

Classification of Industrial Relations Disputes Settlement in Indonesia: Is it Necessary?

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Abstract: This study aimed to examine the effect of the disputes classification in the industrial settlement system, comparing arrangements according to the perspective of the International Labor Organization, China, Japan, and Kazakhstan, and trying to find the ideal concept of the type of industrial dispute to apply in Indonesia. This research is normative legal research. The approaches used in this study were the statutory approach, conceptual approach, fact approach, and comparative approach. The results revealed that the classification of disputes in the industrial relations settlement system in Indonesia has an impact on the difficulty of the parties in classifying their disputes. Comparative studies were conducted to determine the classification of disputes in international law as well as in China, Japan, and Kazakhstan. The ideal concept that can be offered to Indonesia is the simplification or elimination of the classification of industrial relations to provide dispute resolution by applying the principles of fast, precise, fair, and inexpensive methods.

Keywords: Classification; Industrial Relation; Dispute Settlement

1. Introduction

The Indonesian Law Number 13 of 2003 concerning Manpower regulates industrial relations as coordination between laborers/workers, entrepreneurs, and government in the production process of goods and/or services following the state ideology Pancasila and the 1945 Constitution of Indonesia. Industrial relations in Indonesia are related to working relations between entrepreneurs and laborers/workers, which consist of the elements of occupation, wage, and order. The position of laborers/workers and entrepreneurs which usually happen to be unequal might arises any dispute between parties as a form of unfulfilled rights of one party (especially laborers/workers). Hence, it can't be denied that the implementation of work, company and laborers/workers may have disputes in work relations.

A dispute over rights is defined as a disagreement over the non-fulfillment of rights as a result of a different interpretation or application of any rules and regulations, as well as the interpretation or application of a work agreement, company regulation, and/or the

collective bargaining agreement. When there is a non-convergence of view in the formation of, and/or amendments to, the work requirements as described in the working agreement, corporate regulation, or collective labor agreement, a conflict over interest emerges in a working relationship. The term “conflict over the termination of employment” refers to a disagreement that develops from a difference of opinion regarding the termination of an employment relationship carried out by one of the parties. Lastly, the term “conflict among trade unions” refers to a disagreement between one trade union and another inside the same company over membership, implementation of rights, and obligations to the union. These various disputes arise because of the unfulfillment or violation of rights by one party, either by the company or worker/labor. Knowing that there are several classification disputes in the industrial relations system, it is important to find out the appropriate and fair settlement.

The classification of disputes in industrial relations is the government endeavors to provide a fast, proper, and inexpensive dispute settlement. The industrial relations disputes settlement law regulates several mechanisms that can be taken by the parties to solve the industrial disputes. The parties involved in the disagreement are obliged to conduct a bipartite settlement, however, if the bipartite settlement did not result in an agreement, then the bipartite meeting will be considered to have failed, thus the parties can choose to settle through conciliation or arbitration.¹ If conciliation or arbitration fails to produce a satisfactory result, one of the parties may file a formal petition with the Industrial Relations Court.

The classification of disputes in the industrial relations system has resulted in a huge impact in terms of the effectiveness of dispute settlement in Indonesia. This classification is considered to bring a narrow interpretation, which interpreted several disputes that shall be settled as the authority of the Industrial Relations Court and then interpreted as the authority of another court. The classification also resulted in a huge ambiguity for the parties involved in the disagreement to classify the type of dispute that occurs. Further, the classification also related to the settlement mechanism needs to be taken by the parties. However, all these concepts and procedure is still far from being effective and efficient.² Each dispute in the context of manpower in Indonesia has its consequences in terms of the settlement procedure, especially in terms of legal action that can be settled through the Industrial Relations Court.

The industrial relations settlement system is hoped to be able to implement the principle of fast, proper, fair, and inexpensive dispute settlement. The Industrial Relations Court was formed as a special court, which has special characteristics in resolving industrial relations disputes involving workers/laborers and employers. The special character is expected to facilitate public access to settle their dispute through the Industrial Relations Court. However, it was found that the industrial relations dispute settlement systems in

¹ Maskun et al., “Arbitration: Understanding It in Theory and Indonesian Practice,” *Hasanuddin Law Review* 5, no. 2 (2019): 220–34, <https://doi.org/10.20956/halrev.v5i2.1945>

² Haikal Arsalan and Dinda Silviana Putri, “Reformasi Hukum Dan Hak Asasi Manusia Dalam Penyelesaian Perselisihan Hubungan Industrial,” *Jurnal HAM* 11, no. 1 (2020): 39, <https://doi.org/10.30641/ham.2020.11.39-50>.

Indonesia still face various obstacles both in terms of their regulation and practical aspects.

