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THE SETTLEMENT OF INDUSTRIAL RELATIONS DISPUTES: LEGAL ACTIONS FOR LABORERS IN DEFENDING THEIR RIGHTS

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ABSTRACT

The aim of this research is to find out what potential legal actions can be taken by laborers in the settlement of their industrial relations disputes. The research method used a normative legal research design method or legal library research. The results and findings showed that legal efforts against laborers to protect their rights have several alternative solutions, the settlement of industrial relations disputes in Indonesia is characterized by a tiered approach that emphasizes resolution through dialogue and mutual understanding, before escalating to judicial intervention. The Bipartite process highlights the importance of direct negotiation between laborers and employers to maintain workplace harmony, while the Tripartite process involves government participation, aiming to foster broader cooperation and consensus among all stakeholders. Should these conciliatory efforts fail, parties are entitled to seek resolution through the courts, marking a transition to a more adversarial form of dispute resolution. Additionally, mediation serves as a critical preliminary step, mandated by Law Number 2 of 2004, to attempt reconciliation and find a mutually agreeable solution before resorting to litigation. Collectively, these mechanisms reflect a comprehensive and structured approach to managing industrial relations disputes, prioritizing peaceful resolution and the preservation of professional relationships, with the court system serving as a final recourse for unresolved conflicts. In the future of this research is to increase knowledge about the process of resolving industrial relations disputes involving laborers, as well as increasing the legal protection of laborers in industrial relations, especially those related to laborers' rights in termination of employment.

A. INTRODUCTION

The responsibility of the nation is not only to maintain the security, peace, and social order but also to ensure the welfare of the society in a more general sense[1]. For this reason, those who establish laws are required to guide, lead, and protect the actions, moral development, and character of the community in accordance with the aspired welfare. In this regard,

1 Mokat, J.E.H., *Hukum Administrasi Negara*, (Sukoharjo: Tahta Media Group, 2023)

various kinds of companies have emerged that absorb many laborers are believed to potentially lead to improvements in welfare.

In living their life, humans have various life demands, and to be able to meet all of their needs, they need to have a source of income, either establishing their own business or working for others. When working for someone who gives orders or assigns tasks, they must obey and submit to their superiors. From this, it can be understood that the relationship between laborers and employers needs to get more serious attention in accordance with their respective proportions and that this issue needs to be regulated in the legislation. Legislation governing labor issues keeps evolving over time. Legal protection of the rights of laborers is one of the basic rights for every human being. This is in line with what the Article 27 paragraph (2) of the 1945 Constitution states that every citizen has the right to have a job and a decent living for humanity. Thus, it can be understood that there is an obligation of the government officials to regulate the placement of every worker/laborer in order to obtain a job or source of income that sufficiently provides welfare for themselves and their families.

According to [2], laborers are Indonesian citizens who have the right, either as individuals or communities, to associate and establish organizations as a form of protection and enforcement of their normative rights as long as the right to associate is used in line with and does not conflict with the laws and regulations established by the government. Based on Law Number 13 of 2003 concerning Manpower, Article 1 Paragraph (2) states that a worker/laborer is anyone who is able to carry out work to produce goods and/or services either to meet his own needs or to provide for the community. From this explanation, it can be understood that laborers are those who work to produce goods and services, and the characteristic of the working relationship is that they work under the orders of an employer, and that they will receive wages.

A worker, in addition to having basic rights in his nature as a human being, also has the rights that are regulated based on his status and position as a worker, which generally include the right (access) to decent work, the right to income, the right to occupational health and safety insurance, the right to join organizations/associations, and other rights[3];[4]. Meanwhile, according to Fitria[5], laborers are often positioned as the weaker party when dealing with their employers who seem to have more authority. As the party who is always considered weak, laborers often experience injustice when dealing with company interest. Take, for instance, termination of employment.

2 Singadimedja, M.N, "Kepastian Perlindungan Hukum bagi Pengurus Serikat Pekerja dari Tindakan Union Busting," *Jurnal Hukum: Positum* 3, No. 1 (2018): 104-116.

3 Kahfi, A, "Perlindungan Hukum terhadap Tenaga Kerja," *Jurisprudentie* 3, No. 2 (2016): 59-72.

4 Suhartoyo, "Perlindungan Hukum bagi Buruh dalam Sistem Hukum Ketenagakerjaan Nasional," *Adminitrative Law and Governance Journal* 2, No. 2 (2019): 326-336.

5 Fitria, A., "Perlindungan Hukum terhadap Pekerja atau Buruh yang Terkena PHK Akibat Efisiensi di Perusahaan," Lex Jurnalica 15, No. 3 (2018): 323-331.

Employment-related issues from year to year are never-ending and seem to always attract the attention of many people. These problems are very important to think about and be handled properly, especially from the perspective of labor rights in a law that explicitly provides protection for labor rights. One of the forms of labor protection is strongly related to the settlement of industrial relations disputes, as regulated in article 136 paragraph (1) of the manpower law article 136 paragraph (1) that provides us with two patterns of settlement, namely through deliberation and consensus, and through some procedures for settling industrial relations disputes as regulated in Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes.

