

EFFECTIVENESS OF INDUSTRIAL RELATIONS DISPUTE NEGOTIATIONS IN THE INTERESTS OF TRADE UNIONS

Raya Gomal Manalu^{1*}, Muh Amin Saleh², Muhenri Sihotang³, Appe Hutaeruk⁴

^{1,2,3,4}Program Studi Ilmu Hukum, Fakultas Hukum, Universitas Mpu Tantular, Jakarta,
Indonesia

rayagomalmanalu@gmail.com^{1*}, aminemi600@gmail.com²,
smuhenrisihotang84@gmail.com³, appehturuk@gmail.com⁴

Abstract

This study aims to analyze the effectiveness of negotiations in resolving industrial relations disputes, particularly in relation to the interests of labor unions in defending the rights of their members. The main focus of this study is directed at the bipartite negotiation mechanism as a mandatory stage before taking the litigation route. Inequality of bargaining power and differences in negotiation strategies often become obstacles in reaching a fair agreement. The research method used is normative juridical with a case approach and a conceptual approach. Data were collected through a literature study of primary, secondary, and tertiary legal materials related to Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes and industrial relations theories. The results of the study indicate that the effectiveness of industrial relations negotiations is greatly influenced by organizational strength, legal capacity, and negotiation strategies implemented by labor unions. It appears that the coherence of litigation strategies and evidentiary strength are the main keys in defending workers' interests at the cassation level. This study concludes that although bipartite negotiations are a deliberative instrument, their success is highly dependent on the independence or autonomy of trade unions in facing employer domination in order to realize legal certainty and protection of workers' normative rights.

Keywords: Bipartite, Negotiation Effectiveness, Industrial Relations, Trade Unions

INTRODUCTION

The concept of industrial relations in Indonesia emerged in response to the increasingly complex labor dynamics resulting from economic, social, and political developments. From the colonial period until the beginning of independence, employment relations were subordinate. In the context of language and inter-element relations, subordinate means a level that is not equal or indicates dependence (Radzi & Jaafar, 2025). Simply put, there is one primary (core) entity and another complementary or subordinate (subordinate) entity, where workers are positioned as the weaker party and have no bargaining power vis-à-vis employers. With the industrialization process and the influx of foreign investment, employment relations patterns have shifted to become more complex, necessitating a concept that can accommodate the interests of workers, employers, and the state in a balanced manner. Furthermore, the dynamics of industrial relations in the contemporary era are characterized by a latent tension between the interests of corporate efficiency and the protection of workers' normative rights (Kusuma, 2025).

This phenomenon has become increasingly complex with the transformation of labor regulations that demand labor market flexibility, which linearly increases the potential for industrial relations disputes (Rozikin & Muhyiddin, 2025). This includes the rise in labor disputes, particularly those related to wages, working hours, and working conditions (which later became the primary trigger for the birth of the concept of industrial relations). This means that labor conflicts, which were previously resolved unilaterally (by the absolute authority of employers as superiors of workers), have gradually begun to cause social unrest. Therefore, the government felt the need to establish a more systematic resolution mechanism in labor governance, specifically addressing industrial relations disputes (due to their complex nature and broad impact on social, economic, and political stability).

This special handling is necessary because, first, industrial relations disputes concern not only the individual interests of workers and employers but also collective interests that can impact company productivity and the national investment climate (Sadam, Wulandari & Noviarita, 2024). If not handled appropriately, disputes can escalate into open conflict, potentially disrupting public order. Second, industrial relations have a unique legal dimension, as they involve normative workers' rights guaranteed by law, such as the right to a living wage, social security, and freedom of association. Therefore, dispute resolution cannot be carried out unilaterally, but must go through specifically regulated legal mechanisms (such as bipartite negotiations, mediation, conciliation, arbitration, and the Industrial Relations Court) (Kurniati, et. al., 2025). Third, special handling is needed because of the imbalance in bargaining power between workers and employers. Without a clear resolution mechanism, workers remain in a vulnerable position. Fourth, globalization and international standards set by the ILO require Indonesia to have a dispute resolution system that complies with the principles of freedom of association and the right to collective bargaining (Saputra & Suryaningtias, 2024). Thus, special handling of industrial relations disputes is not only a national need, but also part of the international commitment to ensure social justice for workers.

