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Industrialization Relation Dispute Settlement Model in Indonesia

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ABSTRACT
There are still many problems in the employment conditions in the Special Region of Yogyakarta. In the working conditions of workers, there is a gap between the working conditions of contract employees and casual daily labour. The work environment for contract workers is considered safe for their workers. The survey results show that the working conditions for contract employees in several companies in the Special Region of Yogyakarta are generally well-financed and sufficient to support the production activities of their employees. However, even those assessing that the Special Region's working conditions are not good cannot be ignored. This assessment is supported by the number of work accident cases in the Special Region of Yogyakarta; during 2018, it was pretty high. Based on data from 2018, the number of work accidents was recorded at 998 cases. Unlike the case with contract employees, their working conditions are considered not a good working condition for temporary daily workers. The negative response to the survey results indicates gaps in the working conditions given to casual daily labour. At the point of work relations, the findings suggest that there is still a weak set of work relations in the work environment, both in companies with large, medium and small categories. Conflicts that occur due to the lack of working ties are resolved by various mechanisms for resolving work relations disputes, including bipartite, mediation and industrial relations courts. There are four types of conflicts that often occur in the work environment in the Special Region of Yogyakarta, namely: termination of employment, interests, rights, disputes between trade unions and labour.

Keywords: *Labor relations, industrialization relation, Indonesia,*

1. BACKGROUND

The perspective of workers is a determinant of the paradigm and politics of employment. Therefore, it is essential to start a discussion in this regard. First is the view of people and work. Second, the relationship between the manifestation of work and wages. Third, the fundamental rights of workers. Discussing these three things, it becomes clear the position of workers in work, wages, and employment by only selling labor. So far, these three aspects have been viewed more from a mere production and economic point of view. In contrast, the human, labor, wage, and basic dimensions of workers are multi-dimensional, and in complex relationships, patterns are even influenced by the surrounding environment (Pradima, 2013).

The reduction of this multi-dimensional human being only economical, even becoming a means of production that is an instrument of productivity, makes workers' position only a commodity in the labor market. This dehumanization has become the basic view so far towards workers. In the following process, workers are increasingly alienated from their essential nature as humans on this earth. Such a position gains more legitimacy from the New Order's development orientation based on growth, stability, and equitable distribution through the trickle-down effect (Yunarko, 2011).

History proves that this basic view failed; even the New Order left the national economy bankrupt and foreign debts that had exceeded their psychological limits. Therefore, the development policy strategy should change its orientation from the failed New Order trilogy to a balanced approach to meeting basic human needs. It is in its central position in development as an instrument to achieve basic human needs. So far, the old paradigm has always defended the interests of entrepreneurs. All company regulations have always been simplified. Not only that, in practice, employers also carry out arbitrariness, whereby workers' wages are paid cheaply, and if there are protests from workers, employers use the military to suppress them (Charda, 2017).

Based on the primary view mentioned above, the employment policy or politics is oriented towards returning the position of workers to their nature as human beings with apparent dignity and worth. The restoration of the human image of these workers in the form of promoting their rights and protection, including access to ownership of wealth

(companies), essentially belongs to Allah SWT. In realizing such an employment policy program, the following work schedule is needed (Adi, 2010):

a. Improving the program of fostering basic views of the orientation of renewal of Indonesian workers
b. Improving and developing the quality of Indonesian workers.
c. Build a true partnership following the primary view to create mutual loyalty, integrity, and professionalism in all fields.
d. In dealing with labor conflicts, it is necessary to provide mediator services in the event of a dispute and legal defense for workers.
e. Provide information services about job opportunities for workers.
f. Every employee agrees and agrees with the vision, mission, and goals following the primary view.

The employment political agenda will be operational if there are conditions that support it, both systematically and culturally. In preparing for these conditions, the actual action is needed, namely (Kuruvilla, 2019):

a. Build workforce
b. Workers' social relations with their production (employees who own company assets).
c. Protection of workers' rights.
d. Workers' spiritual well-being

Following the spirit of the new Indonesia, the paradigm of legal, political development in the labor sector needs to be reformed. The old paradigm that tends to see workers as factors of production and part of commodities must be changed to workers as Indonesian people as a whole or as subjects of development production. This paradigm change will ultimately lead and determine government policy to be pro-workers through a positive-resolutive change, meaning by viewing workers as subjects and proportionally considering all aspects in a holistic unit.