Every cooperative relationship that occurs between laborers and business owners, be it individuals or companies as a legal entity, is called industrial relations. Prior to the promulgation of Law no. 13/2003, the term labor dispute was used to define a dispute between business owners and laborers. This refers to Article 1 number 1 letter c of Law no. 22/1957 which defines labor disputes as "conflicts between an employer or an association of employers with a labor union or an association of labor unions such as mismatch of understanding regarding employment relations, working conditions and/or labor conditions".

Furthermore, the discussion on industrial relations in this reform era has become very crucial, considering that industrial relations bodies in Indonesia have not been able to create the so-called harmonious relations. To create harmonious and peaceful industrial relations, it is necessary to develop a balance between the interests of laborers, employers, and the government[6]. Several indicators that show the disharmony of industrial relations are seen from the number of strikes carried out by laborers, resulting in a decline in company productivity. In addition, there are many industrial relations disputes, companies relocating their businesses to other countries, and even several companies closing their businesses due to poor industrial relations between employers and their laborers[7];[8];[9]. Based on a study conducted by Wiratama[10], it suggests that the settlement of disputes occurring among Indonesian migrant laborers abroad are usually resolved based on the provisions of the labor law in their country of residence.

In Indonesia, the settlement of Industrial Relations Disputes refers to Law 2 of 2004 concerning Settlement of Industrial Relations Disputes which is the benchmark used in employment disputes or termination of

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6 Khanifa, N.K, *Pengantar Hukum Ketenagakerjaan*, (Wonosobo, Jawa Tengah: Unsiq Press, 2022).

7 Dobbins, T., and Dundon, T., "Industrial relations, the New Right and the Praxis of Mismanagement," *Employee Relations: The International Journal*, (2024)

8 Yusuf, F., "Perselisihan Hubungan Industrial pada Hari Buruh Nasional," *Pelita: Jurnal Penelitian dan Karya Ilmiah* 19, No. 1 (2019): 88-89.

9 Hanifah, I., "Non-Litigation Dispute Resolution Based on Labor Law in Indonesia," *De Lega Lata: Jurnal Ilmu Hukum* 9, No. 1 (2024): 55-64.

10 Wiratama, M. G., Subagyono, B. S. A., and Romadhona, M. K., "Implementation of Legal Efforts Consumer Protection and Dispute Settlement of Social-Health Insurance Participants for Indonesian Migrant Workers," *Malaysian Journal of Medicine & Health Sciences* 19, (2023)

employment relations between laborers or trade unions/labor unions and employers. Therefore, according to[11], law enforcement personnel related to employment, especially on the side of protection for trade union officials, must be a top priority. This is supported by (Wahyudi 2016) who states that the role of the government will be more visible when the pattern of worker/employer relations changes from not only involving laborers and employers but also emphasizing the government's position as a third party. Philipus M. Hadjon argues that the government can provide legal protection to the community with preventive and repressive measures [12];[13].

There are many cases that indicate violations occurring in the workplace that victimize laborers. For example, in the payment of wages known as the "no work no pay" principle, anyone who does not work does not get paid. This sometimes happens in the industrial world, so it is necessary to get protection for the rights of laborers. In fact, the violations committed by business owners/employers against laborers have not shown any balance regarding the rights and obligations, either the obligations from the side of the business owner or the rights and obligations from the side of the laborers.

The Indonesian Manpower Law has not been able to address employment problems and protect laborers in Indonesia as a whole[14]. This evaluation is in line with the opinion of the Deputy Chairperson of the Indonesian Chamber of Commerce and Industry for Manpower and Industrial Relations, Anton J. Supit. He said that the Indonesian Manpower Law has been outdated, irrelevant, and unable to protect laborers under the dynamics of business and the current digital commerce[15]. This is due to the advancement of technology that has entered the industrial era 4.0 which focuses on increasing the economic efficiency. According to[16], the weakness of laborers can be seen in terms of the economy as well as their position and influence on employers. As a result, to be able to achieve their goals, it is impossible for laborers to be able to fight for their rights or their goals individually without organizing themselves in an organization. Thus, legal protection for laborers is still not optimal and very weak. In reality, let alone to get a decent life, to get a job, life insurance or protection is still far from expectations. In fact, laborers who already have jobs, even if they are perfunctory, are still very easy to lose their jobs through a unilateral

11 Chessa, A.J.P, "Union Busting Sebagai Upaya Memahami Dinamika Hukum Pidana Perburuhan, Suatu Tinjauan Studi Socio Legal," *Rechtsregel: Jurnal Ilmu Hukum* 1, No. 2 (2018): 414.

12 Setyorini, E.H., Sumiati, S., dan Utomo, P., "Konsep Keadilan Restoratif Bagi Anak Yang Berkonflik Dengan Hukum Dalam Sistem Peradilan Pidana Anak," *DiH: Jurnal Ilmu Hukum* 16, No. 2 (2020): 149-159.

