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Abstract: The implementation of the rulings on worker layoffs at the labour court known as industrial relationships court at district courts is crucial as it deals with the protection of workers' rights in a layoff dispute settlement. This paper discusses the execution of the verdicts of layoff dispute cases at three district courts, namely Padang, Pekanbaru, and Central Jakarta district courts. In doing so, the paper seeks to address the question as to whether or not the industrial relationship court does justice to workers in Indonesia. The purpose of the study is to shed light on the legal and emotional battles industrial workers must fight for justice. Using a normative approach, this study reveals that many of the verdicts reached in layoff dispute cases remain unexecuted because the procedural law that applies in resolving these disputes lacks legal force.

Keywords: worker layoff disputes; court verdicts; employment termination; industrial relationship courts; Indonesia.

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1 Introduction

It is commonplace that a worker in an employment relationship is entitled to the benefit of protective labour law. In Indonesia, the existence of a labour court based on the Law on Industrial Relationship Dispute Settlement was approved at the plenary meeting of the House of Representatives of the Republic of Indonesia or *Dewan Perwakilan Rakyat Republik Indonesia* (DPR- RI) on December 16, 2003, and on January 14, 2004, this law was promulgated by the President as Law No. 2/2004 and became effective a year later [Tjandra and Suryomenggolo, (2004), p.3]. Even though the industrial relationship court has existed for over 15 years, they remain significantly influenced by the government [Stiglitz, (2002), p.33; Asfinawati, (2006), p.26]. The courts also suffer ineffectiveness because it tends to turn public law into private law. It seems to treat the violation of legal rights from the context of criminal law as civil disputes [Stiglitz, (2002), p.30]. No wonder this has proven ineffective as it does not guarantee the rights of workers [Stiglitz, (2002), p.5]. The special nature of the courts' applicants, the emphasised need for independence and autonomy of judges, as well as great variation in product requirements, pose distinct challenges (Pekkanen et al., 2018).

Law No. 13/2003 on Manpower says that if a company/business arbitrarily or unlawfully dismisses a worker/employee then the dismissal can be categorised as an illegal layoff and therefore worker/employee must be reinstated in their position. However, should the company/employer, refuse to comply with the law, the worker/employee may take legal action on his or her own for their rights to be restored. Should a labour court judge pronounce a verdict in his or her favour, workers must submit a verdict execution request to the district court, which requires additional time and money (Maryono, 2018). In resolving disputes, the procedural law used is Law No. 2/2004 on the Settlement of Industrial Relationship Disputes and *Herzien Inlandsch Reglement* (HIR)/*Voor de Buitengewesten* (Rbg). As argued at the outset of this paper, this law requires that the execution process of the verdict of any industrial relationship dispute be carried out under the supervision of the labour court within the district court. The problem with this law is that it does not impose any criminal sanctions should either party refuse to comply with the ruling of the court [Sibot et al., (2013), p.13]. From 2006 to 2016, Padang Legal Aid or *Lembaga Bantuan Hukum* (LBH) has assisted nine layoff cases of which none of the victims received their rights as the executions of the verdicts were not carried out by the court.

It is often said that justice delayed is justice denied, the legal framework dealing with layoff disputes is a denial of justice not only to industrial workers but all the workers in Indonesia. It is unfair as it deprives workers of their right to compensation [Ewing and Thompson, (2007), pp.411–426]. This has been going on for too long and yet the discussion on the topic is hardly brought up. By investigating the execution of the verdicts of layoff disputes in Indonesia, the present study seeks to shed light on the legal and emotional battles industrial workers must fight for justice, and in so doing, the study intends to contribute to the improvement of the Indonesian criminal law in general and the labour law in particular. Such an effort is crucial to provide legal certainty and justice for both workers and stakeholders in Indonesia. The importance of this topic lies in the fact that the immediate financial hardship of a layoff could affect both the physical and psychological well-being of an individual worker, while also causing bankruptcy, depression, and more severe illnesses [Mujtaba and Senathip (2020), p.209]. Previous studies on the execution of layoff dispute verdicts include the work of Susanti (2017) who collected case samples from Class I A Padang District and Class I A Central Jakarta Special Court. Susanti (2017, p.393) recommends that standard operating procedures be established that include procedures and authorities in execution, execution periods, and supplementary documents for those who will cover procedures and apply fines on parties unwilling to carry out executions within the given period.

