
LOCAL WISDOM AS AN ALTERNATIVE FOR DISPUTE RESOLUTION INDUSTRIAL RELATIONS IN INDONESIA

Hari Sapto Adji

Tompotika Luwuk Banggai University
hari.sapto@gmail.com

Abstract: In a company, both employers and workers basically have an interest in business continuity which in turn will result in the company's success. Although both have an interest in the success of the company, it is undeniable that conflicts/disputes still often occur between employers and workers. In reality, the relationship between employers and workers is not always harmonious. Entrepreneurs instinctively in general always want to reduce expenses to get the maximum profit. The difference in point of view between employers and workers is of course not only in terms of income but also other aspects, such as rights and obligations between workers and companies.

Industrial relations disputes according to Law no. 2 of 2004 concerning Settlement of Industrial Relations Disputes is a difference of opinion which results in a conflict between the entrepreneur or a combination of employers and workers/ laborers or trade unions/ labor unions due to disputes regarding rights, disputes over interests, disputes over termination of employment and disputes between trade unions/ labor unions. in one company.

If there is a dispute between workers and employers, bipartite negotiations (both parties) can be the main solution in order to achieve harmonious industrial relations. Conducive industrial relations between entrepreneurs and workers/labor are the main key to avoid termination of employment, improve the welfare of workers/laborers and expand new job opportunities to tackle unemployment in Indonesia.

According to Article 1 number 16 of Law Number 13 of 2003 concerning manpower, the definition of Industrial Relations is a system of relations formed between actors in the process of producing goods and/or services consisting of elements of entrepreneurs, workers/laborers, and the government based on values of Pancasila and the 1945 Constitution of the Republic of Indonesia. In contrast to the employment relationship which is the relationship between employers and workers/laborers, industrial relations involve the government in it.

The industrial relations are expected to be created in such a way as to be safe, harmonious, harmonious and in line with the improvement of the nation's welfare.

In the process of working relations, it is possible that there will be disputes or disputes between employers and workers, which inevitably must be sought for a settlement that is at least acceptable to all parties.

Although the government has prepared a means of settling industrial relations in a formal juridical manner through positive legal regulations. However, with the richness of traditional culture in Indonesia, efforts to resolve local wisdom can also be applied as an alternative means of resolving industrial relations disputes.

Keywords: Industrial Relations, Employment Relations, Labor Disputes, Local Wisdom

Introduction

Employment relations is a substitute term for the term labor relations. At the beginning of its development, the work/labor relationship discusses the relationship between workers and employers. However, without us realizing it, the relationship between workers and employers is not a stand-alone problem. However, it is greatly influenced and influenced by other problems such as economic, social, political, cultural and so on. Therefore, labor relations are no longer considered appropriate because of the complexity of the problems that follow. Thus began to develop a new term with what is called industrial relations. Which of course has a wider scope.

In accordance with Article 102 of Law Number 13 of 2003 concerning Manpower, it is stated that the duties of each party in industrial relations are as follows:

1. Government: establish policies, provide services, carry out supervision, and take action against violations of labor laws and regulations.
2. Workers/ laborers and their trade unions/ labor unions: carry out work in accordance with their obligations, maintain order for the continuity of production, channel aspirations democratically, develop their skills and expertise as well as participate in advancing the company and fighting for the welfare of members and their families.

3. Entrepreneurs and their employers' organizations: create partnerships, develop businesses, expand employment opportunities, and provide welfare for workers/ laborers in an open, democratic and just manner.

Related to Industrial Relations, there is also an important matter in employment, which is called Employment Relations. An employment relationship is a legal relationship that must be carried out, at least two legal subjects regarding a job. The legal subjects who carry out the working relationship are the entrepreneur/employer and the worker. Here the employment relationship is at the core of industrial relations.

In the development of the discussion of employment relations there are the following elements: (Whimbo Pitoyo, 2010:H.7)

1. There must be a job

The meaning here is that work is the object of the agreement so that it becomes an important element in the work agreement.

