

Dispute Resolution at the Industrial Relations Court in Indonesia

It is likely such a common trend in Indonesia that the industrial relations bring out conflict instead of accord between companies and employees. If the issue continues to happen, both parties are subjected to financial disadvantage. There is no perfect way other than diminishing the disputes. Hence, an intensive dialogue accenting mutual understanding between two sides is obviously required.

It turns out that reaching consensus is not as easy as falling off a log – the legal strategy would be the ultimate effort for the dispute resolution. The intervention of Indonesia's industrial relation courts better known as a labor court will let the matter go to the upper level.

How Industrial Relations Work in Indonesia

The relevance between industrial relations and broader coverage related to economic, social, and political context is discernible. Those facets would be best described in three words – inseparable, amalgamated, and potent. It's definitely obvious that the industrial relations are not simply about organizational management yet beyond than that.

What about industrial relations in Indonesia's situation? The development of them can't be apart from the work nature that is affected by social and economic determinant and varied types of employment regulations. The policy popularly known as Pancasila industrial relations has been formulated since 1974. It arranges any kinds of cooperation among employers, employees, and the government which should be based on Pancasila's five principles.

Three parties shouldn't ignore the three main principles in a partnership that include production process, responsibility, and obtaining the profits. The industrial relations of Pancasila have an effort to balance two substantial points – rights and responsibilities. Apart from these, their primary objectives are to set up conformity in a workplace, growing the productivity, as well as raising the values of employees and human dignity. However, Pancasila industrial relations are not fully adopted by most companies so that the disputes are inevitable.

Industrial Relations Disputes Case Studies

Let's define an industrial relation dispute. It is particularly a difference of idea that has consequences in a dispute leading to an industrial conflict between employers and workers or among groups of people within trade unions because of discord on rights. The same is true with a dispute over employment discontinuation or within a venture of which different interpretation regarding of regulations and laws.

Unlike capitalist countries where industrial disputes tend to be a leading commodity, Indonesia has seen them as a fresh social phenomenon among middle-class enterprises. When it comes to the acts, the disputes will be carried through two options, be it a strike or a lock-out. A strike means that the employees have a blunt refusal to go to work while a lock-out is defined as a refusal of employers toward their workers. The strike seems more popular than the lock-out – this one could be the best initiative of employees mounting a protest about wages or regulations.

It is undoubtedly true that the industrial disputes would let an array of serious consequences for the rest of people and their community. Not only do the employees lose their earnings and promotion but the employers have no more chance to hold the foreign markets and let the profits gone. In addition, the direct impact will allow the consumers to demand their need without any supply of the industry related.

It's necessary to handle the trivial matter before everything gets bigger so that the industrial disputes could be narrowed down – some ways taken might be mediation, bipartite negotiation, conciliation, and finally the binding method called arbitration. If all of these could not help anybody, the case should be handed to the Industrial Relations Court. Once the court gets the case, the probe on the causes of industrial disputes is held.

Arguably, there are five major causes why the industrial disputes take place. The primary reason is the employees' desire in the term of fulfilling a higher standard of living or lifestyle. Here to meet the demand, there is nothing more convincing other than modifying the salary system. Some ways might be executed such as fixing the minimum wages, transmuting the bonus scheme, as well as turning the profit and sharing system.

The second factor must not be apart from the bigger economic security that the workers always want – this one has any pertinence to the unemployment problem. The third circumstance could be the employees' willingness to be present to the company's management, significant project, and industrial control. Another problem might appear when the workers should deal with the working hours. And finally, the job displacement or the discharge of the leader sometimes let the disputes go worse.

Methods of Settlement of Industrial Disputes

If the industrial disputes continue to exist on the further level, it is necessary to have them solved. Fundamentally, there are two types of settlement to end the disputes – conciliation and arbitration.

