing the need for a more humane approach to business practices. The findings have practical implications for businesses operating in Indonesia, suggesting that adopting fair labor practices can lead to improved employee satisfaction, productivity, and overall business sustainability. The research contributes to the field of labor studies by exploring the intersections between legal frameworks, worker rights, and business practices in the Indonesian context, which can inform future research and discussions on labor rights in other developing countries. The insights gained provide valuable guidance for stakeholders, including government agencies, businesses, and labor organizations, on creating arrangements that support worker justice. The study also sets the stage for future research investigating specific arrangements or policies that guarantee justice for workers and their implications for business practices and legal certainty.

METHOD

This research utilizes a normative juridical approach, emphasizing both primary and secondary legal materials. It focuses on written legal documents related to the Manpower Act and the resolution of industrial relations disputes, employing statutory, conceptual, and comparative methodologies. In addition to analyzing written legal norms, the study incorporates interviews with key resource persons and informants. The research results are presented descriptively, aiming to facilitate an analysis of the factors contributing to industrial relations disputes and to propose solutions for protecting workers' rights, particularly in relation to wage issues within industrial relations courts.

RESULTS AND DISCUSSION

Problems that will result in millions of workers are vulnerable to losing their jobs. During the pandemic, many companies finally make policies and agreements with their workers, where employers/companies make unexpected decisions such as being laid off, being laid off, working shifts, and reducing wages which inevitably have an impact on the welfare of the workers, and most importantly What often happens is the issue of wages for laid-off workers, this action is contrary to the provisions of Article 7 paragraph (2) of the Constitution of the Republic of Indonesia which states: “Every citizen has the right to work and a decent living for humanity” (Kartikasari et al., 2021).

Article 88 A paragraph (1) of Law Number 11 of 2020 concerning Job Creation states that workers’ rights to wages arise when a working relationship is established between workers and employers/companies and ends when the employment relationship is terminated, therefore, one of the the policy on wages made by the government is the determination of the minimum wage, which is adjusted to the needs of a decent living and by taking into account productivity and economic growth (Kartikasari et al., 2021).

The Industrial Relations Court is a court that has the authority to decide cases related to employment relations disputes related to the fulfillment of workers’ rights and obligations of employers to obtain justice for the parties, although justice is more relative, where on the one hand the winner of the case will declare justice on the other hand will declare justice. unfair, for this reason the role of judges as representatives of God with the authority to carry out “Based on God Almighty” can carry out its function of deciding cases fairly. In responding to the occurrence of Termination of Employment (PHK), it is necessary to guarantee the basic

rights, normative rights of workers or laborers, if there is a layoff, the worker will always be the weak party and always be harmed because as the weak party, the worker/ laborer is always experience injustice when dealing with the interests of entrepreneurs. Worker is every person who is able to do work to produce goods or services both to meet their own needs and for the community. Workers' basic rights are the essential rights possessed by workers, among others regarding the right to equal opportunities to work and occupy certain positions in work (non-discrimination), the right to organize, the right to obtain decent work, and so on, not all basic rights become normative rights - labor rights that have been regulated by law such as the right to wages, the right to social security, the right to leave and rest, the right to association. Legal disputes or legal disputes are resolved in a special court - the Industrial Relations Court - if an agreement is not reached in the non-litigation stages as regulated in the applicable laws and regulations. Employment-related regulations aim to create legal certainty for the parties – entrepreneurs/employers and workers/labourers, including industrial relations disputes in social enterprises and other businesses that are not in the form of a company but have management and employ other people by paying wages, then the dispute is resolved in accordance with the provisions of this law (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution).

Dispute on Termination of Employment is a dispute that arises in an employment relationship due to the lack of conformity of opinion regarding the creation and/or changes to the working conditions stipulated in the work agreement or company regulations or cooperation agreements (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution). Employers are authorized to rationalize their workers, layoffs are a natural thing in the company's activities, but from the point of view of workers, layoffs cause problems in the economy - both personal and family. – as a result of the loss of his livelihood. The tendency that the basic rights of workers affected by layoffs are not fulfilled - in particular the right to process wages - are not in accordance with the prevailing laws and regulations. Hari Ganda Asi in Marten Bunga said that layoffs could also occur due to unfavorable political conditions and the business climate. Many foreign investors are ready to leave. The problem also lies in the quality of labor and regulations that restrict it (Djumialdji, 1985).

