



## Book Review

# How industrial dispute problems are resolved in Indonesia? A Book Review Penyelesaian Sengketa Hubungan Industrial, Ari Hermawan, UII Press, 142 Pages, ISBN 978-602-6215-56-7

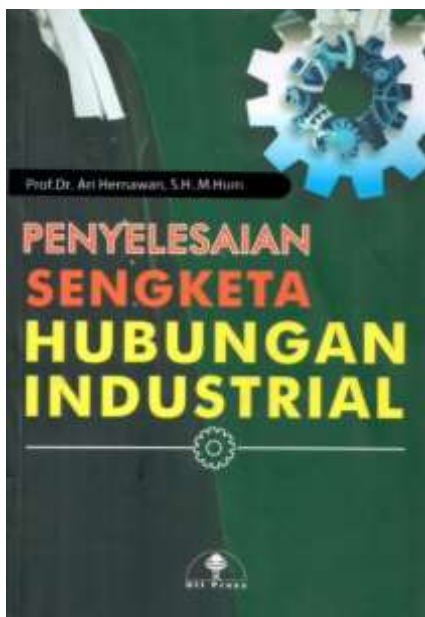
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### DATA of BOOK

Title	: Penyelesaian Sengketa Hubungan Industrial
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The author writes several meanings of Industrial Relations as in the example of Law No. 13 of 2003 article 1 paragraph 15 concerning employment that the employment relationship is a relationship between employers and workers / laborers based on an employment agreement and of course has elements of work, wages and orders. These elements have a cumulative nature so all of them must be fulfilled. If we look from the history, work relations is a word to replace the term labor relations. Labor itself is a translation of the term labor relation which initially only addresses the problem of the

relationship between workers and employers, but in fact is not a stand-alone problem, but it was influenced and influence economic, social, political, cultural issues, which are both directly and indirectly related to worker and employer relations.

In the explanation of industrial relations, it was explained that there were three parties involved in it, including workers, employers and the government. Each component has a different function. The Government in Industrial Relations has the function of establishing policies, providing services, carrying out supervision and other matters relating to the neutrality of the workers and employers. Workers themselves have the function of carrying out work in accordance with obligations, order for the sake of sustainable production, advancing the company. Whereas employers within the scope of Industrial Relations have the function of creating partnerships, developing businesses, expanding employment opportunities, and providing workers' welfare openly. Industrial relations is carried out through various means, namely trade unions (organizations consisting of workers who fight for, defend workers 'rights), employers' organizations which are essentially the same as trade unions but contain employers, tripartite cooperation institutions, company regulations, Collective Labor Agreements, Regulations labor laws and industrial relations dispute resolution institutions. Considering our country is a Pancasila-based country, of course Industrial Relations in Indonesia also have a relationship with Pancasila, meaning that the relationship between actors in the production of goods and services (workers, employers, government) is based on values which are manifestations of the five principles of Pancasila and 1945 Constitution.

Pancasila Industrial Relations see workers and employer relations similar to a family relationship so that the Pancasila Industrial Relations oppose conflicts (strike, lock out), because it is not in line with the principle of kinship itself. The author explained that the relationship between employers and workers was never equal, so that if there were disputes, the resolution was often not in favor of workers, and in the end the Pancasila Industrial Relations concept began to be considered unpopular, especially for workers. Because of the many urging interests of various parties, and workers feel disadvantaged. Employee and employer relations are dependency relations but this is always biased, because basically Industrial Relations have a ruling and controlled relationship. The ruling party always has a lot of access to resources (capital, power) and in contrast to the party that is controlled so that it always has the potential to cause unilateral actions such as exploitation, discrimination and so on. From this perspective the state or government becomes involved in upholding harmony in Industrial Relations

by becoming a neutral figure, because with this harmonious atmosphere industrial peace can be created and certainly can increase production and worker productivity. In addition to the Pancasila Industrial Relations concept, there is a value that influences an Industrial Relations namely the Tri-Dharma principle (participating in having, participating in advancing and maintaining, and finally the courage for introspective). In maintaining harmony in the life of Industrial Relations, of course the state as a neutral party provides signs to anticipate and overcome if there is a conflict, namely by providing regulations or what we usually hear with the law.

Speaking of conflicts, differences of opinion in the life of Industrial Relations can also lead to disputes, disagreements or conflicts, conflicts can be interpersonal between individuals or groups, can also occur in the smallest scope such as family and then to a larger one like the state, conflict in industrial society according to Marx , seen as the prime cause of social inequality and alienation of industrial relations between the capitalist class (the bourgeoisie) and the proletarian class (workers), this gap causes industrial conflict or basic conflict, in the end the gap remains caused by disputes over rights and interests.

Conflict in Industrial Relations is usually in the form of strikes and lock outs, strikes are one of the weapons if there are injustices felt by workers. The strike referred to here is also actually contained and supported implicitly at the international level, one of which is article 19 of the Universal Declaration of Human Rights 1948 which states that everyone has the right to express his opinion and express it . Not only the international scene that recognizes strikes, in Indonesia itself strikes are even recognized as rights, which is contained in Law No. 13 of 2003 article 137, but if we look at the actual history of the Indonesian state does not recognize the existence of strikes, because it returns to Pancasila which returns rejecting a strike, many laws / regulations provided by the government but also opposed by other laws.

