

## INDUSTRIAL RELATIONS DISPUTE RESOLUTION MODEL IN INDONESIA

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### Abstrak

Penelitian ini bertujuan untuk mengetahui dan mengkaji model penyelesaian perselisihan hubungan industrial di Indonesia. Penelitian ini merupakan penelitian hukum normatif dengan menggunakan pendekatan kualitatif. Hasil penelitian menunjukkan terdapat beberapa jenis perselisihan yaitu Perselisihan Hak, Perselisihan Kepentingan, Perselisihan Pemutusan Hubungan Kerja (PHK), Perselisihan Antar Serikat Pekerja/Serikat Buruh. Penulis mengambil contoh kasus PHK sepihak terhadap karyawan PT Holcim Indonesia Tbk yang diselesaikan melalui litigasi di pengadilan. Hubungan Industri. Dengan berlakunya Undang-Undang Nomor 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial, terdapat jaminan perlindungan bagi pekerja mengenai hak-hak dasar pekerja/buruh serta jaminan persamaan, kesempatan dan perlakuan yang sama tanpa diskriminasi atas dasar apapun.

**Kata Kunci:** Penyelesaian Perselisihan, Hubungan Industrial, Perselisihan, Hubungan Ketenagakerjaan.

### Abstract

*This research aims to find out and examine industrial relations dispute resolution models in Indonesia. This research is normative legal research using a qualitative approach. The results of the research show that there are several types of disputes, namely Rights Disputes, Interest Disputes, Termination of Employment Disputes (PHK), Disputes between Trade Unions/Labor Unions. The author took the example of the case of PT Holcim Indonesia Tbk's unilateral layoff of its employees which was resolved through litigation in court. Industrial relations. With the enactment of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, there is a guarantee of protection for workers regarding the basic rights of workers/laborers and guarantees of equality, opportunity and equal treatment without discrimination on any basis.*

**Keywords:** *Dispute Resolution, Industrial Relations, Disputes, Employment Relations.*

## INTRODUCTION

Modern relations is an arrangement of connections framed between entertainers during the time spent delivering labor and products, to be specific specialists, business visionaries and

the public authority.<sup>1</sup> Industrial relations are directed at developing harmonious relationships based on equal and integrated partnerships between actors in the process of producing goods or services based on the noble values of national culture contained in the principles of Pancasila and the 1945 Constitution.<sup>2</sup> However, a company that includes entrepreneurs and all employees certainly has their own interests. Mainly responsible for the continuity of tasks, business, and the success of the company. In its journey, it cannot be denied that sometimes conflicts occur or dynamic and harmonious relations cannot always be established, for example between workers or laborers and entrepreneurs. Conflicts or disputes that can occur are called industrial relations disputes.<sup>3</sup> Of the many incidents or incidents of disputes, the most important is the solution which must be truly objective and fair.

In the context of legal protection and certainty for workers, Indonesia has various laws and regulations in the field of employment, which regulate various aspects of employment, including legal relations between workers and employers, occupational safety and health, labor inspection, resolution of relationship disputes. industrial, and others.<sup>4</sup> Based on these various laws and regulations, in order to guarantee legal certainty in the event of industrial relations disputes, the Government has issued Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. This Employment Law is an investment-friendly law.<sup>5</sup>

In this article the author examines an example of an industrial relations dispute between Jonny Simanjuntak and PT Holcim Indonesia Tbk. In this case, there was a dispute due to transfers and demotions which resulted in the termination of employment (PHK) carried out by PT Holcim Indonesia Tbk unilaterally against Jonny Simanjuntak. Termination of employment (PHK) disputes are the most sensitive matter for workers. If layoffs do not comply with applicable regulations, it can cause disputes. The form of resolution of industrial relations disputes in this case is through an industrial relations court. The Plaintiff filed a lawsuit against

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<sup>1</sup> Ujang Charda, 'Model of Industrial Relations Disputes Settlement in Employment Law After Birth of Law Number 2 of 2004', *Jurnal Wawasan Yuridika*, 1.1 (2017), 1–23 <<http://ejournal.sthb.ac.id/index.php/wawasanyuridika>>.