During the transition period or before the establishment of the Industrial Relations Court as referred to in Article 59, the Regional Labor Dispute Settlement Committee and the Central Labor Dispute Settlement Committee shall continue to carry out their functions and duties in accordance with the provisions of the prevailing laws and regulations. (2) With the establishment of the Industrial Relations Court based on this law, industrial relations disputes and termination of employment that have been submitted to (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution: a. Regional Labor Dispute Settlement Committee or other institutions of the same level that resolve industrial relations disputes or termination of employment and have not yet decided, then the Industrial Relations Courts at the local District Courts will settle them; b. The decision of the Regional Labor Dispute Settlement Committee or other institutions as referred to in letter a which is rejected and appealed by one of the parties or the parties and the decision is received within a period of 14 (fourteen) days, shall be resolved by the Supreme Court; c. The Central Labor Dispute Settlement Committee or other institutions of the same level that resolve industrial relations disputes or termination of employment and which have not yet been decided shall be resolved by the Supreme Court; d. The decision of the Central Labor Dispute Settlement Committee or other institutions as referred to in letter c which is rejected and appealed by one of the parties or the parties and the decision is received within a grace period of 90 (ninety) days, shall be resolved by the Supreme Court.

The philosophical, sociological and juridical basis of labor regulation is as follows (Law of the Republic of Indonesia Number 13 Year 2003 Labor): a. that national development is carried out within the framework of developing Indonesian people as a whole and the development of Indonesian society as a whole to create a prosperous, just, prosperous, equitable society, both materially and spiritually based on Pancasila and the 1945 Constitution of the Republic of Indonesia; b. that in the implementation of national development, the workforce has a very important role and position as development actors and objectives; c. that in accordance with the role and position of the workforce, it is necessary to develop manpower to improve the quality of the workforce and their participation in development as well as to increase the protection of workers and their families in accordance with human dignity; d. that the protection of workers is intended to guarantee the basic rights of workers/laborers and to guarantee equal opportunity and treatment without discrimination on any basis in order to realize the welfare of workers/laborers and their families while taking into account the development of the progress of the business world; e. that several laws in the field of manpower are deemed no longer in accordance with the needs and demands of manpower development, therefore they need to be revoked and/or withdrawn.

Termination of employment relationship results in the legal relationship between the entrepreneur/employer and the worker/worker ending. The least employer is obliged to provide wages as long as the termination of employment status has permanent legal force or at 6 months if the case is processed through litigation at the Industrial Relations Court (PHI) in accordance with the provisions (*Surat Edaran*

Mahkamah Agung Nomor 3 Tahun 2015 Tentang Permberlakuan Rumusan Hasil Rapat Pleno Kamar Mahkamah Agung Tahun 2015 Sebagai Pedoman Pelaksanaan Tugas Bagi Pengadilan, 2015), However, in reality many entrepreneurs are negligent in fulfilling their obligations. F.X. Djumialdji and Wiwoho Soejono said that the problem in fulfilling the process wages in the dismissal dispute was that workers needed the wages to meet the needs of life and their families during the waiting period for permanent legal status, so as to reduce the psychological and economic impact (F.X. Djumialdji, 1985). Iman Soepomo said that the termination of the employment relationship for workers/labourers is the beginning of all termination of an income that has an impact on the end of the ability to meet the daily needs of their families, including the end of the ability to pay for children's education, and so on (Soepomo, 1974).

The length of time required in the dispute settlement of Industrial Relations Disputes (PPHI) regarding layoffs is often a modus operandi for not providing processing wages to workers, while workers do not lose their minds by holding demonstrations as a form of pressure on the government and employers to fulfill demands for workers' rights. /labor.- because workers have bargaining power to move the masses. The high bargaining position of workers compared to other social movements (civil society) E. Priyono et al said that the distinguishing power of these workers was due to the following factors (A.E.Priyono, 2003): 1. Labor has more ability – bargaining power – to mobilize the masses to carry out political movements compared to other civil society forces, as a result of labor mobilization often driven on the basis of collective consciousness and even class consciousness, after experiencing exploitation in production relations; 2. The impact of labor mobilization on a country's macro economy in the form of cessation of production; 3. The labor movement can trigger the emergence of new socio-political problems, especially in areas of industrial concentration, and can even force a change of regime or a change in the political structure.

The paradigm of thinking of employers and the government puts workers in inferior positions, because employers will always try to suppress workers/ laborers in order to minimize costs (minimizing costs), in addition to the absence of a system that allows workers/ laborers to have an equal (egalitarian) position. with entrepreneurs in a company. An equal position can occur and be realized if the rights and obligations of the Worker/labor are regulated in the Collective Labor Agreement (PKB) because it can occupy a balanced position, especially the balance between the rights and obligations between the Worker/labor and the entrepreneur. Workers/labor must be protected against oppression of private contracts (Khozim, 2016).