One of the interesting issues that need to be examined in-depth in the context of realizing the reform of the dispute settlement in Indonesia in the future is related to the reformulation of the regulation (classification) of the disputes regulated in Indonesian labor law instruments. This regulatory change will certainly bring a major influence on the dispute settlement system and also the procedure of the Indonesian dispute settlement on industrial relations. It's important to compare the arrangement in several other countries to find out their way of settling industrial disputes as well as from the perspective of international law.

This research attempts to find out several issues related to the legal issue concerning to classification of disputes in the industrial relations system in Indonesia. The problem will be discussed and analyzed in this research including: *Firstly*, does the arrangement for the classification of industrial relation disputes affect the implementation of the quick, appropriate, just, and inexpensive principle of the concept of industrial relations dispute settlement in Indonesia?; *Secondly*, how do the arrangements of industrial relations dispute settlement in the perspective of international law and several other countries?; *Thirdly*, what is the ideal concept that can be offered in the form of *ius constituendum* responding to the classification of industrial relations dispute?

In the midst of various studies that raise various issues related to the industrial relations dispute settlement system carried out in Indonesia, there are no specific studies that previously raised similar problems. Hence, in terms of originality and novelty, the research specifically tries to examine the efforts to reformulate the classification of types of disputes and to improve the effectiveness and efficiency aspects of the industrial relations dispute settlement system in responding to the challenges of the developing business and industrial community nowadays.

2. Method

This research was normative legal research, which imagines law as a prescriptive discipline³, focusing on law and regulation to find out the answer to any legal problem that occurs.⁴ This research used several approaches, namely the statute approach, conceptual approach, fact approach, and comparative approach. The results of the research were collected, analyzed, and described in analytical descriptive legal research.

³ Nafay Choudhury, "Revisiting Critical Legal Pluralism: Normative Contestations in the Afghan Courtroom," *Asian Journal of Law and Society* 4, no. 1 (2017): 229–55, <https://doi.org/https://doi.org/10.1017/als.2017.2>.

⁴ Karen Petroski, "Legal Fictions and the Limits of Legal Language," *International Journal of Law in Context* 9, no. 4 (December 2013): 485–505, <https://doi.org/10.1017/S1744552313000268>.

3. The Effect of Classification of Industrial Relations Dispute in the Industrial Relation Disputes Settlement

An industrial relations dispute means “a difference of opinion resulting in a dispute between employers or an association of employers with workers/laborers or trade unions due to a disagreement on rights, conflicting interests, a dispute over termination of employment, or a dispute among trade unions within one company”. Industrial relations conflicts can be grouped into four forms, according to the Industrial Relations Dispute Settlement Law: a dispute over rights, a dispute over interest, a dispute over termination of employment, and a dispute among trade unions.⁵

Industrial disputes relations can be resolved through litigation or non-litigation.⁶ The Industrial Relations Court (hereinafter the Court), which is a special court inside the ordinary court, can be used to resolve industrial relations problems. Unless specifically governed by the Industrial Relations Disputes Settlement Law, civil law is the current legal action in court. The Court is “assigned and authorized to investigate and adjudicate at the first level regarding disputes on rights; at the first and final levels regarding disputes on interests; at the first level regarding disputes on termination of employment; and at the first and final levels regarding disputes between workers unions/labor unions within a company”.⁷

Industrial relations conflict resolution must be able to use the concepts of a quick, proper, and low-cost dispute resolution procedure. The concepts are equivalent to those of the Indonesian judicial system in general. Those principles are embodied the Article 2 Paragraph (4) of Law Number 48 of 2009 concerning the Judicial Power (hereinafter the Judicial Power Law). According to the explanatory notes of the Power and Judiciary Law, the settlement of the dispute is carried out by way of efficiently and effectively. The dispute settlement also has to be carried out in the number of fees that can be reached by the community. However, these principles did not rule out the thoroughness and accuracy in the search for truth and justice.

Unfortunately, these principles cannot be implemented properly in the industrial relations dispute settlement. The failure of implementation is caused by the classification of disputes relations itself. The classification of disputes relations has resulted in confusion among workers/laborers or even the employers disputed. The parties cannot classify their disputes easily. It also affected the legal action that can be carried out to resolve the disputes. The parties have to find out the specific type of the disputes to resolve the disputes properly as regulated in the Industrial Relations Disputes Settlement Law since according to the law, each type of dispute can be resolved at a different level and mechanism as stipulated in Article 56 of the Industrial Relations Disputes Settlement Law.

⁵ Singadimeja, Holyness, Atip Latipulhayat, and M. Nurdin Singadimeja. "Freedom of Association Implementation through Legal Protection for Worker Union in Response to Anti-Union Actions by Employers." *Padjadjaran Journal of Law* 6, no. 3 (2019): 533-555.