<sup>2</sup> Agus Mulya Karsona and others, 'Perspektif Penyelesaian Sengketa Ketenagakerjaan Melalui Pengadilan Hubungan Industrial Dalam Menghadapi Masyarakat Ekonomi Asean', *Jurnal Poros Hukum Padjadjaran*, 1.2 (2020), 158–71 <<https://doi.org/10.23920/jphp.v1i2.225>>.

<sup>3</sup> Supomo Suparman, *Hukum Acara Peradilan Hubungan Industrial*, Jakarta: Jala Permata Aksara, i2009, hlm 100

<sup>4</sup> M. Thaib, *Penyelesaian Perselisihan Hubungan Industrial*, Yogyakarta: Deepublish, 2019, hlm 149

<sup>5</sup> Devina Ulina and others, 'LITERATURE REVIEW: PERAN SERIKAT PEKERJA DALAM MENYELESAIKAN PERSELISIHAN HUBUNGAN INDUSTRIAL PADA BEBERAPA STUDI KASUS PERUSAHAAN', 2.1 (2023), 296–312.

the Defendant at the Bandung District Court (Decision Number 340 K/Pdt.Sus-PHI/2016).<sup>6</sup>

In this question, endeavors should be made to determine it first through deliberative bipartite dealings to arrive at agreement. Dispute resolution through PHI is the last resort if settlement through bipartite, mediation and consolidation cannot be reached.<sup>7</sup> However, in practice, this obligation is sometimes only used as a formality requirement by the parties (employers and workers). The parties chose to resolve industrial disputes through PHI. The existence of PHI as a special court that is under the general court environment which was formed at the same time as the PPHI Law, in reality still reaps a lot of criticism and problems.<sup>8</sup>

Disputes or disputes often occur in every relationship between legal subjects, both individuals and legal entities. With the inexorably intricate nature of individuals' lives, the extent of occurrences or debates becomes more extensive. Disputes that often arise are issues regarding industrial relations disputes.<sup>9</sup> Industrial relations disputes usually occur between workers/labor and employers or between workers' organizations/labor organizations and company organizations.<sup>10</sup> The writing of this research specifically discusses the resolution of disputes between labor unions and companies. Therefore, in this article, the author wants to discuss legal regulations relating to Industrial Relations and models for resolving disputes or industrial relations disputes in Indonesia.

## RESEARCH METHODS

Library research is research using secondary data obtained through document search. Data sources come from libraries that relate to the research object, whether it be books, books, journals, statute approaches related to this research. Library research with quotations of offline and internet sources<sup>11</sup>. Books serve as offline sources obtaining from the study of libraries, and online sources, such as newspapers or articles related to research, are found on

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<sup>6</sup> Putusan Nomor 340 K/Pdt.Sus-PHI/2016

<sup>7</sup> Indra Afrita, *Hukum Ketenaga Kerjaan dan Penyelesaian Sengketa Hubungan Industrial di Indonesia*, Yogyakarta: Abosule Media, 2015, hlm 9

<sup>8</sup> Rai Mantili, 'Konsep Penyelesaian Perselisihan Hubungan Industrial Antara Serikat Pekerja Dengan Perusahaan Melalui Combined Process (Med-Arbitrase)', *Jurnal Bina Mulia Hukum*, 6.1 (2021), 47–65 <<https://doi.org/10.23920/jbmh.v6i1.252>>.

<sup>9</sup> Luis Marnisah, *hubungan Industrial dan Kompensasi*, Yogyakarta: Depublisher, 2019, hlm. 11

<sup>10</sup> Khairani Khairani and Aldi Harbi, 'Sulitnya Melaksanakan Putusan Pengadilan Hubungan Industrial (Studi Kasus Putusan Mahkamah Agung Nomor: 178 K/Pdt.Sus-Phi/2015)', *UNESi Law Review*, 5.4 (2023), 2014–32 <<https://doi.org/10.31933/unesrev.v5i4.574>>.

<sup>11</sup> Hamzani, Achmad Irwan, Tiya Vika Widyastuti, Nur Khasanah, and Mohd Hazmi Mohd Rusli. (2023). "Legal Research Method: Theoretical and Implementative Review". *International Journal of Membrane Science and Technology* 10, no. 2 (August 24, 2023): 3610-3619. Accessed December 1, 2023. <https://cosmoscholars.com/phms/index.php/ijmst/article/view/3191>

the Internet<sup>12</sup>.