13 Asri, D.P.B., "Perlindungan Hukum Terhadap Kebudayaan Melalui World Heritage Centre Unesco," *Jurnal Hukum Ius Quia Iustum* 25, No. 2 (2018): 256-276.

14 Sahetapy, Page P., Sugianto, F., dan Michael, T., "Melindungi Hak Pekerja di Era Normal Baru," *Adalah: Buletin Hukum dan Keadilan* 4, No. 1 (2020): 270-284.

15 Petriella, Y., *Kemenpar Optimalkan Wisata MICE,* Berita, 2019.

16 Sami'an, "Pelaksanaan Perlindungan Tenaga Kerja sebagai Wujud Kepastian Hukum," *Majalah Ilmiah Solusi* 17, No. 4 (2019): 190-220.

termination of employment[17]. Based on this description, the aim of this research is to find out what potential legal actions can be taken by laborers in the settlement of their industrial relations disputes.

B. RESEARCH METHODS

This study uses a normative legal research design method or legal library research. Legal library research is usually called Legal Research or legal research instruction. In the normative legal research, the law is often perceived as it is written in the legislation (law in books) or the law is conceptualized as a set of rules or norms which the society complies with and considers appropriate[18]. The research approach used to examine the above problems is through a statutory approach, a conceptual approach, a historical approach, and a comparative approach. In collecting the data, library research methods are used. It is done by studying some legal literature, collections of laws and regulations, legal articles, and many other written references related to the subject matter.

C. RESULTS AND DISCUSSION

1. The Settlement through the Bipartite Process

The establishment and operational framework of Bipartite Institutions signify a pivotal mechanism in fostering harmonious industrial relations, underpinned by the principles of mutual respect, communication, and negotiation between employers and trade unions/labor unions. This negotiation platform not only serves as a testament to the commitment towards resolving disputes within a structured and timely manner—specifically within 30 working days—but also embodies a broader vision of achieving workplace tranquility, labor welfare, and enhanced productivity. The objectives of the Bipartite Treaty, aiming to cultivate a work environment characterized by peace, motivation, innovation, and dignified treatment of laborers, are fundamentally aligned with the principles of sustainable business operations and social justice. Moreover, the functions and duties of these institutions, including facilitating communication, early detection of industrial relations issues, and advising on policy formulation, crucially contribute to a proactive and preventive approach to conflict management. In essence, the Bipartite Institutions are not merely a procedural requirement but a cornerstone of a participative, equitable, and productive industrial ecosystem, highlighting the integral role of dialogue and cooperation in achieving balanced and fair outcomes for both employers and employees. In Article 136 paragraphs (1 and 2) of Law Number 13 of 2003 concerning manpower, it is stated that: (1) The settlement of industrial relations disputes must be carried out by

17 Madjid, N. V., Isra, S., Warman, K., Mardenis, & Tegnan, H., "The Execution Of Worker Layoff Disputes Verdicts At The Industrial Relationship Courts In Indonesia," *International Journal of Services and Operations Management* 44, (2023): 136-148.

18 Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., dan Samara, M. R., *Metode Penelitian Hukum*, CV. Gita Lentera. 2023.

employers and labor unions by deliberation to reach consensus, (2) In the case of amicable settlements, deliberation to reach a consensus as referred to in point 1 (one) is not reached, then the business owners and laborers or labor unions settle their industrial relations disputes by following settlement procedures of industrial relations disputes as officially regulated by the law[19].

So, one of the solutions needed to overcome the problems faced by the labor parties and the company in solving the problem is by deliberation to reach a consensus to become a peace treaty for both parties. In the process of settling the negotiations through a Bipartite process, it is necessary to make minutes of negotiations as referred to in Article 6 paragraph 2 of Law no. 13 of 2003 concerning Manpower. Minutes must at least contain: a). full names and addresses of all parties involved; b). date and place of negotiation; c). the subject matter or reason for the dispute; d). The opinion of each party; e). conclusions or results of negotiations, and f). date and signature of each party involved in the negotiations. However, according to [20], laborers and even trade unions/labor unions often do not have a proper understanding of these procedures so that the settlement of disputes that occur becomes stagnant or there is no progress. In the end, the laborers are the ones who are disadvantaged, especially the fact that the employers or employers mostly take unilateral actions without compromising on their laborers. A different opinion was expressed by[21], he stated that that most cases of industrial relations disputes between laborers and employers that had been taken to a Bipartite negotiation were executed properly based on the provisions stipulated in Article 3 of Law Number 2 of 2004, namely by deliberation to reach consensus.