⁶ Broto Suwiryono, *Hukum Ketenagakerjaan : Penyelesaian Perselisihan Hubungan Industrial Berdasarkan Asas Keadilan* (Surabaya: LaksBang Pressindo, 2017).

⁷ Muhammad Ishar Helmi and Riko Hendra Pilo, "Independensi Hakim Ad-Hoc Pada Lingkungan Peradilan Hubungan Industrial," *Jurnal Hukum Dan Peradilan* 6, no. 2 (July 2017): 233,

The assignment and authorization of the Industrial Court in investigating and adjudicating disputes in industrial relations surely will add a more complex burden to the parties, especially for workers who are trying to get their rights. The understanding of the parties, especially the workers concerning the dispute settlement mechanism could be another obstacle for them. In the middle of economic pressure and minimum level of education, the workers/laborers tend to be the disadvantaged party. This condition does affect the psychological condition of the workers/laborers who are trying to settle their disputes through the Court.

Hence, it is urgently needed a simple industrial relations disputes settlement system with clear and appropriate stages that can be accessed by the parties following the demands of the community, especially in the business community. Arranging a simple dispute resolution system will certainly make it easier for the disputing parties to resolve their dispute. Therefore, the principle of fast, proper, inexpensive dispute settlement can be implemented properly.

4. Comparison of Arrangement Based on International Law and Other Countries

4.1. International Labor Organization (ILO)

Labor disputes can be classified into several kinds. Most governments have differentiated between different sorts of labor disputes and set unique methods for dealing with them. Each country's distinctions and methods are usually based on the country's distinctive historical development of its labor relations system. According to ILO, there are several major labor disputes. The dispute between individual and collective is common apply which contains disputes about rights and disputes about interest (also known as "economic dispute").⁸

A right dispute can be defined as a disagreement about the violation or interpretation of an existing right (or obligation) enshrined in a legislation, collective bargaining agreement, or individual employment contract. And at its heart lies the claim that a worker, or a group of workers, has been denied their rightful compensation (s).

A right dispute involves the existence, validity, or interpretation of a collective agreement or its violation.⁹ Interest disputes, on the other hand, are frequently the outcome of a failure of collective bargaining and emerge from disagreements over the determination of future rights and obligations. Based on the ILO's 154th Convention of 1981 concerning the promotion of collective bargaining, it stated that:

Collective bargaining extends to all negotiations which take place between an employer, a group of employers or one more employers' organization, on the one hand, and one or more workers' organizations, on the other, for, a) determining working conditions and terms of employment; and/or b) regulating relations between

⁸ (Labor Legislation Guidelines, n.d.)

⁹ O V C Okene and C T Emejuru, "The Disputes of Rights Versus Disputes of Interests' Dichotomy in Labour Law: The Case of Nigerian Labour Law," HeinOnline, vol. 35 (Online, 2015), <http://www.bibliojuridica.org/libros/1/43/7.pdf>.

employers and workers; and/or c) regulating relations between the employee or their organizations and a workers' organization or workers' organizations.

According to ILO, Individual and collective disagreements are difficult to distinguish since an individual dispute has the potential to turn into a collective dispute, especially when a principle is at stake and if it is taken up by a trade union. Generally, it can be understood that a dispute is individual if it involves only a single worker or several workers as an individual, otherwise, it is classified as a collective dispute if it involves several workers collectively.

In terms of general dispute settlement, the ILO recommends the basic principle guiding methods for resolving conflicts through negotiation. However, if the negotiation is unsuccessful, the dispute can be settled by the tribunal (or arbitrator for some countries).¹⁰ Therefore, in terms of collective disputes, the kind of dispute usually has its method for resolving it. In the case of a rights dispute where there's a valid collective agreement, there might be provisions that regulated the mechanism that must be followed in the event of dispute.¹¹ Several mechanisms can be taken in resolving such disputes, inter alia alternative dispute resolution (also known as ADR) with three essential options, namely: Conciliation, Mediation, and Arbitration, or settling the dispute through court or labor tribunal.

Compare to Indonesia, the classification of a labor dispute in ILO is classified as a dispute between individual and collective, which emphasizes the dispute as individual if it involves only a single worker, otherwise, it is classified as collective if it involves several workers collectively. While in Indonesia, the classification of labor disputes is classified into a dispute over rights, a dispute over interest, dispute over termination of employment, and dispute among trade unions. This classification resulted in a confusion among workers/laborers or even the employers disputed. The parties cannot classify their disputes easily. Further, the classification of a labor dispute in Indonesia also limits the method of dispute settlement that can be taken by parties.

Apart from ILO, the comparison can be done by examining the regulations of industrial relations, which includes kinds of labor or industrial relations dispute settlement in several countries, for instance, China, Japan, and Kazakhstan. Bearing in mind that those countries have many labor disputes, however, they manage to regulate the system of their labor law, including the dispute settlement system.