Conciliation is an alternative process to settle the dispute without any intervention of the courts, better known as ADR (alternative dispute resolution). During the action, both workers and employers should send off their representatives to be confronted so that the differences could be minimized. Two parties are not alone; a conciliator is a key person who leads the solution. The confrontation agenda includes reassuring the tension, promoting mutual understanding, bettering communication, interpreting the issues concerned, and stimulating the courage of two parties in finding a potential solution acceptable.

Arbitration is another type of ADR (alternative dispute resolution) of which way of settling the disputes without courts' interference. The confrontation might require an arbitrator or some arbitrators – for some reasons like avoiding a tie; the legal system usually takes up either an individual or a tribunal. It is obviously common having one and three formations when it comes to involving the numbers of arbitrators. The parties coming with disputes let the arbitrators determine the dispute.

The main difference between conciliation and arbitration is how the process is carried out. Unlike arbitration which uses the third party with legal standing; in a conciliation process, the conciliator has no access in finding both the evidence and call witnesses. The person should present a proposal for non-binding settlement. Additionally, its duty is inherent to fix a relationship in a personal way or business category.

How Industrial Disputes are Solved through Conciliation

The mechanism of conciliation process begins with a request to finish the dispute sent by the disputing party that normally takes seven working days. Then, conciliators make an investigation by having a hearing session (this one shouldn't be more than eight days once the request is received). During this term, a conciliator might allow the witnesses to participate in the hearings and show some evidence.

Both disputing parties should give up when the disputes are successfully settled and sign a concurrence called collective agreement. The conciliators' jobs are to witness and register it to the Industrial Relations Court so that a registration deed could be got. Yet, if the agreement is tough to reach, the conciliators are going to bring forth some recommendations written after the hearing session with a maximum of 10 days. The disputing parties are encouraged to provide a letter that states whether the related person accepts or rejects the issued recommendation.

If the disputing parties have no serious matter about the recommendation; in another word they accept the approval within three days, the conciliators need to help the parties in taking up the collective agreement and make it registered at the Industrial Relations Court. Once everything is done, a registration deed could be achieved. If the recommendation is rejected by one or both parties, the disputes could be sent off at the local Industrial Relations Court. Another thing to note is that the conciliators should round out their work for no more than 30 days.

How Industrial Disputes are Solved through Arbitration

Arbitration process might be taken place when the disputes occur among workers as well as unions in one company. The dispute solution by the arbitrators leads to the making of an agreement letter of the disputing parties. It should cover some important points such as full names, leading issues that will be tackled down for the settlement during the arbitration process, a number of agreed arbiters, a statement that includes an agreement and signatures, as well as, date and place.

When the agreement of arbitration has been signed by both parties, those related people are free to pick their own arbitrator officially listed by the Minister. The arbitration process allows the parties to choose either an individual arbitrator or a couple of arbitrators (the total number of them should be at least 3 and the odd number is required). The Head of the Court has a right to appoint the arbitrators if the disputing parties can't decide their choice.

The process of arbitration should be in a private environment and might be attended by each party's representative. It begins with reducing the tension and settling the core of disputes. If both parties agree to the settlement, a settlement deed registered to the local Industrial Relation Court will be received.

Once the significant issue of the disputes is regarded, the arbitrators definitely let both parties speak their mind and provide some convincing evidence. The arbitrators have a right to summon the witnesses regarding of telling some information. Dealing with the dispute settlement, they only have 30 days. 14 days might be added with the approval of the parties. The decisions that the arbitrators have made are final and binding.

Settlement of Industrial Disputes at the Indonesian Labor Court

The industrial disputes settlement in Indonesia is regulated based on the enactment of Law no. 2 of 2004 and labor law reforms under the Industrial Relations Court (IRC). The fresh system which limits the government's interference in ending the industrial relation disputes began its operation in 2006. It is considered as an effective order to reach the solution – the process is inexpensive, fast, accessible, and definitely fair. The IRC is able to hear the dispute cores including disputes on right, interest disputes, disputes on termination, and inter-union disputes.