2. The Settlement through the Tripartite Process

The Tripartite Cooperation Institution stands as a beacon of collaborative governance in the realm of labor relations, encompassing a triad of stakeholders: government, employers, and labor unions/trade unions. This innovative forum underscores a paradigm of partnership and dialogue, uniquely positioned to address the multifaceted dynamics of the labor market through a lens of shared responsibility and mutual respect. The essence of its formation is to transcend traditional adversarial boundaries, fostering an environment where each party maintains autonomy while engaging in constructive discussions on labor issues. The core duties of the Tripartite, including promoting ideal

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19 Suniaprily, F. G. A., & Subekti, R. "Comparation Of Law Number 13 Year 2003 Concerning Labor With Law Number 11 Of 2020 Concerning Working Creation Toward Severance Pay For Labor." *International Journal of Business, Economics and Law* 24, No. 2 (2021).

20 Manurung, M., "Menyelesaikan Perselisihan Hubungan Industrial melalui Perundingan Bipartite," *Jurnal Pionir* 2, No. 4 (2018): 1-6.

21 Julkipli, A., & Santoso, B., "Peran Mediator Dalam Upaya Penyelesaian Perselisihan Hubungan Industrial Melalui Mediasi," *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora* 5, No. 2 (2022): 257-267.

communication, resolving mutual interest issues, and providing a platform for information exchange and consultation, are critical in crafting policies that are both equitable and forward-thinking. The ultimate objective of nurturing harmonious industrial relations is emblematic of a broader vision—one where the synergy between government, laborers, and employers catalyzes a more just, productive, and peaceful labor environment. This tripartite model embodies a comprehensive approach to labor governance, advocating for a balance between economic efficiency and social equity, thereby paving the way for sustainable development in the labor sector.

3. The Settlement through Arbitration

Arbitration is a way of settling a civil dispute outside the general court based on a written arbitration agreement signed by the disputing parties. In Law Number 13 of 2003 concerning Manpower, it is explained that "settlement of industrial relations through arbitration includes disputes of interest and disputes between trade unions/labor unions in only one company. With the provisions that the arbitrator has the right to settle industrial relations disputes, the conditions have been set by the government as follows. The arbitrator has to be The stringent criteria for selecting an arbitrator in industrial relations, encompassing expertise in legal proceedings, Indonesian citizenship, a minimum educational attainment of a bachelor's degree, an age requirement of at least 45 years, certification of good health, mastery of manpower laws evidenced by an arbitration examination certificate, and a minimum of five years' experience in industrial relations, collectively ensure the selection of a professional who is not only academically and legally qualified but also brings a wealth of practical experience and cultural understanding to the role. These qualifications are meticulously designed to ensure that the arbitrator is capable of navigating the complexities of legal disputes with wisdom, fairness, and an in-depth understanding of the specific challenges and nuances of labor relations in Indonesia, thereby upholding the integrity and effectiveness of the arbitration process in resolving industrial disputes[22].

Satjipto Rahardjo said that the purpose of legal protection was to provide protection for human rights. Through this protection, the rights of citizens that have been given by the law can be obtained[23]. Based on Law Number 13 of 2003 concerning Manpower in Article 1 paragraph (22), it states that "industrial relations disputes are differences of opinion that result in conflicts between business owners or employers' associations with laborers' unions due to disputes regarding rights,

22 Alrasheed, K., Khalafallah, A., AlShaheen, A., & Albader, H. "Litigation Versus Judicial Arbitration As Binding Dispute Settlement Techniques In Public Construction Projects," *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction* 15, No. 1 (2023), 04522034.

23 Priyatno, D., dan Aridhayandi, M. R., "Resensi Buku (Book Review) Satipto Rahardjo, Ilmu Hukum, Bandung: PT. Citra Aditya, 2014," *Jurnal Hukum Mimbar Justitia* 2, No. 2 (2016): 881-889.

conflicts of interest, and disputes over termination of employment, as well as disputes between labor unions in only one company". Based on the definition of industrial disputes above, it can be formulated that the scope of industrial disputes encompasses the implementation of working conditions in the company, disputes over rights, disputes over termination of employment, and working conditions in the company.

Arbitrator is one or more persons appointed by the disputing parties from the list of arbitrators determined by the relevant Minister to make decisions regarding disputes of interest, and disputes between trade unions/labor unions in only one company. In this case, the resolution of the problem is left to the arbitration, and the decision is binding on the parties and is final. In Law Number 30 of 1990 concerning arbitration and alternative dispute resolution, it is stated that an arbitration agreement is an agreement in the form of a written arbitration agreement clause made by the parties before a dispute arises, or a separate arbitration agreement made by the parties after a dispute arises. It is also stated by [24] that the settlement of industrial relations disputes through arbitration that has been carried out based on the agreement of the parties cannot be filed to the industrial relations court because the arbitration decision is final and permanent. In some certain cases, an annulment can be made to the Supreme Court of the Republic of Indonesia.

According to [25], efforts of resolving issues done outside the court through arbitration cannot be considered to accommodate the principle of deliberation to reach consensus because the nature of settlement through arbitration is so much identical to settlement through the court, in which the settlement is not a win-win solution but rather a win-loss solution. This is based on the fact that in the settlement, one of the parties will feel aggrieved. More specifically, in the arbitration process, the dispute resolution decision is not based on the negotiation of the disputing parties, but is based on a final and binding decision issued by the arbitrator. Thus, the space for negotiation or deliberation of the disputing parties through arbitration is minimal.

