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Challenges Of The Industrial Relations Court In The Reform Era In Creating Fast, Accurate, Fair And Cheap Court

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ABSTRACT

The Industrial Relations Court is a special court with absolute competence in dealing with industrial relations disputes arising from work relations between workers/laborers and employers. As the last resort in resolving employment conflicts if non-litigation channels fail, this court is expected to provide a fast, precise, fair and inexpensive resolution process for the parties so that it becomes the best solution. However, in practice, the existence of the industrial relations court has not fully become a mechanism that can realize the urgency of the court's existence since its inception. Various obstacles often arise and are even unavoidable in relation to the substance and mechanisms that hinder the realization of the initial intention of establishing the overarching law, namely Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. This research explains the various challenges faced by the Industrial Relations Court since its formation until the post-reform period. The research method of implementing literature studies and the type of research is normative law by compiling and reviewing various normative provisions regarding industrial relations courts and problems in their application. Industrial relations courts face various challenges related to their substance and mechanisms, for example when they are at the decision implementation stage, it is quite difficult to carry out the execution because they are guided by the execution procedures in civil courts which are quite expensive and time consuming. Meanwhile, industrial relations issues are ideally oriented towards fast processes and low costs. On the other hand, from the data on registered dispute cases, the worker/laborer mostly acts as a plaintiff, meaning that even if the plaintiff in this case wins, the court decision is not yet able to fully grant the worker/laborer their maximum rights.

Keywords:

Industrial Relations Court, Fast, Accurate, Fair and Cheap Court

1. INTRODUCTION

Since its inception, the Industrial Relations Court has had great hopes in providing courts and mechanisms that can work quickly, precisely, fairly and even cheaply or can be reached by parties seeking justice, namely workers/laborers and employers. The special competence mandated by this

court is industrial relations disputes between workers/laborers and employers which include rights disputes, interest disputes, employment termination disputes and disputes between workers/labor unions. The issue of resolving industrial relations disputes before the advent of Law Number 2 of 2004 was guided by Law Number 22 of 1957 concerning Labor Settlement and Law Number 12 of 1957 concerning Termination of Employment Relations in Private Companies. However, due to the increasing complexity of industrial relations issues along with the spread of globalization which also affects work relations, it turns out that these normative provisions are not yet able to fully handle the current situation. Therefore, a special judicial institution was formed which is expected to be able to respond to dynamic work relations which are also required to always be harmonious.

The Industrial Relations Court (PHI), is a Special Court located within the General Courts, and for the first time was established in each Regency/City District Court located in each provincial capital and whose jurisdiction includes the province concerned. The formal legalization of the industrial relations court is a mandate from Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes which emphasizes that institutions and mechanisms for resolving industrial relations disputes that are fast, precise, fair and cheap are needed in facing the era of industrialization.

The industrial relations court was established in 2004 but began to effectively carry out its functions on January 14 2006 and was declared the only litigation institution which is the final source for resolving disputes between workers/laborers and employers in conflict. However, it turns out that in carrying out their duties and authority there are still weaknesses which are quite difficult for workers/laborers and employers, even for competent judges, so that they often attract various criticisms from the public.

Industrial relations disputes which are a special area for industrial relations courts generally occur due to differences of opinion between workers/laborers and employers regarding certain labor laws and regulations. Labor, in this case, workers/laborers, is a factor that also supports the implementation of economic development. Apart from that, companies also play an important role in moving the wheels of the economy, for example in contributing funds for development that comes from investment.