4.2. China

In China, the labor dispute system was initiated in 1950. It was symbolized by the Rule on Organizational Structure and Working Procedure of Municipal Labor Dispute Arbitration Committee, which was enacted by the Ministry of Labor back in June 1950, and Regulations on Labor Dispute Settlement Procedure by the Ministry of Labor with approval of the State Administrative Council back in November 1950.¹² According to

¹⁰ "Labour Legislation Guidelines."

¹¹ International Labour Office, "Collective Dispute Resolution through Conciliation, Mediation and Arbitration : European and ILO Perspectives International Labour Office," 2007.

¹² Ibid.

Regulation on Labor Dispute Settlement Procedure, there are four stages can be taken in terms of labor dispute resolution, namely: negotiation within the enterprise, mediation, arbitration, and litigation.¹³

Recently, labor relations in China have experienced significant changes as the effect of globalization.¹⁴ The labor dispute settlement in China used to be solved through a one-track process, consisting of three stages namely: mediation by the Enterprise Labor Dispute Mediation Committee, mandatory arbitration by the Local Labor Dispute Arbitration Committee, and Litigation by the People's Court of the first instance and second instance.¹⁵ However, this mechanism has brought some disadvantages, for instance: first, it is time-consuming; second, it involves a lot of time and expenditures for parties to a dispute; and third, the process shows low efficiency. Thus, it needs to be simplified.

In this regard, the one-track system has been suggested to be transformed into a double-track system, where the disputing parties have free choice of arbitration or litigation.¹⁶ Later in 2008, China applied a regulation concerning labor dispute resolution named The Labor Mediation and Arbitration Law, also known as "LMA".¹⁷ According to LMA, the Chinese system of resolving labor disputes can be identified as follow:¹⁸

- a. Individual labor disputes in China are mainly resolved by labor arbitration within government administrative bodies, with limited recourse to the courts.
- b. In China, statutory labor disputes are mostly settled by labor arbitration within government administrative agencies, with limited recourse to the courts.;
- c. Individual contractual labor conflicts in China, which are generally addressed in labor arbitration within government administrative bodies, with limited access to the courts, under contracts negotiated by unions;
- d. Before, during, or after arbitration, mediated settlements are usual, and courts normally defer to them;
- e. Except in limited circumstances, Chinese courts generally defer to labor arbitrator verdicts.

The mechanism is also applied in the resolution of individual labor rights disputes arising under contract or statute in China.¹⁹ It is important to choose appropriate dispute settlement resolution since different mechanisms might have a different outcomes for different disputing parties.²⁰

¹³ Wei Chi, Yueting Ji, and Wei Huang, "Mediation and Conciliation in Collective Labor Conflicts in China," 2019, 265–77, https://doi.org/10.1007/978-3-319-92531-8_17.

¹⁴ Chung Sun Wook, "Industrial Relations (IR) Changes in China: A Foreign Employer's Perspective," *Employee Relations* 38, no. 6 (January 1, 2016): 826–40, <https://doi.org/10.1108/ER-06-2015-0120>.

¹⁵ Wang, Wang, and Zheng, "Labour Disputes Settlement System in China: Past and Perspective."

¹⁶ *Ibid.*

¹⁷ Ronald C. Brown, "Comparative Alternative Dispute Resolution for Individual Labor Disputes in Japan, China and the United States: Lesson from Asia?," *St. John's Law Review* 86 (2012): 543–77, http://www.upf.edu/gredtiss/_pdf/2013-LLRNConf_Brown.pdf.

¹⁸ *Ibid.*

¹⁹ Jiaojiao Feng and Pengxin Xie, "Is Mediation the Preferred Procedure in Labour Dispute Resolution Systems? Evidence from Employer–Employee Matched Data in China," *Journal of Industrial Relations* 62, no. 1 (2020): 81–103, <https://doi.org/10.1177/0022185619834971>.

²⁰ *Ibid.*

Compare to Indonesia, the Labor Law in China only classify labor dispute into two types, namely individual and collective. China labor law mainly focuses on individual disputes that are mainly resolved by labor arbitration within government administrative bodies, with limited recourse to the courts. Meanwhile in Indonesia, the classification of labor disputes falls into 4 (four) different categories with different dispute settlement mechanisms. The condition in Indonesia brings confusion to the disputing parties to settle their problem as well as limiting the settlement mechanism that can be taken.

4.3. Japan

A labor dispute in Japan is classified into two types such as individual labor rights disputes and collective labor disputes which can arise from a variety of sources like discipline, termination, and contract violation.²¹ Due to the Labor Tribunal System exclusively handling individual labor disputes, any sort of civil dispute, including labor conflicts, falls under the jurisdiction of the civil courts.²² In terms of labor rights disputes, Japan also faces similar conditions to China. Individual labor rights disputes may arise from contractual or statutory labor rights and may involve individual or collective labor rights.²³ Regarding labor disputes in Japan, the party can file the request to settle their dispute through conciliation, mediation, or arbitration.²⁴ The Labor Relations Commission, which represents employees, employers, and the general public, has a considerable effect on each mechanism.