As stated by [26] , that in Indonesia, the disputing parties (particularly regarding conflicts of interest and/or disputes between trade unions within a company) still do not use dispute resolution through industrial relations arbitration as a way to resolve their disputes. Arbitration in the settlement of industrial relations disputes has not yet become an option for the disputing parties. It turns out that the process carried out and agreed upon by the disputing parties in resolving industrial relations disputes has not followed the process as regulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations

24 Putong, D., "Penyelesaian Perselisihan Tenaga Kerja Kasus Adam Air Melalui Mediasi pada Tahap Perundingan Tripatrit Berdasarkan Undang-Undang No.2 Tahun 2004," *Arika* 6, No. 1 (2012): 79-84.

25 Santoso, S., "Karakteristik Penyelesaian Perselisihan Hubungan Industrial," *Mimbar Yustitia* 2, No. 1 (2018): 87-111.

26 Dodi, G. Page , & SH, M., *Arbitrase Dalam Sistem Hukum Indonesia*, (Prenada Media, 2022).

Disputes which is Lex Specialist Derogated Lex Generalist from Law number 30 of 1999 regarding Arbitration. Although, in the end, the two disputing parties decide to resolve the problem through arbitration, the settlement process through the arbitration forum is not appropriate as regulated in Law No. 2 of 2004.

On the other side of the coin, the settlement of industrial relations disputes resolved through arbitration is considered advantageous for the following reasons: First, the speed of the process. Second, the nature of confidentiality. The handling of industrial relations disputes by the arbitration group is always carried out in closed courts, meaning that they are not open to the public. Third, good Relationship is always prioritized. Fourth, time and cost saving. Fifth, non-judicial decisions; meaning that the decisions taken are not made by the judiciary, but rather on the results of the agreement of the disputing parties themselves with or without the help of a neutral third party[27].

Settlement of disputes through arbitration can be carried out because it has previously been stated in the agreement, where the parties agree to resolve any disputes that occur between them that may arise in the future. And that the matter will be decided by a third person, one/some arbitrators, who are appointed by the litigating parties to be resolved outside the court. The choice of settlement through arbitration can also be made by mutual agreement after a dispute arises. The litigants consult to appoint a third party, to help mediate their disputes[28].

Meanwhile, according to[29], in a process of settlement of industrial relations disputes, legal actions are defined as any efforts given to someone for certain things that are against the judge's decision. However, we often find many laborers, after having been laid off, ask the business owners/companies to pay for their rights beyond what is stipulated in the applicable provisions. With this condition, it is difficult to deal with the issue of resolving disputes regarding termination of employment[30].

4. The Settlement in the Court

Article 1603 of the Civil Code states that "each party has the right at any time, also before the employment agreement begins, for some strong reasons, to submit a written application to the district court from

27 Yunus, Y., Ilyas, S.T., Makkulawuzar, K., Lasori, S.A., Haritsa, Umar, Salam, S., "Penyelesaian Perselisihan Hubungan Kerja di Pengadilan Hubungan Industrial," *Jurnal Kewarganegaraan* 7, No. 1 (2023): 727-734.

28 Mahmudah, N., "Menelusuri Penyelesaian Sengketa di Luar Pengadilan," *Journal of Islamic Family Law* 1, No. 1 (2022): 34-45.

29 Khasanah, D. D., Iftitah, A., Abas, M., Sipayung, B., Hastarini, A., Arifuddin, Q., dan Rohmah, A. N., *Hukum perdata*, (Sada Kurnia Pustaka, 2023)

30 Sinlae, E. S. Page , Syahda, I. F., Rizaldi, M. Z., Putra, R. D., Syafa, T. S., dan Wijaya, M. M, "Perspektif Hukum Mengenai Pembayaran Pesangon Kepada Pekerja Yang Mengalami Pemutusan Hubungan Kerja (PHK) Sepihak," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, No. 1 (2024): 71-82.

his actual place of residence, so that the labor agreement is declared dissolved". Based on this understanding, before the court gives its decision, the court must first summon each party for a fair hearing concerning the termination of employment. If the court grants the request, it can at the same time declare the termination of the employment relationship of both parties.

The settlement of industrial relations disputes by judges in the courts can be carried out through investigations with ordinary and fast proceedings based on the civil procedural law which usually begins with an attempt to reconcile the disputing parties[31]. In the event of peace, a deed of peace is drawn up by each party. If peace is not reached, the process is continued according to the civil procedural law until a decision is made by the judge. The decision of the judge of the Industrial Relations Court at the District Court regarding disputes over interests and disputes between trade unions/labor unions in one company is a final and permanent decision[32].

5. The Settlement through Mediation

Mediation is the settlement of rights, conflicts of interest, disputes over termination of employment, and disputes between trade unions/labor unions in only one company through deliberation mediated by one or more neutral mediators.