Based on this description, the government then introduced the concept of Pancasila Industrial Relations (HIP), a labor relations paradigm that integrates the noble values of Pancasila and the 1945 Constitution as a philosophical and sociological foundation for interactions between actors in the production process (Abrori, 2023). Fundamentally, HIP positions workers and employers not as actors confronting each other in a class dichotomy, but rather as strategic partners bound by a unity of interest through the principles of partnership in production, responsibility, and profit sharing. This system prioritizes the principle of deliberation for consensus as the primary mechanism for conflict resolution, reflecting the implementation of democratic values and the wisdom of wisdom to minimize destructive actions to national economic stability.

Furthermore, HIP emphasizes a proportional balance between rights and obligations based on just and civilized humanitarian values. From this perspective, labor is viewed not simply as a factor of production or an economic commodity, but as a legal subject possessing human dignity that must be protected by employers and the state. The implementation of the Industrial Relations Agreement (HIP) aims to create industrial peace and business continuity oriented toward achieving social justice (Fajar, 2026). Therefore, in the context of dispute negotiations, the HIP serves as an ethical framework that obliges parties to prioritize good faith and a spirit of camaraderie to achieve harmonious and sustainable solutions for the sustainability of the industrial ecosystem, emphasizing the principles of deliberation, camaraderie, and a balance of interests.

In this context, the government issued regulations regarding the need for internal organizations within business entities or business entities themselves, known as labor unions, which serve as a vehicle for collective struggle demanding legal recognition of workers' bargaining power. As collective representatives, labor unions hold a legal mandate under Law Number 21 of 2000 to serve as a catalyst for the struggle for member welfare. The presence of labor unions fosters more democratic industrial relations, where workers are no longer considered objects but rather subjects with the right to negotiate. Therefore, labor unions, which act as a vehicle for collective struggle, are present within business entities to defend, maintain, and improve the welfare of their members. One of the primary instruments possessed by labor unions is the ability to negotiate, both in drafting Collective Labor Agreements (CLAs) and in resolving labor disputes. However, the available negotiation instruments are often bogged down in procedural formalities that fail to address the substance of workers' interests, creating a disparity between the normative objectives of the law and the empirical reality at the negotiating table.

The ineffectiveness of the negotiation process is often rooted in a sharp imbalance in bargaining power, where labor unions are often structurally and informationally subordinate to management (Fildzah & Irwansyah, 2025). This can occur because, structurally, employers dominate capital, management, and company policies. In the current era, employers, as representatives of capital, regulate management personnel (through the General Meeting of Shareholders), ultimately resulting in unions tending to be reactive (Andi, Maulana & Baringin, 2026). Similarly, information asymmetry occurs because employers control financial data, productivity, and business plans, while unions often lack adequate access to formulate evidence-based demands (Apriyanti et al., 2025). This situation is exacerbated by the unions' limited technical capacity to conduct data analysis and negotiations. As a result, unions' bargaining power is weakened, primarily due to workers' dependence on the company and the lack of consistent regulatory support for industrial relations practices. This imbalance ultimately leads to the ineffectiveness of labor unions in collective bargaining, as the resulting labor agreements tend to be biased toward employers' interests and do not fully reflect workers' aspirations. Thus, union subordination is not only a matter of internal weakness but also the result of an unequal power structure and an opaque information system, necessitating strategies for capacity building, solidarity, and policy advocacy to achieve balance in negotiations.

RESEARCH METHODS

Broadly speaking, legal research is divided into two main approaches. First, normative (doctrinal) legal research, which focuses on the study of law as written norms, such as statutory regulations, doctrines, and court decisions. This approach aims to discover applicable legal principles, concepts, and norms. Second, empirical (sociological) legal research, which views law as actual behavior in society, uses field data through interviews, surveys, or observations to assess the effectiveness of law in practice. These two approaches complement each other: normative research provides a conceptual framework, while empirical research tests the

application of law in social reality. Thus, legal research methods play a crucial role in bridging theory and practice, ensuring that research results are not only academically relevant but also beneficial to legal development and problem-solving in society. In relation to the current research, the researcher is using normative legal research, namely research that focuses on the inventory of positive law, the synchronization of rules, or the discovery of law in abstracto. The background to the use of the normative legal method approach is that this method positions law as a written norm (law in books) that must be studied systematically through statutory regulations, doctrines, legal principles, and court decisions. In research methodology, a research approach is a perspective or point of view chosen by the researcher to analyze and answer the legal problems raised. In this study, the General Paradigm Approach, the Statute Approach, and the Case Approach are used.