Generally, Japan acknowledges two dispute resolution systems, namely the Public system and the Private System.²⁵ In terms of the Public System, the dispute can be settled through courts, named "Labor Tribunal", which usually be used for resolving individual labor disputes.²⁶ To resolve the dispute, Labor Tribunal can always try to mediate the disputing parties during the settlement. Along with Labor Tribunal, Japan also implements the Administrative Procedures under the System for Promoting Individual Labor Dispute Resolution, which was previously solely available for collective disputes. In terms of the public sector, Japan also has Labor Commissions, which have jurisdiction over unfair labor practice proceedings and the resolution of industrial disputes under the Trade Union Law.²⁷

Along with the public system, Japan also applies a Private system such as a joint consultation between the employer and the trade union or consultation with middle managers to prevent workplace disputes. Thus, the dispute settlement process in

²¹ Brown, Ronald C. "Comparative alternative dispute resolution for individual labor disputes in Japan, China, and the United States: Lessons from Asia." *John's L. Rev.* 86 (2012): 543.

²² Megumi Honami, "How Successful Is Japan 's Labor Tribunal System ?: The Labor Tribunal 's Limited Scope and Effectiveness," *Law, Asian-Pacific Journal, Policy* 16, no. 1 (2007): 83–100.

²³ Brown, *Op.cit.*

²⁴ "National Labour Law Profile: Japan," accessed February 24, 2021, https://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158904/lang--en/index.htm.

²⁵ Ryuichi Yamakawa, "The Labor Dispute Resolution System in Japan : Recent Developments , Their Background and Future Prospects" 168 (n.d.).

²⁶ *Ibid.*

²⁷ *Ibid.*

Japan can be settled in a government institution and vary, depending on whether the right is individual or collective.²⁸

Compare to Indonesia, Japan only classifies labor disputes into two types, namely individual labor rights disputes and collective labor disputes which can arise from a variety of sources like discipline, termination, and contract violation. According to Japan Labor Law, the labor dispute can be settled through several mechanisms, inter alia: 1) Public System (Labor Tribunal used for individual labor dispute); 2) Private System (Consultation with middle managers or a joint consultation between the employer and the trade union); 3) In the process of resolving the individual labor dispute at hand, LTS combines mediation, conciliation, and adjudication. The classification of industrial relations disputes in Indonesia falls into 4 (four) types only narrowing the interpretation. The classification also regulates the limited procedure of labor dispute settlement.

4.4. Kazakhstan

The legal basis for the existence of legal protection for the settlement of labor disputes in Kazakhstan originates from the attribution provided in Article 13 Paragraph 2 of the Kazakhstan Constitution that ensures everyone's rights and freedoms, particularly social and labor rights and freedoms, are protected by the law. The provisions of the Constitution, it is stipulated further in the Labor Code of the Republic of Kazakhstan (*Қазақстан Республикасының Еңбек Кодексі*) regulates the procedure of labor dispute settlement, which are expected to be able to protect the workers' rights.

The Labor Code of 2016 introduced a mandatory pre-trial Labor Dispute review procedure. Unfortunately, statistical research showed that mandating pre-trial settlement of labor disputes in conciliation commissions is an inefficient approach for Kazakhstan's circumstances.²⁹ According to the Labor Code of Republic Kazakhstan 2015 Article 1 No 16, stipulated that "Labor dispute is a disagreement between the employee (employees) and the employer (employers) on the application of the labor legislation of the Republic of Kazakhstan, implementation or amendment of the terms of agreements, labor and (or) collective contracts, employer's acts".

The Industrial relations disputes in Kazakhstan will not arise unless disputes over rights or legal interests of the employers or employees are brought against the competent authority with jurisdiction for the specified resolution.³⁰ Kazakhstan's Labor Law stipulates a variety of ways for resolving disputes, depending on whether they are individual or collective. Individual settlements are primarily governed by the Labor Law, whereas collective labor conflicts are regulated by two statutes: "The Law on Collective Labor Disputes and Strikes" and "The Labor Law".³¹

²⁸ Brown, *Loc.cit.*

²⁹ Zhanna Khamzina et al., "Labor Disputes in Kazakhstan: Results of Legal Regulation and Future Prospects," *Journal of Legal, Ethical and Regulatory Issues* 23, no. 1 (2020): 1–14.

³⁰ Guzal Galiakbarova et al., "Legal Analysis of Individual Labor Disputes in the Republic of Kazakhstan," *Indian Journal of Science and Technology* 9, no. 14 (2016): 1–11, <https://doi.org/10.17485/ijst/2016/v9i14/91074>.