Based on Law Number 02 of 2004 concerning the settlement of industrial relations disputes, Article 9 states that in "settlement of disputes through mediation by a mediator, working in every agency office that is responsible for the district/city manpower sector". The mediators must meet the following requirements:

The comprehensive set of criteria for an individual's qualification in a pivotal role, emphasizing faith and consciousness in the Ones of God, signifies the importance of moral and ethical grounding, ensuring that decisions are made with a sense of justice and integrity beyond mere legal compliance[33]. The requirement for Indonesian citizenship ensures a deep understanding and appreciation of the local context and national values, which is indispensable in navigating the complexities of labor issues within the country. The stipulation for physical health, certified by a medical professional, underscores the demanding nature of the role, necessitating robust physical and mental stamina to handle the responsibilities effectively. Expertise in labor legislation is crucial, as it equips the individual with the necessary knowledge to interpret and

31 Horobets, N., Lytvyn, N., Starynskyi, M., Karpushova, E., & Kamenska, N. "Settlement of Administrative Disputes with The Participation of a Judge: Foreign Experience and Implementation in Ukraine." *J. Legal Ethical & Regul* 24, No. 1 (2021)

32 Piter, Page A., Pangkerego, O.A., dan Mamahit, G.N., "Upaya Hukum Dalam Penyelesaian Perselisihan Hubungan Industrial Berdasarkan Undang-Undang Nomor 2 Tahun 2004," *Lex Et Societas* 6, No. 5 (2018): 59-66.

33 Diab, A. L., Pabbajah, M., Widyanti, R. N., Widyatmoko, W. F., & Said, Z. "Local Wisdom Utilization in The Industrial Dispute Settlement: Sara Wanua as a Social Conflict Resolution for Workers in Indonesia. *African Journal of Social Work* 12, No. 1 (2022): 31-41.

apply laws accurately, ensuring fairness and justice in decision-making processes. The qualities of authority, honesty, fairness, and impeccable manners set a high standard for personal integrity and professional conduct, reflecting the role's significance in upholding ethical standards and fostering trust. A minimum educational requirement of a bachelor's degree establishes a foundation of analytical skills and knowledge, while the flexibility to fulfill additional conditions set by the Minister allows for adaptability and responsiveness to evolving legal and social landscapes. Collectively, these criteria ensure that the individual not only possesses the necessary legal expertise and academic qualifications but also embodies the moral and ethical principles essential for the role, thereby contributing significantly to the fair and effective resolution of labor issues.

If the settlement of industrial relations disputes through mediation has not been reached, then the mediator issues a written recommendation no later than 10 (ten) working days after the first mediation session and must have been submitted to both parties. If one or both parties refuse, then the settlement of industrial disputes proceed to the local District Court. Settlement through mediation based on Law Number 02 of 2004 is carried out by officials at the agency responsible for the field of manpower. Settlement through mediation is an alternative option after all parties involved do not agree on a settlement through other solutions (consolidation or arbitration).

At the end of the settlement, the settlement through mediation led by a Mediator is the same as the Bipartite settlement. In this case, if the settlement through mediation reaches an agreement, both parties make a collective agreement which will be signed by both parties. The signing process will be witnessed by the appointed Mediator and registered at the Industrial Relations Court at the District Court of 71 in the jurisdiction where the two parties sign the collective agreement to obtain a proof of registration deed. If no agreement is reached in the Mediation, the Mediator will issue a written recommendation, and if the written recommendation is received by both parties, a collective agreement will be made. Within a period of 3 (three) days after the agreement, the Mediator must complete the making of the collective agreement. Next, the agreement will be registered with the Industrial Relations Court at the District Court in the jurisdictions where both parties sign the collective agreement, in order to obtain a proof of registration deed[34].

According to[35], it is understood that in the mechanism for resolving laborers' rights disputes due to termination of employment through mediation, the mediator as a facilitator plays a role to bridge

34 Kesuma, I. N. J., dan Vijayantera, I. W. A., "Perundingan Bipartit Sebagai Langkah Awal Dalam Penyelesaian Perselisihan Hubungan Industrial," *Jurnal Hukum Saraswati (JHS)* 2, No. 1 (2020)

35 Khainurrasyid, *Penyelesaian Perselisihan Hak-Hak Pekerja Akibat Pemutusan Hubungan Kerja Melalui Mediasi (Studi Kasus di Dinas Ketenagakerjaan Kota Medan). [Skripsi],* (Medan : Universitas Muhammadiyah Sumatera Utara, 2019)

two different interests between the two parties who are in dispute. One of the obstacles in resolving laborers' rights disputes due to termination of employment through mediation is that there are still many employers and laborers who do not understand the functions and roles of an Industrial Relations mediator. In fact, there have been lots of debates between the disputing parties, and it takes much time for the industrial relations mediator to explain his functions and roles.