We believe that what was recommended by previous researchers is not efficient because there is already an authority to carry out executions, namely the district court. If a new institution was to be created, it would require a considerable human resource and substantial funds. However, what should be appreciated is the idea of punishing those who do not implement a decision that has a permanent legal force namely the court verdict.

Previous research also includes a study entitled 'Implementation of decision (execution) on case of industrial relationships disputes in workers' perspective (case study in the *Palangkaraya* Industrial Relationship Dispute Courts)' by Sibot et al. (2013). This study examines the implementation of the decision on the Settlement of Industrial Relationship Disputes. The study is more concerned with procedures, stages, mechanisms, constraints, the victims (workers) as to why they are harmed, and what kind of execution model harms them, and how it can be dealt with. The study suggests that these disputes could be resolved by re-enforcing the *gijzeling* institution or *Reglement Buitengewesten* principle, which implies detaining the losing party in a correctional facility to force him/her to fulfil the judge's decision (Mudawabah, 2015). However, we find this recommendation too difficult to implement because the *gijzeling* institution works based on the Supreme Court Regulation No. 1/2000 on debtors (and heirs who have inherited from the debtor), which says that only guarantors of debt who fail to pay off their debts estimated to Rp. 1,000,000,000 (about $71.000,00USD) can be charged by the *gijzeling* institution. This regulation does not protect workers as it considers employers who do not carry out court decisions as debtors and consequently does not punish them. This solution is not appropriate, and that is the reason why we suggest a new approach in the handling of layoff disputes after investigating three industrial relationship courts. This is very crucial not only to provide legal certainty and justice for workers throughout Indonesia but also and more importantly to protect their human rights and dignity enshrined in the 1945 Constitution.

2 Research methods

This is a socio-legal research using normative data to help provide a clear picture of the legal framework surrounding the execution of court verdicts in layoff dispute cases at industrial relationship courts. The sample involved in this study consists of the verdicts of 22 layoff cases handled by Class I A Padang District Court in the year 2015, 68 cases ruled by Pekan Baru District Court, and 298 cases decided by Class I A Central Jakarta Special District Court. To best deal with these cases, the research relies on the *text-based* approach in the attempt to have a closer look at the issue. Data involved in this study also consist of laws and regulations dealing with the industrial court and its relationship with district courts throughout Indonesia. Not only is the research interested in these cases but also and more importantly in their outcomes as to whether or not the execution of the different verdicts was carried out by the relevant court.

3 Theoretical framework

3.1 The human rights theory

Article 1 of the Universal Declaration of Human Rights, known as the first international instrument on human rights proclaimed: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". According to the U.N. Office for the High Commission on Human Rights: "Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination" (OHCHR, 2016). These rights are universal as they are inherent in all human beings, inalienable as we are all equally entitled to them, interrelated, interdependent, indivisible, and non-discriminatory. The use of the terms inherent and all reveal the universal character of human rights. That humans hold these inalienable rights equally tells us that we all hold them permanently and that no one is more entitled to them than another. The use of the phrase inherent dignity strengthens the significance of the permanent and non-discriminatory status of these rights [Lofaso, (2017), p.601].

The human rights theory is both a political question and a moral question. It is a political question in two ways. First, a sovereign nation's legislative body may be tasked with enacting positive law, including laws protecting human rights. Second, a group of sovereign nations may sign treaties agreeing that certain rights count as human rights [Lofaso, (2017), p.604]. Human rights are a special class of rights of universal application and hardly controversial in their general intention. They are part of a reasonable law of peoples and specify limits on the domestic institutions required of all peoples by that law (Rawls, 1993). Human rights such as dignity, social security, and equal pay can be classified as 'liberal aspirations' (Rawls, 1993). There are two classes of human rights. First are positive human rights – those enacted by legislation or agreed upon by treaty. Second, are natural human rights – those that exist independent of legal action [Losafo, (2017), p.605]. In sum, human rights are claim rights that humans possess because they are human.