The philosophy of labor law is related to labor issues as seen from the philosophical foundations of establishing a rule of labor law. And the right to work based on Article 7 – Article 15 of Law No. 11 of 2005 (regarding the ratification of the International Covenant on Social, Economic and Cultural Rights) are as follows: - the right to just and favorable conditions of work; - the right to form and join a Trade Union; - the right to social security and social insurance; protection and assistance for families; the right to an adequate standard of living; - the right to the highest standards of physical and mental health; - the right to education and the right to culture and to the benefits of scientific progress. With regard to the implementation of the right to work, workers must also receive guarantees for a life of independence and personal security based on the principle of non-discrimination as regulated in Article 15 of Law no. 12 of 2005 (on the ratification of the International Covenant on Civil and Political Rights) (Mustari, 2016).

Hugo Sinzheimer In Ruth Dukes said that basically collective labor law regulates trade unions, work councils, collective bargaining, and the establishment of codes. Applying the idea of a constitution, Sinzheimer draws attention to the democratizing function of the legal entity: the labor constitution serves to limit the power of capital and to liberate labour. He also drew attention to the ultimately public nature of the economy and the imperative that the economy be regulated in the public. Due to the unequal bargaining position, the position of workers must be more protected (Dukes, 2019).

Disputes between workers and employers are due to different views on legal protection and social security - workers are usually dissatisfied with company policies, while companies insist that their policies must be accepted by the workers, the main issues of the dispute are as follows (Karepoan & Sompie, 2020): Remuneration; Social Security; Assignment behavior that is sometimes felt to be inconsistent with personality; The perceived work power and work ability are not in accordance with the work that must be carried out.

The best settlement must be achieved in the event of a dispute, because the dispute will result in various consequences, one of which is most likely to result in layoffs, which causes the worker's economic potential to be lost because they have to lose their job and income (Sinaga, 2018). Apart from that, workers' rights are not fulfilled, as a result of contract workers not carrying out their rights and obligations as stipulated in the applicable laws, while the types of layoffs are as follows (Karepoan & Sompie, 2020): layoffs by law; layoffs by workers/laborers by the industrial relations court; Termination of employment by the employer and termination of employment by the district court. The process of resolving employment relations for contract workers can be carried out by means of bipartite, mediation, consolidation and arbitration so that termination of employment for contract workers can occur safely in accordance with the provisions of the applicable legislation (Karepoan & Sompie, 2020).

Fariana in Dwi Hadya Jayani said that the process of resolving disputes that arise between workers/laborers and employers requires government intervention in labor law in order to create fair employment relations, the number of informal workers in Indonesia continues to increase (Jayani, 2021). The Central Statistics Agency (BPS) noted that the number of informal workers reached 78.14 million people in February 2021, an increase of 2.64 million people compared to August 2020 which was 77.68 million people. Although the number has increased, the proportion of informal workers has actually decreased from sixty point forty-seven percent to fifty-nine point sixty-two percent. This condition occurs due to an increase in the proportion of formal workers from thirty-nine point fifty-three percent to forty point thirty-eight percent. This happened because the number of formal workers rose by 2.15 million people to 52.92 million people in February 2021.

Law Number 22 of 1957 concerning Settlement of Labor Disputes which was updated by Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes as a means provided by the state for voluntary settlement through bipartite, conciliation, mediation, and arbitration; and a mandatory settlement model, namely through the Industrial Relations Court (PHI). The weakness of the PHI in solving labor problems is the ability of workers / laborers to know about formal and material laws related to labor law, in addition, the implementation process takes a long time - because not every district has a PHI so people have to go to the province to resolve cases to the PHI, and if the parties are not satisfied with the PHI's decision then they must file an appeal to the Supreme Court - and the legal substance is not sufficient. Problems regarding the settlement of industrial relations disputes can consist of many factors, namely disputes regarding rights, disputes over interests, disputes over termination of employment and disputes between trade unions/labor unions in one company, in addition to the competence of the Industrial Relations Court so that it cannot effectively resolve disputes. employment. Not every decision can be implemented because it does not have a sociologically binding force (Karsona et al., 2020).

In the settlement of industrial relations, a solution that is no longer normative in nature but leads to a breakthrough so that the differences in interests between workers/laborers and entrepreneurs have caused many problems in industrial relations - Recent labor actions have not only resulted in the departure of foreign investors, but can also affect the country's foreign exchange earnings, national and international trade politics, security, the spread of various criminal acts and so on. The complexity of labor issues and industrial relations often creates disputes between workers/laborers and employers. It can be said that industrial relations disputes will always occur as long as there are workers/laborers and entrepreneurs. All efforts are made to minimize the problems that arise and will arise and their impacts. For this reason, a comprehensive, constructive and fair labor law is needed (Karsona et al., 2020).