Legal protection for workers is essential given their weak position. As mentioned by Zainal Asikin, namely: Legal protection from the power of the employer is carried out if the laws and regulations in the field of labor that require or force the employer to act as in the legislation are actually implemented by all parties because the validity of the law cannot be measured legally, but can be measured sociologically and philosophically (Asikin, 2003).

The problem can be drawn from the description above, namely, how legal protection for workers whose employment is terminated by the employer because of a grave mistake. In addition, what workers can take legal remedies if workers do not get their rights following applicable regulations.

One of the rights inherent in the nature and existence of human beings is the right to social security. Therefore, it is often argued that social security is a universal program that all countries must implement. According to Imam Soepomo, what is meant by Social Security is the payment received by the workers if the workers outside of their fault do not do work, thus guaranteeing income security in the rights of workers to lose wages for reasons other than their will (Soepomo, 2016).

The definition of industrial relations based on the provisions of Article 1 point 16 of Law Number 13 of 2003 is a system of relations formed between actors in the process of producing goods and services consisting of elements of entrepreneurs, workers/laborers, and the government based on the values of Pancasila and the Law. 1945 Constitution of the Republic of Indonesia. Based on the above understanding, the elements of industrial relations can be described, namely: the existence of an industrial relations system; some actors include entrepreneurs, workers/labor, and the government; the presence of a process of producing goods and services (Jumiati, 2011).

According to Khakim (2003), industrial relations in Indonesia have differences from those in other countries. Those characteristics are as follows:

a. Acknowledging and believing that work is not just for earning a living but also as a human service to God, fellow human beings, society, nation, and state.
b. Considering workers not as factors of production but as dignified human beings.
c. Seeing that employers and workers are not indifferent interests but have the same interests to advance the company.

In general, there are five industrial relations systems, which are as follows (Wijayanti, 2009):

a. Industrial relations system based on utility (utility system). In this section, labor relations are arranged so that the utility of labor can be fully utilized. There is a policy of full employment of human resources. Workers are given high wages and guarantees if they can share their energy to the maximum. Their power is squeezed to achieve maximum production.
b. Industrial relations system based on democracy (Democratic system). This system prioritizes consultation or deliberation between workers and employers.
c. Industrial relations system based on humanity (Human system). This system does not take into account increased productivity and efficiency.

d. Industrial relations system based on lifelong commitment (lift long commitment/lift time employment). This system exists in Japan. Workers tend to be loyal to employers, whether the company is in a profit or loss situation. Workers have high discipline, work hard with dedication. On the other hand, employers treat their workers as children and are considered family by providing facilities.

e. The system of industrial relations based on class struggle. It has emerged from the idea of Karl Marx where there is a class conflict of capitalists (capitalists). The sharper the dispute, the faster it will be resolved by destroying capitalism by the hungry proletariat who demands justice.

In implementing the principle of industrial relations, it is necessary to have the same mental attitude and social attitude between workers, employers, and the government, so that there is no place for an aggressive attitude or an attitude of oppression by the strong against the weak (Shamad, 1995: 18). To realize the philosophy of industrial relations in the daily life of working links, it is necessary to have a conducive atmosphere in the work environment.

2. INDUSTRIAL RELATIONS DISPUTE SETTLEMENT

Trade unions/labor unions are disputes between other trade unions/labor unions only within one company. There is no agreement on understanding regarding membership, implementation of the rights and obligations of a trade union.

Based on cases of industrial disputes, the main causes that are often encountered in many companies can be grouped into four categories (Gambirowati, 2018):

a. Non-normative demands, namely those related to matters that are not regulated in laws and regulations and collective work agreements

b. Normative claims, namely claims for rights that have been regulated in laws and regulations and rights that have been agreed upon in collective work agreements or company regulations

c. Involvement of third parties, such as laborers from other companies or trade labor unions (other affiliates) who provoke laborers so that disputes occur; and

d. Pressure from some workers in the company forcing other workers to join the demonstration.

Based on the description above, humans in interpersonal relationships cannot be separated from their interactions or relationships with each other in order to fulfill their needs/interests, both physical and spiritual. In dealing with other human beings, it is certain that there are similarities and differences in interests, views, and these differences can give rise to disputes or, conflicts ~~or conflicts~~ (Whitehill & Takezawa, 2021).

Hanitijo (1991) argued that conflict is a situation where two or more parties fight for their respective goals that cannot be united and where each party tries to convince the other party about the truth of their respective goals. Emirzon (2002) also put forward the notion of conflict/dispute, as follows: There is a conflict or discrepancy between the parties who will and are entering into a relationship or cooperation. In this sense, conflict can be interpreted as a condition in which one party wants the other party to act or not act as desired, but the other party rejects that desire.