³¹ "National Labour Law Profile: Kazakhstan," n.d.

Article 97 of Kazakhstan's labor law stipulates that: "Disputes can be settled through mutual agreement or through general jurisdiction courts". According to Articles 6 and 7 of the Law on Collective Labor Disputes and Strikes it can be understood that the party can settle their dispute by labor arbitration or mediation. In Kazakhstan, mediation shall be the initial alternative for resolving labor disputes, second, institution negotiators are more or less the case in labor relations regulation; and third, social partnership as a means of resolving labor disputes.³²

Based on the abovementioned, Kazakhstan classifies the disputes in a simpler way, namely individually or as a collective dispute. This simple classification makes it easier to interpret the dispute. Meanwhile, Indonesia classifies the dispute into 4 (four) different types, which mainly confuses classifying the dispute and its settlement mechanism.

5. Assessing the Ideal Concept of Disputes and its Settlement in Indonesian Industrial Relations

The principle of fast, proper, and inexpensive dispute settlement applies or tries to be adopted in every procedure of dispute settlement, including in all judicial bodies in Indonesia, as well as the Industrial Relations Court. This principle is known as a mandate of the Indonesian Judicial Power Law, which aims to meet the expectation of justice seekers to be able to find an effective and efficient way to resolve their disputes in the middle of rapid development in the business community.

In terms of the relationship between workers/laborers and the employers, there will always be different interests between the parties that are the potential to cause disagreements and even conflicts between them. The workers/laborers tend to be in a subordinate position due to differences in economic conditions, education levels, and job requirements. This condition might create an exploitation condition of the worker's rights,³³ which may result in an unfavorable condition in a working relationship that affects the productivity and the achievement of the company target.

The different opinions and interpretations regarding the implementation of working agreements, company regulations, and collective agreements are the main issues in industrial relations disputes. Industrial relations disputes settlement in Indonesia is regulated in Manpower Law, Industrial Relations Disputes Settlement Law, and several related regulations, including Law Number 11 of 2020 concerning the Job Creation (hereinafter, Job Creation Law). However, the enactment of the Job Creation Law, especially the Manpower cluster does not regulate any reform in terms of the classification of industrial relations disputes and their settlement. Hence, any matter related to industrial relations disputes settlement still refers to the Industrial Relations Dispute Settlement Law.

³² A. Beissenova et al., "Labour Conflicts in Kazakhstan: A Specific Character of Their Solution," *Procedia - Social and Behavioral Sciences* 82 (2013): 877–81, <https://doi.org/10.1016/j.sbspro.2013.06.364>.

³³ Oduniyi, Oreoluwa Omotayo. "Workers' Protection in the Covid-19 Era in Nigeria." *Padjadjaran Journal of Law* 8, no. 2 (2021): 289-308.

Issues related to changes in the dispute settlement and the reconstruction of disputes classifications are included in several problematic issues in the current Indonesian Labor Law system. The classification of industrial disputes abovementioned and its procedure has caused several obstacles in the dispute settlement procedure, which must be resolved immediately. This condition does not comply with the principle of fast, proper, and inexpensive dispute settlement.

According to international law, the regulation concerning the classification of industrial relations disputes and their settlement can be classified into several types. Based on ILO, industrial relations disputes can be classified into individual dispute or collective dispute, which includes a dispute over right and dispute over interest. In terms of disputes settlement, international law provides alternative dispute resolution before taking the disputes to be resolved through the Court. The disputes can be resolved through negotiation, mediation, conciliation, and even arbitration. It is aimed to find a win-win solution for both parties.

Likewise, when comparing the arrangement of industrial relations disputes in Indonesia and several countries including China, Japan, and Kazakhstan, it was found that each country has different rules and regulations, including its procedure, and the assessment of industrial dispute resolution objects, as well as their respective faults or deficiencies in enforcing the industrial relations disputes settlement, which can be seen in the table 1.

Table 1. Comparative between Indonesia, China, Japan, and Kazakhstan

Country	Legal Basis	Procedure of Labor Dispute Settlement	Classification of Labor Dispute Settlement Object	Disadvantages
Indonesia	Indonesian Law Number 13 of 2003 concerning Manpower Indonesia Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement	Bipartite, Tripartite, litigation	- dispute over rights, - dispute over interest, - dispute over termination of employment, and - dispute among trade unions.	Narrow interpretation concerning the classification of industrial relations disputes.
China	Labor Law / 劳动法 (1995), Labor Contract Law (2008), Regulation on Settlement of Labor Disputes in Enterprises / 企业劳动争议处理条例, Rule on Organizational Structure and Working Procedure of Enterprise Labor Dispute Mediation Committee, Rule on Organizational Structure and Working Procedure of Labor Dispute Arbitration Committee and Rules on Recruitment of Labor Dispute Arbitrators Labor Dispute Mediation and Arbitration Law / 劳动争议调解仲裁法	Article 6 Regulation on labor dispute settlement enterprises; 1. negotiation; 2. mediation; 3. arbitration; 4. Litigation through people's court	Individual and Collective labor dispute (Article 7 LDMA). (China labor law mainly focuses on individual dispute)	Time consuming, involves a lot of time and expenditures for parties to a dispute, low efficiency of process (needs to be simplified)