At the implementation level, not all losing parties are willing to voluntarily carry out the decision, so assistance is needed from state instruments, in this case the court, as the party authorized to take actions to force the losing party to implement the decision. Court action to force the losing party to carry out this decision is called execution. The entry of a request for the execution of a civil dispute to the court indicates that the losing party did not comply to implement the decision voluntarily, so court assistance is needed to enforce it. As previously mentioned, apart from checking; judge; and decide cases, the court is also authorized to implement court decisions in civil cases as referred to in article 54 (Law of the Republic of Indonesia Number 48 of 2009 on Judicial Power) and Article 195 Paragraph (1) HIR (*Reglemen Indonesia Yang Diperbarui* (*Het Herziene Indonesisch Reglement*), 1926). In general, the execution of civil disputes in Indonesia is regulated in HIR, RBg and Rv. The execution involved several first-level court officials, namely: the head of the court, the clerk and the bailiff.

The chairman of the court in his position (ex-officio) is the party authorized to lead and order the execution of civil disputes Article 54 Paragraph (2) of Law no. 48 of 2009. These authorities are regulated in Article 195 Paragraph (1) HIR or Article 206 Paragraph (1) *Rechtsreglement Buitengeweten* (RBg) which includes: 1. The authority to review the application for execution to see whether the application for execution can be carried out or not; 2. The authority to order the bailiff to summon the defendant or the respondent for execution (hereinafter referred to as the respondent) to come to court to be warned to implement the decision voluntarily; 3. The authority to give warning (*aanmaning*) to the respondent to implement the decision voluntarily within a period of no later than eight days; 4. The authority to stipulate an execution order as the basis for carrying out the execution and to order the clerk and/or bailiff to carry out a forced execution if within the eight days period as referred to in number 3 the respondent does not carry out the decision voluntarily; and; 5. Authority to supervise the execution of article 54 Paragraph (1) (Law of the Republic of Indonesia Number 48 of 2009 on Judicial Power)

Settlement of industrial relations disputes that are very detrimental to workers, should immediately receive a response from the government by carrying out its role as a supervisor to prevent violations of workers' rights as regulated in article 176 (Law of the Republic of Indonesia Number 13 Year 2003 Labor). The government as regulator should take firm action against violators of labor rights, but in Law No. 2 of 2004, it

provides opportunities for entrepreneurs who incidentally have a stronger position as violators of rights. The point is to dispute the violation through the PHI. The system seems to place the problem of disputes between workers and employers in the private (civil) area. Thus, the state openly does not carry out its obligations as a supervisor for the implementation of labor law (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution).

Article 176 explains that labor inspection is carried out by competent and independent labor inspectors to ensure the implementation of labor laws and regulations. In accordance with Article 182 Paragraph (1) it is stated that in addition to investigators from the Indonesian National Police, labor inspectors can also be given special authority as Civil Servant investigators in accordance with the prevailing laws and regulations. In the article paragraph (2) it is stated that the Civil Servant Investigator as referred to in paragraph (1) is authorized to (Law of the Republic of Indonesia Number 13 Year 2003 Labor): a. Carry out an examination of the veracity of reports and information on criminal acts in the manpower sector; b. Conduct examinations of persons suspected of committing criminal acts in the manpower sector; c. Request information and evidence from individuals or legal entities in connection with criminal acts in the field of manpower; d. Conduct inspections or confiscation of materials or evidence in criminal cases in the field of manpower; e. Carry out examination of letters and/or other documents regarding criminal acts in the manpower sector; f. Request assistance from experts in the context of carrying out the task of investigating criminal acts in the manpower sector; g. Stop the investigation if there is not enough evidence to prove the existence of a criminal act in the manpower sector.

In this Law it is expressly stated that supervisory employees are authorized to conduct inspections and request information regarding criminal acts in the field of manpower that are reported to the agency (Department). If the labor dispute occurs due to the actions of the entrepreneur who has clearly violated the rule of law. In addition, the legal basis for giving workers the right to report employers to agencies is not explicitly regulated in the labor law regulations. For example, a dispute as a result of an entrepreneur's actions may be subject to criminal sanctions if he violates article 167 paragraph (5) (Law of the Republic of Indonesia Number 13 Year 2003 Labor).