2. There must be a wage

The meaning here is that wages are work rights received which are rewards that can be in the form of money or in other forms because of work and or services performed by workers.

3. There must be an order

The meaning here is that an order is the right or more precisely the authority of the employer or employer to the worker in carrying out his work obligations.

In the implementation of the employment relationship, there are 2 types of time for the implementation of the agreement, namely:

a. Certain Time Employment Agreement. In the agreement it has been determined when the end of the working relationship is carried out, also related to certain types of work and

b. Uncertain Time Employment Agreement. In this agreement, it is not specified when the employment relationship ends, but is solely determined by the existence of workers whose employment is terminated due to the worker's fault, because the worker retires, the worker resigns, the company stops operations (closes), or even the worker dies.

Of course, in the implementation of the employment relationship, both by the employer and by the worker, it is possible that a dispute or dispute may arise. Disputes or disputes in labor relations or usually referred to as industrial relations disputes are a form of dispute between the workers and the employers. Therefore, industrial relations should reflect a harmonious atmosphere that can be a factor for peace of mind, comfort, security and national stability in general.

Disputes or industrial relations disputes must be resolved, so that the negative impact of industrial relations disputes can be minimized or even eliminated.

Settlement of industrial relations disputes between employers and workers is indispensable for the creation of harmonious and conducive industrial relations between the two parties. Sometimes, in addition to the word dispute there are also some people mention the word dispute. As expressed by Henry Campbell Black in his dictionary Black's Law Dictionary "Conflict/dispute or controversy: a conflict of claims or right, an assertion of right, claim or demand on one side, met by Contrary claims or allegation on the other, The subject of litigation, etc (Henry Campbell Black, 1979:P.424)

Settlement of industrial relations disputes between employers and workers is indispensable for the creation of harmonious and conducive industrial relations between the two parties. In a company, both employers and workers basically have an interest in the continuity of the business and the success of the company.

Although both have an interest in the success of the company, it is possible that conflicts/disputes still often occur between employers and workers.

If there is a dispute between workers and employers, then at least as a first step bipartite negotiations can be the main solution in order to achieve harmonious industrial relations. Conducive industrial relations between employers and workers/labor are the main key to avoid termination of employment, Therefore, it can improve the welfare of workers/laborers and expand new job opportunities to tackle unemployment in a country.

The existence of industrial relations disputes according to Law no. 2 of 2004 concerning the Settlement of Industrial Relations is a difference of opinion which results in a conflict between an entrepreneur or a combination of employers and workers/ laborers or a trade union/ labor union due to disputes regarding rights, disputes over interests, disputes over termination of employment and disputes between trade unions/ labor unions in one company.

The mechanism for resolving industrial relations disputes has been regulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (UU PPHI) through several stages ranging from bipartite, mediation (arbitration/conciliation), to the industrial relations court (PHI).

Meanwhile, according to Law No. 2 of 2004 concerning Settlement of Industrial Relations, there are various ways, namely:

a. Settlement of disputes through mediation.

Industrial relations mediation is the settlement of disputes over rights, disputes over interests, disputes over termination of employment and disputes between trade unions/labor unions within one company only through deliberation mediated by one or more neutral mediators.

The Industrial Relations mediator, called a mediator, is an employee of a government agency responsible for the field of manpower who meets the requirements as a mediator determined by the Minister to carry out mediation and has the obligation to provide written advice to the disputing parties to resolve disputes over rights, conflicts of interest, disputes over termination of employment, and disputes between trade unions/labor unions in only one company (article 1 points 11 and 12 of Law Number 2 of 2004 concerning Settlement of Industrial Relations).

b. Dispute Resolution through Conciliation

The purpose of Industrial Relations Conciliation is the settlement of disputes over interests, 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.