Asyhadie (2007) also stated the notion of dispute from a psychological aspect, namely: "Disputes are emotional outbursts that affect one's relationship with other people".21 In Article 1 number 22 of Law Number 13 of 2003 jo. Article 1 point 1 of Law Number 2 of 2004 formulated the definition of industrial relations disputes as follows: "Differences of opinion that result in conflict between entrepreneurs or a combination of entrepreneurs and workers/labor or trade unions/labor unions, due to disputes regarding rights, disputes over interests and disputes over termination of employment as well as disputes between trade unions/labor unions in only one company".

The definition above reflects that it can be felt that it fulfills a sense of justice, whether the worker joins a trade union or not, and in the event of an industrial relations dispute, he still gets protection from Law No. 13 of 2003 and Law 2 of 2004. On the basis of this understanding, elements of the conflict/dispute can be drawn are (Fuqoha, 2020):

a. The existence of parties (two or more people)

b. Different goals, namely, one party wants the other party to act/behave following what he wants.

c. The other party rejects the wish or the desire cannot be united

It is not easy to create harmonious industrial relations. Instead of creating peaceful industrial relations, in the sense of calm working and calm in business, it is instead tension that often arises in industrial relations. Tensions between workers and employers often trigger industrial relations disputes due to many conflicting interests. A conflict of interest occurs when carrying out or pursuing one's interests, a person harms others, and in living together, the conflict is unavoidable.

Meanwhile, the forms of industrial relations disputes can be divided into 2 (two) parts, namely (Gambirowati, 2018):

a. Industrial disputes by their nature:

   1) Collective disputes between entrepreneurs/employers and trade unions/labor unions because there is no agreement on understanding work relations, working conditions, and labor conditions.

2) Individual disputes, namely disputes between workers/laborers who are not members of a trade/labor union and the entrepreneur/employer.

b. Industrial disputes by type:

1) Disputes over rights, namely disputes that arise between entrepreneurs/employers or groups of entrepreneurs and trade unions/labor unions because one of the parties in the work agreement or collective labor agreement does not fulfill the contents of the work agreement or violates the legal provisions applicable to the employment relationship. which they have mutually agreed upon.

2) Disputes of interest, namely conflicts between employers/employers or a combination of trade unions/labor unions in connection with the absence of a conflict of opinion regarding the terms of work and labor conditions

3. IMPLEMENTATION PRACTICES IN INDONESIA

In Indonesia itself, it has issued statutory provisions related to manpower, including Law No. 23 of 1948 concerning labor inspection, Law No. 21 of 1945 concerning Labor Agreements, and Law No. 22 of 1957 concerning Settlement of Labor Disputes, Law no. 1 of 2004 concerning the Settlement of Industrial Relations Disputes, and Law no. 3 of 2003 concerning manpower (Kesuma & Vijayantera, 2020).

In Industrial Relations, disputes can occur. Industrial Relations Disputes according to the Law concerning the Settlement of Industrial Relations Disputes No. 2 of 2004 Article 1 point 1, namely: "Differences of opinion that result in conflict between entrepreneurs or a combination of entrepreneurs and workers/laborers or Trade Unions/labor unions due to disputes over the termination of employment and disputes between trade unions/labor unions within one company." Based on Law No. 2 of 2004, there are several types of disputes, Industrial Relations, namely (Putri, et., al, 2021):

1. Rights Dispute

   Namely, disputes that arise due to non-fulfillment of rights are due to differences in the implementation or interpretation of laws and regulations, work agreements, company regulations, or collective work agreements (Article 1 point 2 of Law No 2 of 2004).

2. Dispute of Interest

   Namely, disputes arise in the employment relationship because there is no conformity of opinion regarding creating and changing the working conditions applied in the work agreement, or company regulations or collective work agreements (Article 1 point 3 of Law No. 2 of 2004).

3. Disputes on Termination of Employment (PHK)

   Namely, disputes arise because there is no conformity of opinion regarding the termination of the employment relationship carried out by one of the parties (Article 1 point 4 of Law No. 2 of 2004).

4. Disputes Between Trade Unions/Labour Unions Only in One Company

   Namely, disputes between trade labor unions and other trade labor unions in only one company because there is no agreement regarding membership, the exercise of rights, and obligations of trade unions (Article 1 point 5 of Law No. 2 of 2004).