One of the cases brought up by [30] shows that most of the causes of industrial relations disputes are disciplinary issues, namely not coming to work without any information. Those who do not come to work without any notification have usually been given a warning letter. Warning letters are given 3 (three) times. If warning letters have been given up to 3 (three) times, but the laborers still do not heed, then the consequence is termination of employment. According to [36], in the case of mediation that does not reach any agreement or mediation that fails, both parties or one of the parties can take legal actions by filing a lawsuit for the dispute to the Industrial Relations Court. In an incident like this, the mediator plays a very important role in resolving the dispute. This is evident from the research conducted by [37], who found that from the total of all cases that went to the mediator, about 60% of the cases could be resolved by making a collective agreement, 20% ended with recommendations, and 20% ended being closed. This means that more than half of the cases can be resolved through the collective agreement.

6. The Settlement through Conciliation

Conciliation is the resolution of conflicts of interest, disputes over termination of employment, or disputes between trade unions/labor unions in only one company through deliberation mediated by one or more neutral conciliators. A conciliator is one or more persons who meet the requirements as a conciliator determined by the Minister. A conciliator is responsible for conducting the conciliation process and is obliged to provide written recommendations to the disputing parties to resolve conflicts of interest, disputes over termination of employment, or disputes between trade unions/labor unions in one company.

In Law No. 02 of 2004 concerning the settlement of industrial relations disputes, Article 17, it is stated that "dispute resolution through conciliation is carried out by conciliators who are registered with the agency office responsible for the district/city manpower sector. The conciliation process begins after both parties submit a written settlement, agreed by both parties, to the appointed conciliator.

36 Prawesti, M. V. N., & Rizal, M., "Penyelesaian Perselisihan Hubungan Industrial Melalui Mediasi Antara Karyawan Dengan Perusahaan Kopi Cap Kijang Bogor," *Jurnal Ilmu Manajemen, Ekonomi dan Kewirausahaan* 4, No. 1 (2024): 185-193.

37 Febrian, R dan Fitria., "Penyelesaian Perselisihan Hubungan Industrial Melalui Mediasi pada Dinas Tenaga Kerja Koperasi dan UKM Kota Jambi," *Mendapo: Jurnal of Administration Law* 1, No. 3 (2020): 191-206.

The rigorous qualifications for becoming a conciliator in the employment agency, including Indonesian citizenship, a strong moral and ethical foundation rooted in faith, a minimum age of 45 years for maturity and experience, a bachelor's degree for academic rigor, proven physical health, and exemplary personal traits of authority, honesty, fairness, and impeccable manners, alongside at least five years of industrial relations experience and a comprehensive understanding of manpower laws and regulations, collectively ensure that individuals in this pivotal role are not only deeply knowledgeable and professionally seasoned but also embody the highest standards of ethical conduct and empathy. This meticulously crafted criteria set reflects a deliberate and strategic approach to fostering a workforce of conciliators who are well-equipped to navigate the complexities of labor disputes with wisdom, fairness, and a steadfast commitment to upholding justice and harmony in industrial relations, thereby safeguarding the interests and well-being of all parties involved.

The conciliation process for resolving industrial relations disputes embodies a meticulously designed framework that champions transparency, accountability, and active engagement, essential for achieving equitable resolutions. By mandating the issuance of a written recommendation within ten working days post the initial conciliation session, the procedure underscores the importance of efficiency and timely communication. The requirement for both parties to actively respond to this recommendation within a similar timeframe reinforces the ethos of informed consent and mutual participation, ensuring that resolutions are built on the foundation of agreement and cooperation. The stipulation that silence equates to rejection further amplifies the necessity for active involvement, preventing inaction from stalling the resolution process. Moreover, the conciliator’s role in facilitating the formalization of a collective agreement for the consenting party, followed by its registration with the industrial relations court, not only highlights the conciliator's integral role in bridging disputes to legal acknowledgment but also ensures that the resolution process culminates in a legally binding and enforceable agreement, exemplifying a structured, participatory approach towards fostering industrial harmony and legal certainty.

According to Gety[38], in a conciliation trial, the parties who use the services of a lawyer must remain present at the trial. If the parties have been summoned and it turns out that they are not present after the deadline, the conciliator will report to the local Regency/City manpower agency, the case will be removed from the book of disputes. Meanwhile, according to Marselina[39], the flow of the conciliation trial is basically the

38 Gety, S., “Kehadiran Pihak dalam Proses Mediasi pada Perkara Perdata,” Syntax Idea 6, No. 1 (2024): 334-353.

39 Marselina, R. D., Damayanti, C. R., Septiani, I., Aenin, N. H. K., Hidayat, R., & Lianawati, R, “Manajemen Konflik Dalam Penyelesaian Permasalahan Hubungan Industrial Berdasarkan Uu No 2 Tahun 2004 Di PT. Dewasutratex,” *Jurnal Ilmiah Ekonomi Dan Manajemen* 2, No. 1 (2024): 146-155.

same as the mediation trial. In the conciliation session, if an agreement is reached between the worker/laborer and the employer, a collective agreement will be made which is signed by both parties and witnessed by the conciliator. The agreement between the worker/laborer and the employer in the conciliation session as outlined in the collective agreement is not a product of the judiciary, in this case the Industrial Relations Court. Additionally, in order to have the fiat power, the execution of the collective agreement must be registered in the industrial relations court at the district court where the agreement is made. After that, both parties will get a certificate of registration which is an integral part of the collective agreement.