Industrial Relations conciliator, hereinafter referred to as conciliator, is one or more persons who meet the requirements as a conciliator determined by the Minister of Manpower, who is tasked with conducting conciliation and is obliged to provide written advice to the disputing parties to resolve disputes over interests, disputes over termination of employment or disputes between unions. workers/labor unions only in one company (Article 1 points 13 and 14 of Law Number 2 of 2004 concerning Settlement of Industrial Relations)

c. Settlement of disputes through Arbitration

There is even a dispute settlement according to Law no. 2 of 2004 concerning Settlement of Industrial Relations, through arbitration

Industrial Relations Arbitration is the settlement of a dispute of interest, and a dispute between trade unions/labor unions in only one company, outside the Industrial Relations Court through a written agreement from the disputing parties to submit dispute resolution to an arbitrator whose decision is binding on the parties and is final.

Industrial Relations Arbitrators, hereinafter referred to as arbitrators, are one or more persons selected by the disputing parties from the list of arbitrators determined by the Minister of Manpower to make decisions regarding conflicts of interest, and disputes between trade unions/labor unions in only one company whose settlement is submitted through arbitration. whose decision is binding on the parties and is final (Article 1 points 15 and 16 of Law Number 2 of 2004 concerning Settlement of Industrial Relations).

In efforts to settle industrial relations disputes as mentioned above, there are methods that can be used, namely Biparite Negotiations, Mediation, Conciliation, Arbitration, which are efforts carried out by the Non-Litigation route. However, it is possible that if the case has not been completed, it can proceed to litigation at the Industrial Relations Court (PHI).

d. The litigation lawsuit can be taken, if the parties who do not agree and reject the suggestion from the mediator or conciliator will continue the dispute by filing a lawsuit to the PHI. Based on Article 56 of Law Number 2 of 2004 concerning Dispute Settlement in Indonesia,

The Industrial Relations Court (PHI) has absolute competence in examining and deciding cases of labor industrial relations disputes through litigation

In the author's opinion, the mechanism of the litigation process at the Industrial Relations Court at least contains weaknesses because the types of disputes regulated in Law No. 2 of 2004 concerning Industrial Relations Settlement are limited to only 4 types, namely rights disputes; interest; termination of employment (PHK); and disputes between trade unions/labor unions within one company.

In fact, many aspects of industrial relations disputes and disputes have not been included in Law No. 2 of 2004 concerning Industrial Relations Settlement. For example, the conflict between the entrepreneur and the employers' association; workers with trade unions; or involving third parties such as communities and governments.

Resolving disputes can also borrow local principles and rules (local wisdom) that have developed in their respective regions or nationally. In resolving disputes, the root of the problem must be seen

Therefore, in the author's opinion, dispute resolution or industrial relations disputes can use alternative methods through the approach of local wisdom.

Discussion On this occasion, the author will discuss about "Local Wisdom as an Alternative Way of Settling Industrial Relations Disputes" As a simple understanding, local wisdom is at least a value that is believed to be a truth by most of the local community members who are used as reference material for thinking, behaving, acting, the results of which are accepted by the parties. Or also local wisdom which is substantially not new to indigenous peoples in Indonesia, which has long been known as a traditional method of settlement, both in terms of process and material points that refer to local regional principles. It could also be that local wisdom is knowledge that is found or obtained by local people through the accumulation of experience in experiments and is integrated with an understanding of the surrounding nature and culture. Even dynamic local wisdom with functions that are created and connected to the global situation. As for the existence of local wisdom in the laws and regulations in Indonesia, it was first stated in Article 5 paragraph 3 of the Emergency Law Number 1 of 1951 concerning Temporary Measures to Organize the Unity of Power Composition and Procedure of Civil Courts, which states in the regulation The law regulates civil material law and for the time being the civil criminal material law which until now applies to the Swapraja area and people who were previously tried by the customary customary court and still applies to you and those people. In addition, Article 5 of Law Number 48 of 2009 concerning Judicial Power stipulates that judges and constitutional judges are obliged to explore and follow and understand the legal values and sense of justice that live in society. Likewise, in Article 50 paragraph 1 which regulates court decisions, besides having to contain the reasons and basis for the decision, it also contains certain articles of laws and regulations that are used as the basis for adjudicating. Of course, the person concerned or the unwritten legal source Conceptually, Quaritch Wales was the first to argue. Whereas the view that is associated with law, the local wisdom will approach the concept of applicable law or living in society (living law) which includes legal values and principles of justice that live in society. The form can be in the form of unwritten law or customary law. (Asri Wijayanti and Slamet Suhartono, 2020:H.125) Meanwhile, Hsieh argues that local wisdom is the idea of goodness that is internalized in the life of the people of an area which is manifested as a unique cultural identity and has resilience in dealing with external influences. (Nie-he Hsieh 2004:P.643-661)