### **Industrial Relations Dispute Resolution Model in Indonesia.**

In this research, the author raises the main problem for discussion, namely legal regulations relating to Industrial Relations and models for resolving disputes or industrial relations disputes in Indonesia

#### **1. *Legal Regulations Relating to Industrial Relations***

Modern Relations Questions as indicated by the Law Concerning Settlement of Modern Relations Debates No. 2 of 2004 Article 1 number 1, specifically:<sup>13</sup> "Differences of opinion that result in conflict between employers or combinations of employers and workers/laborers or workers/labor unions due to disputes over termination of employment relations and disputes between worker/labor unions in one company." Meanwhile, Modern Relations Questions in light of Regulation No. 2 of 2004 have a few sorts of questions, specifically: <sup>14</sup>

1) Rights Disputes,

Namely, disputes arising from non-fulfillment of rights, due to differences in implementation or interpretation of the provisions of statutory regulations, work agreements, company regulations or collective work agreements.

2) Conflict of Interest,

Namely, disputes that arise in the employment relationship due to a lack of agreement regarding the creation of, and/or changes to, the terms of employment stipulated in the employment agreement, or company regulations or collective employment agreement.

3) Employment Termination Disputes (PHK),

Namely, disputes that arise due to a lack of conformity of opinion regarding the termination of the employment relationship carried out by one of the parties.<sup>15</sup>

4) Disputes between trade unions/labor unions in just one company are disputes between trade unions/labor unions and other trade unions/labor unions in the same company because there is no agreement regarding membership, implementation of rights and

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<sup>12</sup> Dimas Assyakurrohim, et.al., "Metode Studi Kasus dalam Penelitian Kualitatif", Jurnal Penelitian Sains dan Komputer, 3 (1), 2023: 1-9. <https://jurnal.itscience.org/index.php/jpsk/article/view/1951/2169>

<sup>13</sup> I Made Adiwidya, *Penyelesaian Perselisihan Hubungan Industrial*, Makasar: Nas Media pustaka, 2023, hlm 3.

<sup>14</sup> Alifviolet Bramandika Karindra and Rini Irianti Sundary, 'Penyelesaian Perselisihan Hubungan Industrial Yang Disebabkan Oleh Hak Atas Upah Di PT. Kalindo Etam Dihubungkan Dengan Undang-Undang No 2 Tahun 2004', *Bandung Conference Series: Law Studies*, 2.2 (2022), 1179–84 <<https://doi.org/10.29313/bcsls.v2i2.2691>>.

<sup>15</sup> Zaeni Asyehadie, *Hukum Ketanagakerjaan bidang hubungan kerja*, Jakarta: PTIK, 2007, hlm 11

obligations of labor unions.

## **2. Settlement of Industrial Relations Disputes Due to Termination of Employment Relations (PHK).**

The industrial relations dispute resolution mechanism as regulated in the PPHI Law, can be carried out through 2 channels, namely:<sup>16</sup>

- a. Out-of-court (non-litigation) route; which is achieved through bipartite negotiation, mediation, conciliation and arbitration. As well as,
- b. Court action (litigation); namely through the Industrial Relations Court.

Bipartite organizations, intercession, appeasement, mediation and the Modern Relations Court are vital mainstays of modern relations execution, particularly in authorizing work regulation, so their reality is expected to be proficient. The presence of the Modern Relations Question Settlement Regulation is supposed to have the option to address the absence of amazing skill of regulation authorities in dealing with modern relations debates and the sluggish course of taking care of them.<sup>17</sup>

In view of the arrangements of Article 56 of Regulation no. 2 of 2004 concerning PPHI, the Modern Relations Court has the obligation and position to inspect and choose at the primary level with respect to freedoms debates at the main level and at the last level in regards to intrigue questions; at the principal level with respect to work end questions; at the first and last levels in regards to debates between worker's guilds/worker's guilds in a single organization. From this portrayal, the Modern Relations Court doesn't deal with cases other than the cases above, like debates among organizations and different organizations, organizations and the local area around the business environment, laborers and the local area, or laborers or organizations and the Public authority.<sup>18</sup>

The Industrial Relations Court (PHI) is an exceptional court shaped inside the General

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<sup>16</sup> A Zairudin, 'Rekontruksi Penyelesaian Sengketa Hubungan Industrial Dalam Hukum Ketenagakerjaan', *Legal Studies Journal*, 2.1 (2022), 48–61 <<https://www.ejournal.unuja.ac.id/index.php/ljsj/article/view/3469%0Ahttps://www.ejournal.unuja.ac.id/index.php/ljsj/article/viewFile/3469/1301>>.