Thus, it can be said that the adverse employment law sanctions lead to the weak party, namely the workforce/labor. The lower the socioeconomic stratification, the further away from a sense of justice and legal protection. The facts show that the severance pay article in the Manpower Law, in its implementation, only 7% of companies comply with this provision. Often workers/labourers have to fight for their rights to severance pay through a judicial mechanism in the industrial relations court. Judicial mechanisms are costly and time consuming; so that workers often just surrender to accept whatever amount of severance pay the company provides. This problem should get a solution from the government through a mechanism of supervision and strict law enforcement for business actors. There is also no guarantee that by lowering the severance rate the company will be more obedient. The existence of a criminal sanction of one year to four years and a minimum fine of 100 IDR million and a maximum of 400 IDR million for employers who do not pay severance pay as stated in Article 185 paragraph (1) of the Manpower Law as amended in Law Number 6 of 2023 concerning Job Creation. small means without being accompanied by a supervisory function from the government - the law is placed as a tool to achieve the goals of the state so that the making of new laws or the repeal of old laws by the state must be used as steps to achieve the goals of the state. State objectives are implemented in the legal politics of the formation of laws and regulations, so that legal products produced by institutions, bodies or officials who have the authority to form regulations must continue to be criticized and evaluated regarding their suitability with the objectives of the State - legal politics, can be formed and influenced national legal system used to achieve the goals of the State. Where the goal of the State as stated in the Preamble to the 1945 Constitution is the achievement of the welfare of the Indonesian people. For this reason, the foundations of the Indonesian economy need to be strengthened, one of which is by attracting investors to invest as much as possible in Indonesia (Anggraeni, 2019).

The entry of investment in Indonesia is expected to encourage the creation of the widest possible employment opportunities for all Indonesian people. There is a need for innovation from the Government to attract investors, one of which is through simplification and streamlining of regulations or what we know as the Omnibus Law (Tohadi, 2020). A number of circles have criticized the formation of the Omnibus law with various reasons and arguments related to the method of drafting a law that replaces/removes several articles in one or more applicable regulations. However, not a few people support the establishment of the Omnibus Law as one of the regulatory reform strategies to overcome obesity/hyper regulation conditions, especially in the ease of doing business sector (Anggono, 2020).

In order to function, a rule of law must be formed based on three foundations, namely Philosophical, Juridical, and Sociological. Because, if a rule of law only contains a juridical side, then it will only become a dead rule (*dode regel*), if it only contains a sociological basis in the sense of power, then it will only become a coercive rule (*dwang regel*), lastly, if only contains a philosophical foundation, then it will only be a law that is aspired to (ideal norm) (Ardes et al., 2013) - meaning that the rule of law, not only must exist as a legal basis,

but is formed at a paradigmatic level and must be applied concretely. The Industrial Relations Court (hereinafter PHI), which is mandated in Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, was philosophically established to create a breakthrough in industrial dispute resolution that is fast, precise, fair, and inexpensive. This ideal in its development, turned out to be inversely proportional to the facts that occurred at the level of practice. For example, since 2006-2013 as many as 2619 appeals have been submitted to the Supreme Court, consisting of 1,427 or 54% of applications made by employers and 1202 or 46% of applications made by workers. Then for reconsideration, during 2006-2013 as many as 374 applications for reconsideration were made. Employers made more requests for reconsideration than workers – of which 378 applications, 143 applications or 39% were made by workers and 221 applications or 61% were made by employers (Arsalan & Putri, 2020).

This certainly makes sense, considering that employers and workers have different economic positions, automatically they will have different abilities in continuing legal efforts. With this, it can be concluded that in fact, the settlement through the PHI is not effective. Furthermore, the possibility of legal remedies up to the last level, which are mostly carried out by entrepreneurs, may indicate that there is a purpose to delay the implementation of the decisions of the IRC at the first level. In addition, this reflects that the concept of settlement through the IRC does not apply the principle of justice proportionally. The possibility of legal remedies to the last level shows that there is a miscalculation regarding the economic conditions between workers and employers which of course are very different. The second fact that PHI decisions do not reflect justice in terms of workers' interests can be seen from the many decisions related to workers' demands on workers' rights in the form of process wages that are not granted and tend to be ruled out, this can be seen from the Central Jakarta Industrial Relations Court, from 2015 to 2020, this shows that PHI does not reflect the value of proportional justice.

The position of workers and employers in this matter is clearly much different due to their economic position. Employers who have a better economic position can clearly use the services of a lawyer to defend their legal interests. On the other hand, workers with economic abilities will have difficulty getting lawyer assistance due to economic reasons. The location of the Industrial Relations Court, which is only in provincial capitals and certain cities/districts with a high level of industry, is also an obstacle for workers who want to seek justice, because of course it will cost a lot of money. The PHI may have the principle that the value of the dispute is below 150,000,000 IDR (one hundred and fifty million rupiah) will not be charged. In case of litigation at the PHI, there are not only court fees that must be incurred, but also other costs that must be incurred by workers in the proceedings at the PHI, namely accommodation costs (transportation, meals, lodging), not to mention that workers have to be pressured by not receiving wages due to disputes. (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution).