At least from the above definition, it appears that local wisdom must contain moral values that are upheld by the community itself. That is why this local wisdom can be sustainable, maintained, and maintained in the course of the life of the local community. Local wisdom has an important role in resolving industrial relations disputes in Indonesia. Although it is not easy to find the values of local wisdom in cases of industrial relations disputes because local wisdom is more in contact with family, environmental, agrarian law, and very rarely appears in labor law. This should not be an obstacle to applying the concept of local wisdom as a solution or an effort to resolve industrial relations disputes. Therefore, it is recommended that mediators and judges can explore the values of local wisdom that live in the community and apply them in a peace deed or judge's decisions so that they become a reference for legal reviewers in Indonesia. In an area there is a local value of ancestral heritage. Settlement of labor disputes can be done by applying these local values through a process of deliberation to reach consensus.

As for the implementation of local wisdom values, at least there are personnel: (Asri Wijayanti and Slamet Suhartono, 2020: p.134)

- a. Third parties, people who are trusted to provide explanations regarding the object in dispute are generally carried out by traditional leaders or
- b. Third parties, people play an active role in providing a dispute resolution and act neutrally. Performed by people who are respected in terms of security or administrative. or
- c. The third party, the person who is asked to support in formulating a strategy for the resolution of the dispute and is accepted by the parties.

Likewise, in other words, the involvement of Stakeholders:

- a. Involve local community leaders (customs, intellectuals, religion) based on local customary values and norms (local customary rules)
- b. Involve related administrative apparatus (Chairman of RT, Head of RW, Head of Village/Lurah, Camat (based on government rules)
- c. Involving relevant/local security apparatus (Police, Army) local sub-districts, (based on security-related rules.

In the settlement of disputes such as disputes concerning social issues, including disputes in labor industry relations. Efforts to resolve labor disputes can be carried out using local wisdom in the Banggal Balantak Saluan (Babasal) custom in the Banggai Region, a district in Central Sulawesi. In the Babasal Custom, there is a container called Batumondoan. The container contains a person called

Basalo Sangka who is a traditional instrument. Basalo Sangkap is a traditional instrument that comes from traditional leaders. The discussion forum held by Basalo Sangkap regarding disputes will be discussed to find the best way. After obtaining the best consensus from the results of the deliberation, it will be decided by the King of Banggai called Tomundo Banggai.

Tomundo Banggai as the leader of the Banggai kingdom or the traditional leader of the Banggai who is authorized to make decisions on the results of the deliberation carried out by Basalo Sangkap with a forum called Batumondooan.

Efforts to resolve disputes also occurred in North Sumatra Province. Regarding the existence of halal tourism development activities, this was opposed in the province of North Sumatra, namely in the Lake Toba area, Samosir Island.

In the Lake Toba area of Samosir Island, there is an assumption that halal is only interpreted narrowly actually by writing a label or placard or notice board indicating that a stall or restaurant serves processed food derived from pork or dog meat or snake meat or bat meat. which is haram food for Muslims.

Of course, the reflection of efforts to develop halal tourism in multicultural or multi-religious areas such as in the province of North Sumatra on the island of Samosir in Lake Toba needs more in-depth study. The culture of preventing disputes in the province of North Sumatra has been firmly established.

For example, if there is a dispute between the worker and the employer in an employment relationship where the employer is a member of a large family, the other family members will remind us that we are one family member and do not fight with one another. Local wisdom in the province of North Sumatra can be seen from the strength of the Batak clan, the clan is a symbol for the Batak family. The clan comes from the father's lineage which will be passed down from generation to generation in terms of inheritance being the male patrilineal majority.