<sup>17</sup> Aripin Abdullah and Egar Shabara, 'Mekanisme Penyelesaian Sengketa Perdata Tentang Pemutusan Hubungan Kerja (PHK) Dalam Penyelesaian Hubungan Industrial (Study Kasus Di Pengadilan Negeri Kelas IA Banda Aceh)', *Jurnal Justisia : Jurnal Ilmu iHukum, Perundang-Undangan Dan Pranata Sosial*, 4.1 (2019), 37 <<https://doi.org/10.22373/justisia.v4i1.5960>>.

<sup>18</sup> Haikali Arsalan and Dindai Silviana Putri, 'Reformasi Hukum Dan Hak Asasi Manusia Dalam Penyelesaian Perselisihan Hubungan Industrial', *Jurnal HAM*, i11.1 (2020), 39 <<https://doi.org/10.30641/ham.2020.11.39-50>>.

Courts which has the power to inspect, settle and pursue choices on modern relations debates. With respect to Regulation no. 48 of 2009 concerning the force of the Legal executive expresses that: "Judicial power is exercised by a Supreme Court and judicial bodies subordinate to it, namely in the general court environment, the religious court environment, the military court environment, the state administrative court environment, and by a Constitutional Court".<sup>19</sup>

An example of the case that the author discusses is the industrial relations dispute between Jonny Simanjuntak and PT Holcim Indonesia Tbk. In this case, there was a dispute due to transfers and demotions which resulted in the termination of employment (PHK) carried out by PT Holcim Indonesia Tbk unilaterally against Jonny Simanjuntak. Termination of employment (PHK) disputes are the most sensitive matter for workers. If layoffs do not comply with applicable regulations, it can cause disputes. The form of resolution of industrial relations disputes in this case is through an industrial relations court. The Plaintiff filed a lawsuit against the Defendant at the Bandung District Court (Decision Number 340 K/Pdt.Sus-PHI/2016).

In this case, Jonny Simanjuntak (hereinafter referred to as the plaintiff) and PT Holcim Indonesia Tbk (hereinafter referred to as the Defendant). The Plaintiff was a security superintendent at the PT who was assigned to Tuban Regency, East Java Province and while he was assigned to Tuban, however, without clear reason, the Defendant transferred and demoted the Plaintiff, which made the Plaintiff unable to accept the Defendant's actions, finally the Plaintiff conveyed this to the Social, Labor and Transmigration Service of the Bogor Regency Government.

After that, the plaintiff experienced illness and asked for leave for 17 (seventeen) days and after the plaintiff recovered from illness and wanted to go to work, and would submit a sick certificate issued by the doctor where the plaintiff was seeking treatment, then after the plaintiff recovered from illness and wanted to go home work, and will submit a sick certificate issued by the doctor where the Plaintiff was seeking treatment, but what the Plaintiff received was a Letter of Termination of Employment (PHK) from the Defendant (PT Holcim) on the grounds that the Plaintiff had been absent for 10 days from work without any information. In terms of the PT Holcim Indonesia Joint Work Agreement for the period 2012 to 2014, Article 31 very clearly states that every violation of the first level rules must be resolved internally by the relevant directorate through coaching/verbal warnings/warning letters.

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<sup>19</sup> Ida Hanifah, *Hukum Ketenagakerjaan di Indoensia*, Medan: Pustaka Prima, 2020, hlm 194.