Japan	Article 8 Constitution, Trade Union Law of 1949 (労働組合法, <i>roudou-kumiaiho</i>), Law on Promoting the Resolution of Individual Labor Disputes (Law No.112, July 11, 2001). Labor Relations Adjustment Law, Labor Tribunal System (LTS) Law No.45 of 2004	Public System (Labor Tribunal used for individual labor dispute) Private System (Consultation with middle managers or a joint consultation between the employer and the trade union) In the process of resolving the individual labor dispute at hand, LTS combines mediation, conciliation, and adjudication.	Individual labor dispute	Labor collective	Right labor	Any sort of civil dispute, including labor conflicts, falls under the jurisdiction of the civil courts.; Labor Tribunal System is only for individual labor disputes
Kazakhstan	The Constitution of Kazakhstan in paragraph 2 of Article 13 Labor code of the Republic of Kazakhstan (Қазақстан Республикасының Еңбек Кодексі),	Labor Law Article 97, Disputes can be settled by agreement between the parties or by appealing to general jurisdiction courts. Pre-trial Labor Dispute review procedure are mandatory by The Labor Code of 2016	Individual or collective dispute			In the circumstances of Kazakhstan, Conciliation commissions implementing obligatory pre-trial settlement of labor disputes is an inefficient practice. Dispute over workers is under the jurisdiction of the general court

Source: Primary Data, 2022.

The table above illustrates the condition in Indonesia, China, Japan, and Kazakhstan, which have something in common where industrial relations disputes settlement can be resolved first through a non-litigation procedure before entering the litigation procedure. However, in terms of the classification of disputes, generally, international law, including in China, Japan, and Kazakhstan only classify the disputes in a simpler way, namely individually or as a collective dispute. Thus, it can be interpreted that this condition might minimize the narrow interpretation of the classification of the disputes in Indonesia.

Based on these conditions, several changes need to be made, especially in terms of the classification of industrial relations disputes and their settlement mechanism. It is very relevant for improving the Indonesian industrial relations disputes settlement system to be more effective and to be able to answer the challenges of industrial relations in the future.

The classification of industrial relations disputes in Indonesia needs to be reformed. The reformation will change the narrow interpretation into a wider interpretation. Thus, any disputes that arise from industrial relations can be resolved through the industrial relations dispute settlement, without any specific classification of disputes. The simple

concept of industrial disputes will make it easier for both parties to resolve their disputes since there won't be any confusion in terms of the classification of dispute that occurs.

This condition must be resolved immediately by changing the concept of classification of industrial relations disputes, which shall be followed by changes in the settlement mechanism, especially concerning procedural law in the Court. This change must be following the main objective, namely to provide an effective industrial relations dispute settlement system in responding to current industrial relations conditions and their challenges.

In terms of the settlement mechanism, according to the Industrial Relations Disputes Settlement Law, several procedures can be taken to resolve the dispute, namely negotiation, mediation, conciliation, or arbitration. These procedures are still relevant to the current industrial relations conditions since it is necessary to provide a win-win solution for both parties in a short time. Therefore, the disputes can be settled effectively and efficiently. However, if there is no agreement upon parties, both parties can continue to settle the dispute through the Court. Hence, it is necessary to provide a proper procedural law system that applies to the Court. The procedural law must be designed to be able to accommodate and answer demands for an effective and efficient way of settling the dispute for both parties.

According to Article 57 of the Industrial Relations Disputes Settlement Law, it is known that the prevailing legal proceeding in the Court is the Civil Law Proceeding prevails at the general court. This condition results in the character of the Court **is no** different from the general court, thus the industrial relations dispute cannot be resolved quickly and tends to be convoluted.

The hearing procedure in the Court shall be done in a simple, fast, effective, and efficient procedure. The procedure can be done effectively by emphasizing only the important sub-points that must be passed in the trial, such as reading the lawsuit, answering the lawsuit, proof, and verdicts. This idea was previously regulated in the Supreme Court Regulation Number 2 of 2015 concerning Simple Lawsuits (hereinafter Supreme Court Regulation 2/2015). Unfortunately, this provision, in particular, cannot be adopted directly for every dispute in the Court, especially in the regulation regarding the lawsuit value for civil cases, which is not more than IDR 200 million.