Proportional justice itself is a concept that developed from classical justice theory. This concept is a combination of justice and proportionality. Plato defines justice as the supreme virtue of the good state (the main value of a good state), while a just person is the self-disciplined man whose passions are controlled by reason. In contrast to Plato who rests on harmony, Aristotle emphasizes his theory of balance or proportion. According to him, in the state, everything must be directed to noble ideals, namely goodness and goodness that must be seen through justice and truth. The emphasis on balance or proportion in Aristotle's theory of justice can be seen from what he did that the equality of rights must be the same among the same people (Surajiyo, 2018).

The theory of justice brought by Aristotle, in it implicitly requires proportionality. Inspired many juries to formulate the concept of proportional justice according to the portion. For example, justice in the theory of utilitarianism brought by Jeremy Bentham and his student, namely John Stuart Mills. This theory originally had an essence that rested on human happiness individually or individually as a stand-alone subject, humans are essentially always trying to find happiness that is intended for themselves. But later, this theory developed into a broader concept, namely that everything that is good is something that is able to provide the most or maximum benefits for the benefit of the people, meaning that according to utilitarianism, proportional justice is justice that provides the most benefits for the majority. In proportional justice Arasan and Putri say that there are several elements as follows (Arsalan & Putri, 2020): a. The purpose of justice that should be - Proper purpose - in this regard, the PHI's aim is not in accordance with the purpose of the intent of the law, not as a solution and even creating new problems; b. Elements of rational relations, where the PHI is not in line with the facts on the ground, where the formation of the PHI is disproportionate in resolving industrial disputes; c. The element of primacy of meaning - Necessary means, where the PHI is intended as an accurate solution in the settlement of industrial disputes but in reality it has not provided a sense of justice; d. The element of Benefits - proper relation between the benefits gained by realizing the proper purpose and the harm caused to constitutional rights, the existence of this PHI in fact sacrifices the constitutional rights of workers to fulfill proper goals and equal status.

The ineffectiveness of the industrial relations court in resolving labor disputes requires legal reform of all regulations related to it. The location of the courts is too far away, the executive power is weak, and the courts are so rigid that they undermine the spirit of the fair trial required by the 1945 Constitution of the Republic of Indonesia as well as positive Indonesian law and are examples of problems that hinder the resolution of labor disputes in litigation.

Workers/Labourers who are subjects and individuals of the world order in this case tend to be harmed by the existence of the industrial relations court itself, therefore if in further implementation (PPHI) it turns out that it is not able to support the fair trial itself, it should be corrected so that harmonization occurs between positive legal regulations in Indonesia (Joka & Sutopo, 2018).

Settlement of disputes outside of litigation is the best solution in the dispute resolution process between employers and workers. This happens because conflict between employers and workers is a routine thing so that mediation is a good thing, but there are many obstacles because now the orientation of dispute resolution is litigation because it is considered as the only one that can guarantee legal certainty, by the arena only certain countries are involved. really apply mediation as well as possible.

Japan is a very successful country in implementing mediation, where the mediation success rate in Japan reaches 75% or more. The idea of dispute resolution in Japan is successful because it departs from noble traditional values, such as *arasoi o mizu ni nagasu* (let the problem run like water), *kenkai ryoo-seibai* (the parties are punished fairly) and *arasoi maruku osameru* (resolving problems within circles). In addition, for the Japanese, bringing matters to court is an act that is not commendable and should be avoided. The wisest is through a mediation forum called Jidan. However, Jidan is a settlement forum that does not have formal sanctions and is only voluntary. Slight difference with chotei, which in chotei, the mediator is a panel of three people (two people are chosen by the disputing parties and one is a judge) (Arsalan & Putri, 2020).

China is one of the countries that has a high level of success in resolving industrial relations disputes through mediation – where the rise of mediation in China is not only the result of top-down mobilization; the way local authorities responded to the call center was also an important contributing factor. Of course, in the unified politics of the Chinese system, it is the central government that sets the policy agenda and goals and mobilizes local actors to follow suit. However, unlike Japan, the country of the bamboo curtain is more strict in its resolution. There are three keys to successful mediation in China, namely: *First*, there is a strong state presence in mediation, not only the government is the designer of the mediation system but the promoters involved are also government agents. *Second*, unlike European countries which place mediation as an alternative to litigation, China places mediation as a sequential procedure that must be passed before it can be referred to arbitration or court. *Third*, Mediation in China is directed at reducing conflict, not seeking justice (Zhuang & Chen, 2015).