Law No. 2 of 2004 provides several options or alternatives to resolve industrial relations disputes, namely the ability to negotiate bipartite, tripartite, and can also be carried out through an industrial relations court (PHI) (Begin, 2019). Tripartite negotiations involve a third person through mediation, conciliation, and arbitration commonly referred to as the out-of-court or non-litigation stage. Suppose the settlement of bipartite and tripartite negotiations fails, or the talks do not reach an agreement. In that case, the industrial relations dispute case can be carried out through the industrial relations court (PHI) or litigation (Mulyasi. L, 2011).

1) Industrial relations conciliation and arbitration institutions need to be considered in Law no. 2 of 2004.

2) Elimination of legal remedies for cassation for rights disputes and termination of employment with the value of the lawsuit under Rp. 150 million. The simple claim model or Small Claim Court (SCC) as outlined in Supreme Court Regulation (Perma) No. 2 of 2015 concerning Procedures for Settlement of Simple Lawsuits, for the value of the lawsuit below Rp.200,000,000,-and without any legal remedies for appeal, cassation, or judicial review, it is very appropriate in settlement of industrial relations disputes, especially for the value of the lawsuit below Rp.150,000 .000, - so it does not require filing a legal action.

3) To streamline the examination of the contents of the lawsuit by the judge, meaning that progressive law and legal apparatus (judges) are needed so that there are no more lawsuits that are NO in the IRC case. Progressive comes from the word "progress," which means progress. The law should be able to keep up with the times, answer the problems that develop in society, and serve the community by relying on the morality aspect of the resources of law enforcement officials themselves.35 According

to Satjipto Rahardjo, legal thought needs to return to its basic philosophy, namely law for humans. With this philosophy, humans become 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 the progressive direction to adopt an 'ideology': pro-justice law and pro-people law.

4) Establishment of special provisions regarding the execution of decisions of the IRC, which have been inkracht van gewijs, and provisions have been made so that extraordinary legal remedies are not permitted to be reviewed in cases of IRC.

5) There is legal certainty regarding the time limit between the reading of the decision and notification of the decision and the signing of the decision, until a copy of the decision must be issued and must be given to the parties, the security, and the executioner, and there must be provisions for legal sanctions in the event of a violation of the said administration

6) Synchronization of provisions regarding bankruptcy as an urgent situation that must be examined by a quick examination in Law no. 2 of 2004 with the provisions concerning the rights of workers/ laborers as preference rights 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.

7) Optimizing the utilization and development of Information Technology (IT) facilities in the case administration process and especially calling for "delegates" must be intensely carried out, with the implementation of the Electronic Judicial Process based on Perma No. 3 of 2018 concerning Electronic Judgment in the Industrial Relations Court, which is a reform in the field of procedural law that utilizes information technology. The regulation 'eliminates' physical contact between the claimants and court officials. As law enforcers, advocates, in this case greatly benefit in terms of time and effectiveness in terms of case administration which generally is in terms of defending the interests of clients because the issuance of the Perma is based on the principle of litigation in the Court in the form of quick, inexpensive, and cost-effective settlement of cases lightness can be achieved.

4. CONCLUSION

In Indonesia itself, it has issued statutory provisions related to manpower, including Law No. 23 of 1948 concerning labor inspection, Law No. 21 of 1945 concerning Labor Agreements, and Law No. 22 of 1957 concerning Settlement of Labor Disputes, Law no. 1 of 2004 concerning the Settlement of Industrial Relations Disputes, and Law no. 3 of 2003 concerning manpower. The definition of industrial relations based on the provisions of Article 1 point 16 of Law Number 13 of 2003 is a system of relations formed between actors in the process of producing goods and services consisting of elements of entrepreneurs, workers/laborers, and the government based on the values of Pancasila and the Law. 1945 Constitution of the Republic of Indonesia. Based on the above understanding, the elements of industrial relations can be described, namely: the existence of an industrial relations system; some actors include entrepreneurs, workers/labor, and the government; the presence of a process of producing goods and services. Based on Law No. 2 of 2004, there are several types of disputes, Industrial Relations, namely: Rights Disputes, Interest Disputes, Disputes on Termination of Employment (PHK), and Disputes Between Trade Unions/Labour Unions Only in One Company.

Law No. 2 of 2004 provides several options or alternatives to resolve industrial relations disputes, namely the ability to negotiate bipartite, tripartite, and can also be carried out through an industrial relations court (PHI). Tripartite negotiations involve a third person through mediation, conciliation, arbitration, or commonly referred to as the out-of-court or non-litigation stage.

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