The Industrial Relations Conflicts Settlement Law governs the legal options available for resolving disputes. From the procedural law and decisions of the Court, there are 3 (three) types of legal remedies used in the Court, namely *verzet*, cassation (ordinary legal remedy), and reconsideration (extraordinary legal remedy). However, the hierarchy of legal remedies in the Court is different from the general court. Legal remedies in the Court consist of Cassation and Reconsideration (extraordinary legal remedy). For disputes over rights and termination of employment, the judicial process consists of 2 (two) stages, namely the first level at the Court and the final level at the Supreme Court. Meanwhile, for the dispute of interest and dispute between labor union in one company both the first and last level is settled at the Court. However, due to this condition, it is still

possible to submit legal remedies for reconsideration with the provisions as regulated by the law (Article 57 of the Industrial Relations Disputes Settlement Law).

This condition might become an obstacle for the parties since they have to take a long time just to obtain legal certainty. Formers of laws and regulations which revise the industrial relations dispute settlement system which has been buzzing several times, starting from 2009 (proposed amendments to the Industrial Relations Disputes Settlement Law) and 2015 (entered into the initiative national legislation program from the House of the Representative). They must be able to accommodate this issue and be able to provide a better, efficient, and effective settlement system.

The simplification of the classification of industrial relations disputes must be followed by a change in the concept of the procedure of disputes settlement as well. Simplification of legal remedies in the dispute settlement mechanism should also be adopted in the amendment to the Industrial Relations Dispute Settlement Law, which is one of the most relevant things to be changed.

According to Article 57 of the Industrial Relations Disputes Settlement Law, it is well acknowledged that the Civil Law Proceeding is the most common legal proceeding in the court unless specifically provided for by the Act. However, related to the Constitutional Court Reconsideration through Decision Number 34/PUU-XVII/2019 then it was confirmed that int Court could not be submitted for a Reconsideration. One of the bases used is the publication of SEMA Number 3 of 2018 concerning the Enforcement of the Formulation of the Result of the Plenary Meeting of the Supreme Court Chamber of 2019 as a guideline for the court. One of the interpretations of the Supreme Court is to close legal remedies for Reconsideration at the Court. The Constitutional Court considers that the provision of Article 34 of Supreme Court Law considers the *lex generali* in terms of Reconsideration and exempted by the provision of the law which considers the *lex specialis* in terms of the case and stipulated conditions to be able to file for a Reconsideration.

According to this condition, it is important to regulate the restriction of the process and stages regarding filing an appeal and cassation on the decision of the Court. The classification of industrial relations disputes is very relevant to be eliminated immediately by limiting legal remedies without eliminating the rights of justice seekers. This effort will certainly be able to provide a faster way to settle disputes, especially a dispute over rights and termination of employment. However, related to reconsideration, it is very relevant to keep it regulated and give space for justice seekers as regulated by the Industrial Relations Disputes Settlement Law.

The characteristic of Reconsideration as an extraordinary remedy is the final right of the justice seeker to the decision of the Court which is legally binding. Of course, this must still be based on the reason for filing a Reconsideration as regulated in the rules and regulations. The future Court must be able to have an independent procedural law. Hence, the simplification or even elimination of the classification of industrial relations is necessary to be done to provide an effective and efficient dispute settlement through Court by implementing the principle of a quick, appropriate, just, and inexpensive way of settling the dispute.

6. Conclusion

The classification of disputes in the industrial settlement system in Indonesia impacts the difficulties of the parties in classifying their disputes. Indonesia urgently needs a simple industrial relations disputes settlement system with clear and appropriate stages that can be accessed by the parties following the community's demands, especially in the business community. Arranging a simple dispute resolution system will certainly make it easier for the disputing parties to resolve their dispute. Therefore, the principle of a quick, appropriate, just, and inexpensive way of settling disputes can be adequately implemented. The comparative study is conducted to find out the dispute classification in international law as well as several countries. Comparing the arrangement of industrial relations disputes in Indonesia and several countries, including China, Japan, and Kazakhstan, it was found that each country has different rules and regulations, including its procedure and the assessment of industrial dispute resolution objects. The conditions in Indonesia, China, Japan, and Kazakhstan have something in common. Industrial relations disputes settlement can be resolved first through a non-litigation procedure before entering the litigation procedure. However, in terms of the classification of disputes, generally, international law, including in China, Japan, and Kazakhstan, only classify the disputes in a simpler way, namely individually or as a collective dispute. Hence, the ideal concept that can be offered to Indonesia is a simplification or even elimination of the classification of industrial relations that is necessary to be done to provide an effective and efficient dispute settlement through Court by implementing the principle of quick, appropriate, just, and inexpensive way of settling dispute as *ius constituendum*.

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Conflict of Interest Statement: The author(s) declares that the research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

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