Indonesia, unlike Japan, does not have the principle that bringing matters to court is a bad thing. This is of course due to the different historical influences that developed in Indonesia and Japan, so it makes sense that the development of good and bad values inherited by the Japanese ancestors with good and bad values in Indonesia also has differences. However, if the values of goodness that exist in Japan can be adopted, considering that a deliberative settlement of mediation has more noble value than having to take it to court. Therefore, as discussed earlier, the abolition of the PHI is the perfect initial stage to spark the perception that non-litigation is a prerequisite for litigation. Indonesia, too, is different from China, which seems authoritarian and not oriented towards seeking justice, which seems mediation is only a formality to reduce problems that are getting bigger and bigger. Therefore, based on these comparisons, the author moves on to the next stage, namely strengthening the tripartite function in the form of mediation by the Manpower Office.

The regulation of the industrial relations dispute settlement mechanism by presenting the P.H.I (Industrial Relations Court) as the main mainstay institution for dispute resolution makes the settlement system more liberal and tends to be undemocratic. The course of the case is entirely in the hands of the disputing parties. The role of the government (executive) to be involved in labor/labor disputes has become much reduced, the role of involvement in the case settlement process has shifted to the courts (judicative).

Referring to John Rawls' theory of justice (A Theory of Justice), that the provisions governing freedom must be such that it can only be limited for the sake of freedom itself. Therefore, it is not permissible to eliminate or put aside freedom itself. From a democratic perspective and John Rawls' theory of justice, ideally the settlement of industrial relations disputes is resolved through bipartite negotiations between workers/labourers and employers. They negotiate and make an agreement, then the case is over. Through the agreement of the parties, a joint decision can be obtained that benefits both parties. But in reality, with the enactment of Law No. 2 of 2004 on Industrial Relations Dispute Settlement, it tends to turn off the spirit of negotiating to reach an agreement.

Article 3 Paragraph (3) which stated that (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution): "if within the period of 30 (thirty) days as referred to in paragraph (2) one of the parties refuses to negotiate or negotiations have been carried out but do not reach an agreement,

then the bipartite negotiations are considered failed". This legal rule results in the lack of bipartite function in the settlement of industrial relations disputes and as a foundation for the parties to submit cases to mediation institutions.

The function of this mediation institution is to mediate in the context of resolving industrial relations disputes in Regency/City manpower agencies. Juridically the function of the mediation institution is weak, because the opinion of the mediator in the form of a recommendation is not binding on the parties, and the parties can reject it. So that mediation is purely administrative. This condition tends to be empowered by employers to be passive at the suggestion of the mediator, and as a result it forces workers/ laborers who have an interest in resolving cases, so that the position of workers/ laborers as interested parties to file cases occurs. The reality shows that it is rare for employers to bring claims to the PHI, including claims for layoffs.

Whereas based on Article 151 paragraph (3) (Law of the Republic of Indonesia Number 13 Year 2003 Labor) it is stated: "...the entrepreneur can only terminate the employment relationship with the worker/labourer after obtaining a determination from the industrial relations dispute settlement institution". Further Article 152 paragraph (1) (Law of the Republic of Indonesia Number 13 Year 2003 Labor): "Application for termination of employment shall be submitted in writing to the industrial relations dispute settlement agency accompanied by the reasons on which it is based". Meanwhile, in the regulations related to the IRC, a dispute resolution institution is regulated but it is not equipped with sanctions, so it is not effective. Things like this are clearly very profitable for the entrepreneur, and even more benefited by the provisions of Article 14 paragraph (1) (Law of the Republic of Indonesia Number 2 Year 2004 on Industrial Relations Dispute Resolution) which states: "In the event that the recommendation is rejected by one of the parties or the parties, then either party or the parties may proceed to settle the dispute to the Industrial Relations Court at the local District Court". This article is in accordance with the procedural law applied at the PHI, namely the Civil Procedure Code applicable in the general court (Article 57 of Law Number 2 of 2004) thus is a contradiction between Law Number 13 of 2003 and Law Number 2 of 2004 So because one of the parties or the parties rejects the suggestion of the mediator, based on Article 14 paragraph (1) of Law Number 2 of 2004 concerning Industrial Dispute Settlement, it is open for the case to proceed to the Industrial Relations Court at the local District Court. The weak position of bipartite negotiating institutions and mediation negotiating institutions resulted in industrial relations dispute cases flowing to the PHI and the Supreme Court. The enactment of Law Number 2 of 2004 has temporarily not met the target for improving the quality of settlement of industrial relations disputes. Apart from that, the whole process of resolving these cases can take place fairly, quickly, cheaply and with legal certainty.