The general paradigm approach, in research methodology, refers to the mindset, belief framework, or philosophical foundation that underlies how a researcher views the world and reality. The paradigm acts as a “map” that determines the direction of research, starting from what is considered “truth” to how to obtain that truth. This general paradigm approach uses a type of research. Related to legal research with the theme of employment, the researcher uses a qualitative research method, namely a research approach that focuses on an in-depth understanding of social, cultural, or legal phenomena through the exploration of meaning, experience, and perspective of the research subject (in contrast to quantitative methods that emphasize numbers and statistical measurements), qualitative methods emphasize more on description, interpretation, and contextual analysis of the data obtained. The main objective is to explore social reality holistically, so that researchers can understand how a phenomenon is perceived, experienced, and interpreted by individuals and groups. In practice, qualitative methods use techniques such as in-depth interviews, participant observation, case studies, and document analysis. The resulting data usually takes the form of narratives, transcripts, or field notes, which are then analyzed thematically to find patterns, meanings, and relationships between concepts. Thus, this method is highly relevant for use in legal research that seeks to examine how legal norms are applied, perceived, or even ignored in community life. The statute approach is one type of approach in normative legal research that is carried out by examining all laws and regulations that have a connection (relevance) to the legal issue being addressed. The case approach is one type of approach in normative legal research whose main focus is studying and analyzing court decisions that have permanent legal force (*inkracht van gewijsde*).

RESULT AND DISCUSSION

In the dynamics of industrial relations in Indonesia, labor unions were formed as an instrument of collective protection for workers, who are structurally in a weaker position than employers. This initially subordinate relationship demands a dispute resolution mechanism that prioritizes justice through the negotiation process. Theoretically and historically, ideal negotiations are based on good faith, party autonomy, and an interest-based approach to achieve a win-win solution. Negotiations are not merely an alternative but rather the primary mechanism required by labor law through a bipartite mechanism before pursuing other formal channels. However, empirical reality shows a gap with normative objectives, where labor unions often fail to optimally carry out their advocacy and protection functions at the negotiating table. The root of the problem of ineffective advocacy and ineffectiveness of labor unions in negotiations stems from unequal bargaining power (Lestari & Wibowo, 2024). Employers have complete control over capital, management systems, and company data, while unions often lack access to information and the analytical capacity to formulate data-driven demands. This problem is exacerbated by conflicts of interest, as union officials are also employees and are economically dependent on the company. This weakens their independence and fosters a tendency to compromise. Furthermore, dominant issues frequently negotiated,

such as disputes over rights, interests, and termination of employment (PHK), become increasingly difficult to resolve when unions themselves experience internal fragmentation, disrupting their focus (Harmen et al., 2024).

When viewed from the three elements of the legal system, these weaknesses become even more apparent. From a substantive legal perspective, although the right to organize is normatively guaranteed through Law No. 21 of 2000 and dispute resolution is regulated by Law No. 2 of 2004, the implementation of these protections has not been optimal. From a structural legal perspective, state labor oversight remains weak due to limited resources, while resolving disputes through the Industrial Relations Court (PHI) is time-consuming and expensive, which is detrimental to workers. From a legal cultural perspective, the Indonesian workplace remains steeped in a paternalistic culture that views unions as threats rather than strategic partners. The fear of being transferred or laid off also discourages workers from actively participating, thus hindering the formation of a solid collective force. Normatively, unions are autonomous, independent, and democratic organizations that serve to balance workers' bargaining power vis-à-vis employers. This autonomy is crucial to prevent external intervention that could turn unions into mere formalities or "puppet unions." The true strength of these organizations lies in their collective solidarity. Unfortunately, this effectiveness often collapses due to internal fragmentation, a condition where organizational unity is fragmented by differing interests, orientations, leadership rivalries, and even political affiliations within the union itself.