Disputes on right are mainly generated by a right violation by one of the disputing parties. The Indonesian labor court should make a determination on the first level regarding of these types of disputes. Interest disputes appear when an opinion's difference related to amending and drafting company's regulations and employment agreement continues to exist. On this case, the labor court has a right to decide both

the first and final level. Termination of employment disputes can only be decided on the first level while the inter-union disputes are on the first and final.

The Industrial Relation Court (IRC)'s main job is to hear all those types of disputes and decide the final jurisdiction over inter-union disputes as well as disputes on interest – these types of disputes can't be carried through the Supreme Court. Most out of employers and employees do not have much time to bring their disputes directly to the court so that the representatives such as trade unions might take over them. However, the trade unions' capacity to embody employees legally under the IRC is somehow frail.

The recent system on the dispute resolution has led to a serious challenge mainly for the Supreme Court. Several challenges, deserving under consideration, include a big duty on developing the judges and ad hoc judges, poor transparency in the making of a decision, unprepared internal management related to human resource, and the lack in collecting data. The same is true with the lack of knowledge sharing that is supposedly run among courts and judges each month.

The Process of Dispute Resolution

The scheme about the procedural steps of industrial dispute resolution begins from the bipartite negotiation. At this point, the employer and employee make an attempt to end the dispute by negotiating each other and finding the core of the dispute. The following step is if the bipartite negotiation fails, is to take meditation or conciliation and arbitration.

Mediation and conciliation are quite similar. The mediation lets the disputes proceeded through the officials of local government appointed from the Ministry of Manpower and Transmigration. Both parties have a right to pick their mediators, be they Manpower officials or other alternatives based on the agreement. The mediators usually put out the non-binding recommendations. This settlement is appropriate for all disputes.

For the conciliation process, it is mostly the same as the meditation. The difference is merely the troubleshooter – an independent conciliator agreed by both sides. Not only should the disputing parties be in unison with the conciliation but also the failing

agreement. The conciliators have a right bring out the non-binding recommendations. And the dispute settlements agreed by both sides might be registered at the IRC. This settlement is addressed for all disputes except disputes on right.

Meanwhile, the arbitration process focuses on the interest dispute as well as inter-union disputes. It is tackled down by an independent arbitrator whose decision is absolutely legally binding and final. The benefit of this dispute settlement is more flexible and casual. Uniquely, the total number of arbitrators must be 1, 3, 5, and so on – it must be based on the odd number.

If those settlements result in a failure, the following step could be referred to the industrial relations court better known as IRC. The IRC is such an important body that is able to hear the disputes in accordance with the enactment of Law no. 2 of 2004. And at the end, a final step is on the Supreme Court – yet, the decision is based on the judgment of the IRC. The administrative grounds of the Supreme Court are the place of the appealed arbitration decisions.

Industrial Relations Dispute Example

As mentioned before, there are commonly four types of disputes that affect the industrial relations – disputes on rights, interest disputes, disputes on employment termination, and inter-union disputes between employers and workers union

Disputes on rights often occur when somebody's rights in a company are not fulfilled. For instance, a worker feels disappointed knowing the fact that there are a handful of differences regarding of cooperative agreements, company regulations, and interpretation. Hence, the employee lets these problems be in industrial disputes – called disputes on rights.

Interest disputes popularly-known as conflicts of interest often arise and affect the relationship between workers and employers due to the poor conformity of opinion that is associated with the changes on the employment terms as well as manufacture. The differences of goals are not in line with the labor agreements as well as company regulations.

Disputes on employment termination often occur due to the absence of an opinion from both parties. On this case, there is no appropriate thing aside from termination – each side feels fruitless to continue their industrial relation. Meanwhile, the inter-union disputes between workers union and employers often arise as poor understanding regarding of the membership suitability is inevitable. The same is true with the unconformity about rights and obligations in a trade union's regulation.

In conclusion, dispute resolution in Indonesia has varied approaches allowing both employers and workers to have more opportunity to carry out their disputes at the industrial relations court. The country has stipulated the fresh laws and regulations dealing with them with an aim to ease all parties' issue.