There is no identity so that they will be proud if they meet in another area or other place, the name is not their surname. (Yudhisthira et al., 2020)

There is another, as stated by Lelisari, a lecturer at the Faculty of Law at Muhammadiyah Mataram University, who believes that if local wisdom and values are implemented, there will be fewer industrial relations disputes that will end up in the industrial relations court. He said the West Nusa Tenggara (NTB) provincial government had adopted local wisdom in the West Nusa Tenggara Provincial Regulation Number 9 of 2018 concerning Bale Mediation. (Lelisari and Nurjanah, 2014) "A number of indigenous communities in NTB have their own local values, such as the Sasak community which has a local value called sesenggak which essentially contains teachings on divinity, education, morals and law," said Lelisari. Bale mediation is an institution that carries out the function of mediation, coaching, and coordination in the implementation of mediation in the community in accordance with local wisdom. The purpose of this bale mediation includes 3 things: First, the government's recognition as a form of protection, respect and empowerment of the existence of traditional institutions in carrying out mediation functions. Second, prevent and reduce conflicts or disputes in the community early. Third, the implementation of dispute resolution in the community through mediation in order to create a harmonious, orderly and harmonious atmosphere. However, unfortunately, cases that can be resolved through bale mediation are only general civil cases, not specific civil cases such as industrial relations disputes. In the author's opinion, Bale Mediation is a regional value that is accommodated in positive law, which certainly has the potential to be elaborated into local wisdom for the settlement of industrial relations disputes.

Conclusion

Industrial Relations must be manifested in good faith, namely before the existence of an employment relationship or during the employment relationship. Even if possible after the end of the employment relationship. Effective communication efforts as an internal factor, need to be carried out in good faith for the parties in the implementation of working relations at least to prevent disputes. However, if a dispute cannot be avoided, there are already means of settlement that have been legally regulated by the government in positive laws and regulations concerning manpower. Even so, efforts to resolve disputes or disputes can be carried out using a local wisdom settlement model. Likewise, efforts to resolve industrial relations disputes can provide a portion of local wisdom as an alternative settlement model.

This is very possible because efforts to resolve local wisdom have the meaning of cultural values that have been believed to be the truth by most people with reference to thinking that is accepted by many parties. Moreover, substantially efforts to resolve disputes using local wisdom is not a new thing for people in Indonesia. This is because it has happened since time immemorial that customary settlements have been known, in which both the process and the material have referred to local legal principles.

Bibliography

1. Asri Wijayanti and Slamet Suhartono,(2020), Current and Future Industrial Relations Disputes, CV Revka Prima Media, Surabaya,
2. E. Yudhistira, Z. Chairi and R Sembiring (2020), The Socio-legal Study Related to Increase Of Divorce Case Number In Medan, <https://doi.org/10.5220/0010096317161719>
3. Henry Campbell Black, (1979), Black's Law Dictionary, 2nd Edition, West Publishing, Minnesota,
4. Nie-he Hsieh (2004), The Obligations Of Transnational Corporations: Rawlsian Justice And The Duty Of Assistance. Business Ethics Quarterly. <https://doi.org/10.5840/Beq20041332.P.643-661>
5. Lelisari and Nurjanah, (2014), Companies in the West Nusa Tenggara Region (Study at PT. Newmont Nusa Tenggara) Application of Corporate Provisions. Ganec Swara Whimbo Pitoyo, (2010), Practical Guide to Employment Law, Visimedia, Jakarta
6. Regulations
7. Legislation 1945 Constitution of the Republic of Indonesia
8. Emergency Law Number 1 of 1951 Concerning Temporary Measures to Organize Unitary Powers and Procedures for Civil Courts
9. Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower
10. Law of the Republic of Indonesia Number 2 of 2004 concerning Settlement of Industrial Relations
11. Law of the Republic of Indonesia number 48 of 2009 concerning Judicial Power
12. West Nusa Tenggara Province Regional Regulation Number 9 of 2018 concerning Bale Mediation