In Indonesia, the total number of industrial distribution cases from January to July in 2023 is 4,437 cases[1]. These types of industrial relations disputes were respectively dominated by employment termination (PHK) disputes with 2908 cases, rights disputes with 1236 cases, interest disputes with 186 cases and disputes between workers/labor unions totaling 17 cases. From the published data above, the bipartite settlement effort was only able to resolve 429 cases out of the 4,437 total industrial dispute settlement cases that occurred. Meanwhile, the rest is resolved through mediation, conciliation, arbitration and industrial relations court mechanisms. This means that the issue of industrial relations disputes will always exist as long as there are workers and employers. Therefore, industrial relations issues involving workers/laborers and employers cannot be underestimated due to the fact that both parties have an important role in the economic sector. In fact, when a country is riddled with labor conflicts, it usually threatens the country's security conditions, thereby inhibiting investment from foreign countries which clearly has an impact on the course of the economy.

[1] https://satudata.kemnaker.go.id/data/kumpulan-data/1310, diakses pada 20 November 2023, pukul 10.00 wib.

Such conditions are certainly a challenge that cannot be ignored by the government as a regulator in supervising work relations. Therefore, this article will outline the various challenges that have become obstacles for the industrial relations court which has been running for more than two decades, in order to realize institutions and mechanisms that are synonymous with fast, precise, fair and even cheap processes.

2. RESEARCH METHODS

The type of research used in this research uses descriptive normative juridical, namely by analyzing problems and research through an approach to legal principles that refer to applicable positive legal norms or rules[2]. The nature of this research is descriptive analysis, namely research that is explanatory in nature which aims to obtain a complete (descriptive) picture of the legal situation that applies in a certain place and at a certain time, or legal events that occur in society[3].

3. RESULT AND DISCUSSION

Juridically, the positions of workers/laborers and employers are the same so they are said to be partners with each other. However, in reality, it is not that easy to implement the partnership principle. Sociologically, workers/laborers are under the authority of employers because workers/laborers are very dependent on the employment agreement that underlies the employment relationship between the two. If this gap is not addressed, it is very likely that workers/laborers will have their rights increasingly neglected. Based on the reasons above, the presence of the government is very necessary in regulating and supervising work relations between workers/laborers and employers [4].

Industrial relations is a pattern of relationships that exist between actors in the production process of goods and services involving the government. Therefore, in order for a harmonious relationship to exist, it really depends on the parties' compliance in carrying out their rights and obligations in accordance with applicable regulations. As is the case in the process of resolving disputes that occur, when the parties take the industrial relations court route, each party must comply with the mechanisms regulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. This court is the final avenue for both parties in resolving the conflict so that through established institutions and existing mechanisms, it produces a resolution that can be accepted and even carried out by the parties.

From the explanation above, it can be explained the various challenges in the industrial relations court which have been running for more than 2 (two) decades since its formation. The challenges can come from the workers/laborers, employers and government.

a. workers/laborers

[2] Burhan Bungin, (2013). Analisis Data Penelitian Kualitatif, Pemahaman Filosofis dan Metodologis ke Arah Penguasaan Model Aplikasi, Jakarta: Raja Grafindo Persada. hlm.83.

[3] Soerjono Soekanto dan Sri Mamudji, Penelitian Hukum Normatif, (2013). Jakarta: Raja Grafindo Persada. hlm, 9.

[4] R.J. Marbun, (2023). Implementasi Hukum Ketenagakerjaan Indonesia dalam Perspektif Negara Kesejahteraan. Jawa Tengah: Eureka Media Aksara, hlm. 17.

a) Workers/laborers who have disputes generally do not really understand and master the settlement procedures that must be followed due to their low average education. Meanwhile, if they use the help of an advocate, they will face a significant cost in terms of the cost of the advocate's services. Workers in dispute are often those who have not joined a trade union so that the organization cannot represent their interests[5].

Another fact is that in every case of dispute that occurs, the worker/laborer is the party who most often files a dispute lawsuit (as the plaintiff). Field research shows that workers are the largest number of plaintiffs in PHI cases, namely 2,645 of 2,993 decisions[6]. Meanwhile, workers/laborers in Indonesia still have a low level of education[7], based on labor force data up to February in 2023, it shows that those who work are dominated by workers/laborers whose highest level of education is elementary school (SD). Of course, this is an obstacle for them to be able to win the lawsuit, on the other hand, they are a group that often seeks justice through the courts due to their rights being eliminated.

b) Workers/laborers in dispute do not receive a summons for trial because they live outside the jurisdiction of the District Court where the Industrial Relations Court is located.