As a result of arbitrary actions Termination of Employment Relations (PHK) carried out by the Defendants (PT Holcim) against the Plaintiff, then there is a dispute over Termination of Employment (PHK) This was reported to the Social, Labor and Transmigration Service of the Bogor Regency Government. As a result of not reaching an agreement to resolve the Termination of Employment Relations (PHK) dispute between the Plaintiff and the Defendant, on January 27 2015 the Mediator from the Manpower and Transmigration Department of the Bogor Regency Government issued a written recommendation Number 565/599/HI Syaker/2015 which contained:

- 1) That the termination of the employment relationship between the company PT Holcim Indonesia and Jonny Simanjuntak's employee cannot be considered based on Article 153 paragraph (1) point (a) of Law Number 13 of 2003 concerning Employment;
- 2) That the company should re-employ the workers in their original places and that the workers' unpaid rights should be paid;
- 3) That the parties as regulated in Law Number 2 of 2004 Article 13 are asked to provide written answers to the Head of the Bogor Regency Social, Labor and Transmigration Service.

In connection with the failure to resolve the dispute over termination of employment between the Plaintiff and the Defendant because the Defendant still did not want to comply with the recommendation to re-employ the Defendant in his original position. Then the Plaintiff, through his attorney, on October 8 2015 sent a letter to the Defendant to implement Recommendation Number 565/599/HI Syaker/2015 dated January 27 2015 from the Bogor Regency Government Manpower and Transmigration Department, but the Defendant did not respond until this lawsuit was registered at the Registrar's Office of the Industrial Relations Court at the Bandung Class IA District Court.

The action of the Defendant in unilaterally terminating his employment relationship (PHK) has violated the provisions of the collective work agreement between the Plaintiff and the Defendant for the period 2012 to 2014, in Article 31 concerning Procedures for Settlement of Violations of the Code of Conduct and sanctions, namely Every violation of the Code of Conduct level. must first be resolved internally by the relevant directorate through coaching/verbal warnings/warning letters issued by the employee's superior and, if necessary, accompanied by the labor union. A warning letter was given by the supervisor concerned with a copy to the labor union and HR directorate officials.

If you receive an official warning letter more than 3 (three) times a year, a temporary dismissal (suspension) can be carried out and then Termination of Employment (PHK) can be processed. Provisions of Legislative Regulation Number 13 of 2003 concerning Employment Article 151 Paragraph (1) that: "Employers, workers/laborers, trade/labor unions, and the government must make every effort to ensure that employment relations do not terminate"; And Paragraph (2) reads: "In the event that all efforts have been made, but termination of the employment relationship cannot be avoided, then the purpose of termination of the employment relationship must be negotiated by the entrepreneur and the worker/labor union or with the worker/laborer if the worker/laborer concerned does not Become a member of a trade union/labor union". It can also be seen that Paragraph (3) reads: "In the event that the negotiations as intended in paragraph (2) do not actually result in an agreement, the entrepreneur can only terminate the employment relationship after obtaining a determination from the industrial relations dispute settlement institution";

Then, it is further firmly regulated in Law Number 13 of 2003 Article 161 Paragraph (1) that: "In the event that workers/laborers violate the provisions stipulated in the work agreement, company regulations or collective work agreement, the entrepreneur can terminate the employment relationship, after the worker/laborer concerned is given the 1st warning letter, the 2nd warning letter and the 3rd warning letter respectively".

Based on the description of the articles above, in this case it is an industrial relations dispute of the type of unilateral Termination of Employment Relations by PT Holcim Indonesia Tbk to its employees so that it was resolved in litigation at the Bandung District Court, with the final decision that PT Holcim was obliged to pay compensation for Termination of Employment Relations. to the Plaintiff in the amount of Rp. 45,706,072.00 (forty five million seven hundred six thousand seventy two rupiah) to the employee.

## **CONCLUSION**

The system for settling modern relations debates has been controlled in a manner through Regulation Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. In this case, it was an industrial relations dispute of the type of unilateral Termination of Employment Relations by PT Holcim Indonesia Tbk to its employees so that it was resolved in litigation at the Bandung District Court, with the final decision that PT Holcim was obliged to pay compensation for Termination of Employment Relations to the Plaintiff amounting to IDR



45,706,072.00 (forty-five million seven hundred six thousand seventy-two rupiah) to the employee. With this court choice, there is an assurance of security for laborers in regards to the essential privileges of laborers/workers and certifications of correspondence, opportunity and equivalent treatment without separation on any premise.

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