In a relationship between two parties, of course, they have actions and reactions, so not only do workers have the right to voice opinions, companies / employers also have the right to voice and act, usually after a strike, employers are careful in acting, and start doing lock out, which is a defense tool in the form of a refusal from employers to employ workers by unilaterally closing the company. Law No. 13 of 2003 also regulates the existence of a lock out, which is precisely in article 146 which essentially allows lockouts as long as they meet the requirements according to the law. But basically Industrial Relations should be well guarded, and in order to safeguard such matters, a proper legal strategy and problem solving must be needed, in ordinary life some people involved in conflict choose to avoid conflict until the conflict goes

away on its own. However, when talking about Industrial Relations, it should be directly related to the state (neutral party) that can help the conflicting parties resolve their problems.

Dispute in Industrial Relations is not only one but more, this is also reviewed by the author. disputes in Industrial Relations including:

1. Disputes over rights

Rights are interests that are protected by law, when talking with the rights themselves, are usually not free from obligations. Disputes about rights not only talk about the implementation of the rights themselves, but also about differences in interpretation of the provisions or legal norms and are certainly not free from problems of obligation. Law No. 2/2004, article 1 paragraph 2 means that disputes arising from rights are not fulfilled, and there are differences in the implementation or interpretation of the provisions of the legislation, work agreements, company regulations, or collective labor agreement.

2. Conflicts of Interest

The interests of each person are certainly different, of course within the scope of Industrial Relations there are different interests, different interests coupled with bargaining positions in the form of control over resources and relatively different accesses have implications for the vulnerability of conflicts in Industrial Relations, therefore the interests that exist between actors or actors in Industrial Relations must be managed properly in a way that each shrinks one another in the collective or collective interest.

3. Termination of Work Disputes (FLE)

Lay-off According to Law No. 13 of 2003 is the termination of employment due to a certain thing that results in the termination of rights and obligations between workers and employers. In some cases of layoffs, employers are suspected of suppressing severance pay, years of service appreciation money, compensation money and other costs that we can see in the Manpower Act. On the other hand workers often demand greater layoff compensation, even though these demands are not necessarily in accordance with the conditions specified in the law and other legal instruments. In conducting layoffs, of course it cannot be unilateral, must go through negotiations and follow the mechanisms that already exist and are regulated in the legislation

4. Disputes between trade unions / labor unions in one company

This is a dispute between a trade union / labor union with other trade unions / labor unions but is limited to only one company. This can be

caused by the absence of conformity of understanding regarding membership, the exercise of rights, and the obligations of work union.

According to Law No. 2 of 2004, industrial relations disputes settlement is that the disputing parties are always directed to make peace. Actually, it is a form of Pancasila itself. The mechanism for resolving Industrial Relations disputes is basically grouped into two, the first being carried out by disputing parties without involving third parties known as bipartite settlement. The second is the existence of a third party known as tripartite (mediation, conciliation, arbitration) depending on the type of settlement.

1. Bipartite Settlement

According to Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes, this settlement has several stages. The first is disputes, meaning that the disputing parties must endeavor to resolve through peaceful means by deliberation to reach consensus without involving a third party, after which the disputing parties make then approve a joint agreement in accordance with the results of the deliberation. In negotiations on bipartite settlement often having difficulties, there are a number of things that must be considered. As mentioned by Garry Goodpaster these things are bargaining power, bargaining patterns and bargaining strategies. But in real life problem solving related to Industrial Relations is very difficult, so that the average disputing party prefers to use a third party (tripartite)

2. Tripartite settlement

This settlement divided into three according to the circumstances.

Among them:

a. Mediation

Settlement through deliberations mediated by one or more mediators from the Department of Labor, which includes disputes on rights, interests, layoffs and disputes between trade unions in one company. In mediation, when the parties agree, then a joint agreement will be made which will then be registered at the Industrial Relations Court, but if no agreement is found, the mediator will issue a written recommendation. If the proposal is accepted, then the parties register the recommendation with the Industrial Relations Court. On the other hand, if the parties or one of the parties refuse the recommendation, the refusing party can file a claim with the other party through the Industrial Relations Court

b. Conciliation

Settlement through deliberations mediated by a conciliator (who in the provisions of the Industrial Relations Dispute Law is a private intermediary employee not from the Department of Labor as mediated) appointed by the parties. Like the mediator, the Conciliator tries to reconcile the parties, so that an agreement can be reached between the two. If no agreement is reached, the Conciliator also issues a product in the form of a recommendation.

c. Arbitration

Settlement of disputes outside of Industrial Relations disputes over disputes of interests and disputes between trade unions within a company can be reached through a written agreement containing the parties agreeing to submit disputes to the arbitrators. The arbitration decision is final and binding on the parties to the dispute, and the arbitrators are chosen by the parties to the dispute from the list established by the Minister of Labor.