Internal fragmentation is generally triggered by a dualism of interests, where some administrators or members are close to company management and adopt a compromising stance, while others strive to fight for workers' rights in a purely progressive manner. This conflict is exacerbated by the presence of more than one union within a company, giving rise to competition for representation and a struggle for organizational legitimacy (Anggraini, 2023). Consequently, inter-union relations become competitive and antagonistic. The direct impact of this division is the weakening of workers' bargaining power in drafting Collective Labor Agreements (CLAs) and bipartite negotiations, a decline in members' trust in the management, and ultimately, employers benefit from the lack of coordination of workers' collective demands. Similar to the first problem, this fragmentation is a multidimensional issue influenced by weaknesses in the legal system. In terms of legal substance, existing regulations focus too much on the freedom to form unions without adequate provisions regarding inter-union harmonization, restrictions on unfair competition, or organizational cadre development. From a legal structural perspective, the state's role in fostering and mediating internal union conflicts is minimal; such conflicts are often ignored and viewed as purely internal matters. Meanwhile, from a legal cultural perspective, a strong paternalistic culture leads workers to be passive and leave their fate to elite administrators, which can easily fuel distrust when there is a lack of transparency. This weak legal awareness is often exploited by employers to intervene or form rival unions to further divide worker power (Novitasari & Yuliawan, 2025).

The effectiveness of the role of the Trade Union in advocating for workers' interests in industrial relations negotiations cannot be separated from a deep understanding of the profile, legality, and legal standing of the organization. In the industrial relations system in Indonesia, the Trade Union is the main actor that is legally given legitimacy by laws and regulations to represent, fight for, and protect the interests of workers when dealing with employers. The existence of the Trade Union should not be seen as merely a social association, but must be recognized as a legal institution that has absolute rights and authority to conduct negotiations, defense, and collective dispute resolution. Legally, the main basis for this legality is stated in Law Number 21 of 2000 concerning Workers' Unions/Labor Unions, which expressly defines this organization as a forum formed from, by, and for workers. Moreover, the existence of the Trade Union is the embodiment of human rights guaranteed by the constitution, especially Article 28E paragraph (3) of the 1945 Constitution concerning freedom of association and

assembly. The main characteristics inherent to this union freedom, independence, democracy, and accountability serve as a foundation to ensure the organization is free from pressure from any party, including intervention from employers or the government. With these independent characteristics, the Trade Union is designed as an instrument of collective representation to balance the unequal bargaining position, which, in fact and historically, has always placed workers at a disadvantage compared to employers who control capital and policy.

In the realm of industrial relations negotiations, the effectiveness of advocacy carried out by Trade Unions depends heavily on their bargaining power. Trade Unions function to transform workers' initially individual and vulnerable positions into a solid collective force. This level of effectiveness is positively correlated with the number of members, internal solidarity, the negotiating skills of the management, and the level of mastery of labor regulations. Effective advocacy is not only measured by the organization's ability to ensure the fulfillment of minimum normative rights stipulated by law, but is also tested by its success in facilitating and formulating Collective Labor Agreements (CLAs). Through collective bargaining agreements (PKB), labor unions are required to be progressive in creating added value for workers' welfare, such as negotiations on additional health benefits, children's education facilities, fairer performance bonus arrangements, and more humane termination mechanisms that exceed the legal minimum. However, these negotiations often reach deadlock due to differing perceptions of the company's financial capabilities (ability to pay), sometimes unrealistic expectations of worker members, or even internal weaknesses of the union itself in formulating a comprehensive and analytically based negotiation draft.

Furthermore, the effectiveness of Trade Union advocacy is also tested in real-life situations when industrial relations disputes arise. Under the framework of Law No. 2 of 2004, dispute resolution is required to go through a bipartite stage as a form of deliberation and consensus. In this preventive stage, the Trade Union acts as a negotiator and legal analyst, tasked with analyzing the problem, developing logical arguments, and bridging communication with management to prevent the conflict from escalating. If bipartite fails, advocacy continues to the tripartite stage (mediation, conciliation, or arbitration), where the Trade Union accompanies workers in presenting the chronology and evidence before the labor agency. The culmination of this organization's litigation function is seen in the Industrial Relations Court (PHI), where Article 87 of Law No. 2 of 2004 grants the Trade Union a full mandate to act as legal counsel for its members. This full involvement reflects the function of "access to justice" for economically vulnerable workers. Unfortunately, the effectiveness of this full role is often hampered by the limited legal competence of union officials and the threat of structural intimidation from companies, such as forced transfers, demotions, or threats of layoffs targeting union activists. Referring to Soerjono Soekanto's Theory of Legal Effectiveness and Industrial Relations Theory, the success of this advocacy is ultimately the result of the accumulation of quality regulations, the competence of law enforcement (in this case, union officials), the availability of organizational facilities, a democratic legal culture in the workplace, and the creation of good faith-based social dialogue between workers and employers.