This is because not all districts have their own courts, so it takes a long time and additional costs for litigated workers/laborers to reach the industrial relations court. The existence of the industrial relations court is considered not to have reached the needs of the workers/laborers community so it is still far from the hope of a fast and low cost judicial process. In addition, when the parties are not satisfied with the PHI decision, they must file an appeal to the Supreme Court, which means the parties again need time to get a decision[8].

b. Employers

a) Based on data obtained up to March 2013, almost all lawsuits were filed by workers or laborers and around 90% of the decisions were won by workers or laborers with a guarantee of payment of workers' normative rights, so that executions were mostly aimed at employers for carrying out payment, however, only 7 (seven) entrepreneurs voluntarily want to implement the industrial relations court decision, the rest must use coercive measures, either through aanmaning or confiscation, which clearly extends the time for implementing the decision[9].

[5] Dermawan, F. A., & Sarnawa, B. (2021). Peran Dinas Tenaga Kerja dalam Proes Mediasi Penyelesaian Permasalahan Hubungan Industrial. *Media of Law and Sharia*, *2*(3), 272-287.

[6] Membaca Pengadilan Hubungan Industrial di Indonesia, Penelitian Putusan Mahkamah Agung Pada Lingkup Pengadilan Hubungan Industrial 2006-2013, LBH JAKARTA & MaPPI FH UI 2014. Hlm. 40

[7] Penduduk yang bekerja didominasi oleh mereka yang pendidikan tertingginya Sekolah Dasar (SD) yaitu berjumlah 55.124.748,https://satudata.kemnaker.go.id/satudata-public/2023/11, diakses 21 Februari 2024.

[8] Karsona, A. M., & Fakhriah, E. L. (2017). Eksistensi Pengadilan Hubungan Industrial dalam Penyelesaian Perselisihan Hubungan Kerja di Indonesia. *ADHAPER: Jurnal Hukum Acara Perdata*, *2*(2), 303-314.

[9] Sitinjak, B., & Ediwarman, E. (2014). Penerapan Hukum Acara Khusus Pengadilan Hubungan Industrial pada Pengadilan Negeri Medan (Studi Putusan Pengadilan Hubungan Industrial pada Pengadilan Negeri Medan). *Jurnal Mercatoria*, *7*(1), 16-29.

The conditions above emphasize that even if the worker/laborer wins the lawsuit and the entrepreneur is obliged to pay a number of rights as a result of the decision, it will take quite a long time for the worker/laborer to obtain their rights due to the attitude of the entrepreneur who seems unwilling to accept and implement the court decision. Thus, it seems that a fast and fair judicial process is still far from being expected due to conditions in the field.

b) Since 2006-2013, 2619 cassation petitions have been submitted to the Supreme Court, consisting of 1,427 or 54% of the petitions made by employers and 1,202 or 46% of the petitions made by workers[10].

This shows that dominant employers do not believe in court decisions so they are the parties who submit the most cassation requests. Meanwhile, the process of handling industrial relations cases from the first trial until the Panel of Judges renders a decision takes no later than 50 (fifty) working days. Furthermore, the settlement process takes 30 (thirty) working days from receipt of the application file if one of the parties files an appeal. The fact that more entrepreneurs are filing appeals will certainly lengthen the judicial process, on the other hand, workers/laborers want their rights to be fulfilled immediately according to the court's decision.

c. *Ad Hoc* Judges

The application of civil procedural law in resolving industrial relations disputes is not yet fully appropriate when applied in employment dispute cases. Workers/laborers and employers are sociologically unequal. So activeness is required from industrial relations court judges who are competent and impartial. Workers/laborers and employers cannot be equated with litigants in the civil procedural process whose positions are equal. Research in the field[11] shows that the main problem experienced by *Ad Hoc* Judges when first examining workers' lawsuit files is the lack of procedural completeness and standards for a civil lawsuit, such as the issue of power of attorney, the formulation of the lawsuit between posita (legal facts) and petitum (legal demands) which is not continued, techniques for hearing and asking questions and completeness of the lawsuit such as evidence, witnesses, and so on.