7. The Settlement of Industrial Relations Disputes in Court

Based on Law Number 02 of 2004 concerning the settlement of industrial relations disputes, it is stated that "the industrial relations court has the duty and authority to examine and decide on the following matters, The delineation of dispute resolution stages into first and final steps for various labor disputes—ranging from rights disputes, conflicts of interest, termination disagreements, to conflicts between trade or labor unions within a single company—reflects a strategically designed framework to ensure efficiency and fairness in handling workplace conflicts. Addressing rights disputes and termination issues at the initial stage underscores the urgency of resolving fundamental employee concerns swiftly, aiming to preserve workplace harmony and respect for individual rights. Similarly, the approach of treating conflicts of interest and union disputes within a company as matters to be resolved conclusively at both the first and final stages signifies a commitment to rapid and definitive resolution, minimizing the potential for prolonged discord and fostering an environment of clear communication and mutual respect. This structured resolution process embodies a comprehensive understanding of the nuanced dynamics of labor relations, prioritizing promptness, fairness, and finality in resolving disputes to maintain a stable and harmonious workplace[40].

Law Number 02 of 2004 concerning the settlement of industrial relations disputes has stipulated that the parties who may be involved in industrial relations disputes are individual laborers or trade unions/labor unions. Meanwhile, the dispute of interest at the first and final stage will be decided by the industrial relations court at the general court and cannot be appealed to the Supreme Court. This is intended to ensure a fast, precise, fair, and equitable settlement process.

The best dispute resolution is one that is initiated by the disputing parties, namely by deliberation to reach a consensus without any outside interference, to obtain so-called win-win solutions for both

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40 Kasih, D. Page D., Salain, M. S. Page D., Sudiarawan, K. A., Dwijayanthi, Page T., Sawitri, D. A. D., & Pratama, A. C. Page N., "Classification of Industrial Relations Disputes Settlement in Indonesia: Is it Necessary?" *Hasanuddin Law Review* 8, No. 1 (2022): 79-94.

parties. In addition, through deliberation, it can reduce costs, save time, and avoid other possibilities that are not desired by the parties. That is why Law Number 02 of 2004 concerning the settlement of industrial relations requires that every dispute first go through bipartite negotiations by deliberation to reach a consensus as regulated in Article 3 of Law Number 02 of 2004, "Bipartite disputes are negotiations between labor or trade unions/labor unions with employers to settle all industrial relations disputes. This solution fits perfectly with the view of the Absolute Theory, "that all matters should be discussed first, while we ask God for guidance because all the best decisions only come from Him".

With the enactment of Law Number 02 of 2004 concerning the settlement of industrial relations disputes, Law Number 22 of 1957 concerning the settlement of labor disputes and Law Number 12 of 1964 concerning termination of employment in private companies are declared no longer valid. Thus, it can be said that the enactment of Law Number 02 of 2004 concerning the settlement of industrial relations disputes has brought some progress in several matters that were not previously regulated, such as: (1) Settlement of industrial relations as regulated in Law Number 02 of 2004 now includes private companies as well as in State-Owned Enterprises, and (2) A clear set of rules regarding the time limit for the settlement of industrial disputes through mediation, conciliation and arbitration, namely a maximum of 30 (thirty) working days. This provision represents a crucial advancement, offering a clearer, more predictable pathway towards dispute resolution. By establishing explicit timeframes, the law aims to expedite the resolution process, thereby reducing the duration of labor disputes and minimizing their impact on both employers and employees. These changes reflect a significant shift towards a more efficient, equitable, and inclusive legal framework for addressing industrial relations disputes in Indonesia.

D. CONCLUSIONS

From the details discussed above, there are several legal actions that can be taken by laborers to protect their rights as regulated in Law Number 13 of 2003 concerning Manpower and Law Number 02 of 2004 concerning the settlement of industrial relations disputes. Some alternative solutions that can be taken are, the settlement of industrial relations disputes in Indonesia is characterized by a tiered approach that emphasizes resolution through dialogue and mutual understanding, before escalating to judicial intervention. The Bipartite process highlights the importance of direct negotiation between laborers and employers to maintain workplace harmony, while the Tripartite process involves government participation, aiming to foster broader cooperation and consensus among all stakeholders. Should these conciliatory efforts fail, parties are entitled to seek resolution through the courts, marking a transition to a more adversarial form of dispute resolution. Additionally, mediation serves as a critical preliminary step, mandated by Law Number 2 of 2004, to attempt reconciliation and find

a mutually agreeable solution before resorting to litigation. Collectively, these mechanisms reflect a comprehensive and structured approach to managing industrial relations disputes, prioritizing peaceful resolution and the preservation of professional relationships, with the court system serving as a final recourse for unresolved conflicts.

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