Behind the guarantee of freedom of association, a pillar of industrial democracy, a structural paradox often undermines the effectiveness of labor unions: the problem of internal fragmentation and organizational pluralism. Law Number 21 of 2000 does indeed provide ample space for workers to establish unions, with the presence of just ten workers sufficient to legitimize the establishment of a union organization at the company level. This policy historically emerged as a counterpoint to past regimes that restricted freedom of association. However, this relaxation of formation requirements has had unanticipated institutional consequences: the explosion of the number of labor unions within a single corporate entity. The presence of multiple unions claiming to be the most legitimate representation of workers has given rise to competition and division. The concept of freedom, which should have been an

instrument for consolidating workers' collective power in the face of capitalist domination, has instead backfired. Energy that should have been devoted to building bargaining power at the negotiating table is often wasted on resolving horizontal conflicts, membership struggles, legitimacy competitions, and attempts to undermine each other within worker groups.

This internal fragmentation sociologically and legally undermines the foundations of collective cohesion and organizational solidity. When dualism in management or internal divisions occur, the Trade Union loses its solid legal standing in the eyes of third parties, especially employers and the courts. This dualism creates crucial legal uncertainty, for example regarding who has the legal right and authority to sign Collective Labor Agreements, formulate demands, or even manage membership fees as regulated in Article 25 of Law No. 21 of 2000. The most fatal legal impact of this fragmentation is seen in the courtroom of the Industrial Relations Court. Although Article 87 of Law No. 2 of 2004 grants the Trade Union the right to act as legal counsel for its members, the validity of this power of attorney will immediately be revoked or disputed if the management granting the power of attorney is experiencing a dualistic conflict. As a result, instead of focusing on the substance of protecting the rights of workers who are victims of termination of employment or other normative rights violations, the judicial process is instead caught up in procedural debates regarding the administrative legitimacy of the workers' representatives. The weakening conditions caused by this fragmentation are often cleverly exploited by employers through a divide-and-rule strategy, where management can easily reject workers' demands due to the lack of unanimity among the divided unions.

Ultimately, the ineffectiveness of this fragmentation directly harms the workers themselves. In bipartite negotiations, employers are faced with confused representation and a lack of a unified stance; one union group might demand a base wage increase, while another prioritizes additional leave. This confusion not only reduces workers' bargaining power to its lowest point but also undermines members' trust in the capabilities of their organizations (a legitimacy crisis). Therefore, the greatest challenge facing the modern industrial relations system today is no longer simply ensuring the right to organize, but also managing this pluralism to prevent it from becoming counterproductive. To prevent this structural weakening, labor unions are required to undertake fundamental reforms by strengthening clean and transparent organizational governance (good union governance). Leadership training must be encouraged to instill an understanding that the union's ultimate goal is collective well-being, not the sectoral political ambitions of its administrators. Furthermore, a well-institutionalized internal conflict resolution mechanism must be established so that any differences of opinion can be resolved through internal consensus without triggering divisions that destroy the collective identity and solidarity of workers at the negotiating table.

CONCLUSIONS

The effectiveness of labor unions in advocating for workers' interests at the bargaining table is largely determined by their level of organizational autonomy, legal capacity, collective strength, and the negotiation strategies employed. However, in practice, this effectiveness is often hampered by structural barriers manifested in the form of unequal bargaining power and information asymmetry between labor unions and employers. This imbalance often leads to negotiation outcomes, particularly at the bipartite stage, being biased toward the interests of company management and bogged down in procedural formalities, with no ability to intervene substantively to optimally fulfill workers' rights. This dilemma is exacerbated by conflicts of interest and the economic dependence of union officials, who are also employees, weakening the organization's independent position in the face of management dominance.

Organizational dynamics and internal fragmentation within labor unions have been shown to significantly weaken group cohesion and directly impact the organization's

ineffectiveness in industrial relations negotiations. Polarization and dualistic views within unions erode collective power, which in turn widens the gap in bargaining power vis-à-vis employers. When internal solidarity is fragile, unions lose their unified position and strategic focus, leading to management-dominated negotiations, particularly at the bipartite stage, becoming bogged down in procedural formalities without substantial progress on workers' rights. Coupled with information asymmetry and potential conflicts of interest at the management level, this fragmentation further cripples union autonomy and independence in the face of external pressures.

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