The process of settling industrial relations disputes in a fair, fast, cheap, and legal manner has not yet been realized due to disturbances in the balance in terms of freedom. According to John Rowls' theory of justice, when there is a disturbance in the balance of freedom, members of society must rediscover the freedom that was disturbed. Therefore, the role of the government in realizing the process of resolving industrial relations disputes in a fair, fast, cheap, and legal manner is very important. Theoretically, justice in the context of resolving industrial relations disputes can be realized if it is supported by a good mechanism system, namely if normative truths and empirical truths can be realized in the labor law system.

In the context of improvement and effectiveness of the Manpower Law, particularly regarding the settlement of industrial relations disputes in the context of the protection of workers/labourers, it is necessary to strive for the consistent application of the law concerning employment relations, to continue to prioritize the values of Pancasila and the principles of Industrial Relations. The process of resolving industrial relations disputes in accordance with Pancasila values by prioritizing the principle of deliberation, if it is based on a philosophical thought pattern is for deliberation to seek dispute resolution, the appropriate institution is a non-litigation institution, but if it is based on a philosophical thought pattern to win the case, the appropriate institution is a non-litigation institution. The right way to settle industrial relations disputes is to be in a litigation institution, however, if it remains philosophically oriented to win cases, especially disputes related to Termination of Employment, the settlement process is directly to the PHI, because non-litigation institutions do not function as alternative institutions and only as institutions. administrative steps as a step that must be passed before the PHI will thus reduce the time of sixty days, which means that it only takes 80 disputes over the termination of employment and the Court's Decision A Thus, it will be more efficient in terms of time for both workers and employers.

Based on the above study, the reform in the Industrial Relations Court in Indonesia in resolving disputes based on the principles of fast, precise, fair and cheap justice is to revise Law no. 2 of 2004, which are as follows: It is necessary to strengthen the industrial relations conciliation and arbitration institution; The abolition of cassation legal remedies for disputes over rights and termination of employment where the value of the lawsuit is less than one hundred and fifty million rupiahs shall be settled through a small claim court so that the settlement of cases, quickly, cheaply, and at low cost can be achieved (Supreme Court Regulation Number 2 Year 2015 on the Procedure for Settlement of Simple Lawsuits); Streamlining the examination of

the contents of lawsuits by judges, meaning that progressive law and legal apparatus (judges) are needed, so that there are no more lawsuits that are NO in the IRC case. Where the law is for humans, the philosophy will make humans the determinant and point of legal orientation. The law is in charge of serving humans, not the other way around. Therefore, the law is not an institution that is separated from human interests. The quality of law is determined by its ability to serve human welfare. This causes progressive law to adopt a pro-just legal 'ideology' and pro-people law (Tanya et al., 2010); Establishment of special provisions regarding the execution of decisions at the Court of Industrial Relations (PHI) which have been *inkracht van gewijsde* and established provisions so that extraordinary legal remedies are not allowed to be reviewed in cases of IRC; There is legal certainty regarding the time limit between the reading of the decision and/or notification of the decision and the signing of the decision, up to a copy of the decision that must be issued and must be given to the parties, the management and executioner, and there must be provisions for legal sanctions in the event of a violation of the said administration; Synchronization of provisions regarding bankruptcy as an urgent situation that must be examined by examining the fast procedure in Law no. 2 of 2004 with the provisions concerning the rights of workers/labourers as the right of preference in the process of settling the company's debt payment obligations before being declared bankrupt in Law no. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. The aim is that the demands for the rights of workers/laborers concerning the survival of their families are not lost but take precedence over the rights of other creditors; Optimizing the use and development of Information Technology (IT) facilities in the case administration process, especially calling for "delegates" must be intensely carried out, with the implementation of the Electronic Judicial Process (Supreme Court Regulation Number 3 Year 2018 on Electronic Court Case Administration).

CONCLUSION

The settlement of industrial relations disputes through the Industrial Relations Court (IRC) is not always a satisfactory solution for workers due to its time-consuming, costly, and complicated nature. Instead, dispute resolution outside litigation is the best solution, as it provides a sense of justice and legal certainty. This is because the negotiation mechanism aligns with the Indonesian nation's Pancasila values, which prioritize deliberation in dispute resolution. Legal reforms related to the IRC are needed to provide proportional justice for both parties. Future research could explore alternative dispute resolution models, the impact of legal reforms on workers' rights, strengthening non-litigation institutions, integrating local wisdom and cultural values into dispute resolution processes, examining worker and employer perspectives on dispute resolution, conducting longitudinal analyses of non-litigation resolutions, and examining the role of mediation and conciliation in industrial relations. These studies could help evaluate the long-term effectiveness and satisfaction of parties involved in resolving disputes.

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