The author considers that the challenges experienced by *Ad Hoc* Judges when they still encounter formal, unprocedural lawsuits from workers/laborers are actually because workers/laborers on average do not really understand the mechanisms they have to fulfill in court proceedings, while those who not all litigants use the services of advocates or trade unions for various reasons, so when taking the court route they only use lay knowledge. Therefore, before the trial begins, it is hoped that the clerk can at least provide examples or understanding for them to minimize formal errors so as not to prolong the judicial process.

Civil procedural law is indeed used as a lex generalis in the mechanism for resolving industrial relations disputes, but [12]the general civil procedural law is too dominant, including in the verification

[10] Membaca Pengadilan Hubungan Industrial di Indonesia, Penelitian Putusan Mahkamah Agung Pada Lingkup Pengadilan Hubungan Industrial 2006-2013, hlm. 52.

[11] Wijayanta, T. W., & Hernawan, A. (2014). Studi Evaluatif Peran Hakim Ad Hoc Dalam Penyelesaian Perselisihan Hubungan Industrial Di Pengadilan Hubungan Industrial Yogyakarta. *Yustisia Jurnal Hukum*, *3*(1).

[12] Karsona, A. M., & Fakhriah, E. L., *Loc.Cit*.hlm. 312.

and execution of court decisions, collective agreements or peace deeds that have received a decree of execution, making it difficult for workers/laborers to obtain their rights. Industrial relations disputes relate to work and the continuity of life of workers/laborers so they are very different from civil matters which predominantly revolve around property. Therefore, handling employment issues requires special handling using special procedural law, not civil procedural law[13].

Apart from that, the impact of applying civil procedural law that is too dominant also has an impact on the implementation of court decisions. This means that a fair trial has not yet been achieved because even though the decision of the Industrial Relations Court has the power of coercive means through execution, the execution process is difficult to carry out, for various reasons. The above situation is very crucial because it is at this stage that the effectiveness of the court can be seen because the worker/laborer and the party who wins the lawsuit in principle really want all the rights requested and granted by the court to be immediately obtained. Courts must be able to guarantee and provide rights to those who seek justice. Therefore, the parties who win the lawsuit must send a letter requesting execution to the competent district court which oversees the industrial relations court. The execution requires the requesting parties to pay a certain amount of fees, even though from the start of the judicial process the worker/laborer is actually fighting for his life through income that is threatened with being cut off. So it actually adds new problems for workers/laborers in obtaining their rights. It seems that the industrial relations court is still not optimal in fulfilling expectations as an institution that is synonymous with a "fair" court for workers/laborers.

4. CONCLUSION

Based on the description above, there are various challenges faced by the industrial relations court as an institution and as a mechanism for resolving industrial relations dispute cases. These challenges include the condition of workers/laborers who do not understand the ins and outs of proceedings in industrial relations courts, employers who do not voluntarily carry out court decisions, and executions that require the readiness of funds from the plaintiff.

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https://satudata.kemnaker.go.id/data/kumpulan-data/1310, diakses pada 20 November 2023.

[13] *Ibid*

Karsona, A. M., & Fakhriah, E. L. (2017). Eksistensi Pengadilan Hubungan Industrial dalam Penyelesaian Perselisihan Hubungan Kerja di Indonesia. *Adhaper: Jurnal Hukum Acara Perdata*, *2*(2), 303-314.

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