3.2 Social justice theory

Social justice is generally defined as the fair and equitable distribution of power, resources, and obligations in society to all people, regardless of race or ethnicity, age, gender, ability status, sexual orientation, and religious or spiritual background (Van den Bos, 2003). Rawls (1993) claims that the justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society. John Rawls believes that people would make just decisions if they were placed in a hypothetical original position of quality whereby they do not know their social status, the fortune in the distribution of natural assets and abilities, their intelligence, strength, and the like. Rawls describes this position as being behind a veil of ignorance, which he believes would likely develop a theory of workplace justice where rules reflect autonomy and dignity while minimising employer coercion. Social rights are universal entitlements vis-à-vis the state that guarantee each citizen a real income independent of her or his success in the market, thereby representing a "drive towards greater social and economic equality" [Marshall, (1993), p.28]. The theory of social justice often refers to the process of ensuring that individuals fulfil their societal roles and receive what was their due from society (Clark, 2015; Banai et al., 2011). Social justice assigns rights and duties in the institutions of society, which enables people to receive the basic benefits and burdens of cooperation. The relevant institutions often include taxation, social insurance, public health, public school, public services, labour law, and regulation of markets, to ensure fair distribution of wealth, and equal opportunity (Rawls, 1971).

4 Literature review

4.1 Industrial layoff

The freedom of contract theory allows an employer to terminate their workers due to a breakdown of machinery or other reasons beyond the control of the employer, hence exposing the workers to a frequent risk of involuntary unemployment. This is often referred to as layoff or downsizing. When the management finds out that their company is not performing well and their operating costs are high, then the company looks out to find ways to optimise their productivity. Mujtaba and Senathip (2020) who investigated the impact of layoff on workers observes that worker layoff or the cessation of a worker's employment is usually the strategically planned elimination of large numbers of personnel or workforce to enhance organisational effectiveness and economic outlook. Furthermore, Mujtaba argues that layoff has some temporary or immediate advantages such as boosting profits, avoiding bankruptcy, creating a new relationship, re-organisation, and getting rid of 'deadwood' or disengaged employees (Mujtaba and Senathip, 2020). He goes on the claim that the disadvantages of layoff in an organisation can include reduced skilled workers and low morale, as the employees experience mixed emotions, dismay, stress, guilt, or even envy (Mujtaba and Senathip, 2020). Besides, layoffs can reduce existing employees' satisfaction and commitment to the organisation, which can result in lower performance. A layoff is the suspension or termination of employment (with or without notice) by the employer or management. Many scholars view layoffs as productive to companies or business owners. Organisational layoffs are

designed to improve productivity. are often perceived as the only way to save companies from bankruptcy (Neto, 2018). One of the standard mechanisms through which today's companies attempt to cope with competitive pressures is through downsizing (Cascio, 1993). Layoffs are not caused by any fault of the employees but by reasons such as lack of work, cash, or material. For a layoff to exist there must be a failure, refusal, or inability on the part of the employer to give employment to a worker. The failure, refusal, or inability should be on account of a shortage of equipment, power, or raw materials or the accumulation of stocks or breakdown of machinery, or natural calamity, or any other connected reason. However, as beneficial it seems to be for companies, a layoff can make a company decrease its production and lose credibility as it can be seen as a sign of a bad financial phase.

4.2 Industrial workers layoff dispute resolution

As stated at the outset of this paper, industrial disputes settlement is outlined in Law No. 2/2004 on the Settlement of Industrial Relationship Disputes repealed and replaced Law No. 22/1957 on Settlement of Labor Disputes and Law No. 12/1964 on the Termination of Employment in Private Companies. In addition to this law, industrial worker layoff dispute settlement is also regulated by Law No. 13/2003 on Manpower. This shows that Indonesia is no exception to the reality faced by industrial nations. The number of individual disputes arising from day-to-day workers' grievances or complaints has been rising across the world. The causes are complex and vary across countries and regions. Common features include an increased range of individual rights protections; a decrease in trade union density and/or collective bargaining coverage; higher risks of termination of employment and unemployment; reduced job quality and security due to greater use of various contractual arrangements for employment and other forms of work; and increased inequality as a result of segmented labour markets. Countries have responded with reviews and reforms. Some jurisdictions have created new dispute resolution institutions. Others have reconfigured existing institutions, or modified procedural rules (Ebisui et al., 2016), as in the case of Indonesia with the establishment of the industrial relationship courts or *Pengadilan Hubungan Industri* (PHI), as stated at the outset of this paper. But unlike Indonesia, in many countries, bipartite mechanisms exist in the framework of legal requirements and/or in the context of collective or other voluntary agreements. These mechanisms are generally associated with trade unions [Ebisui et al., (2016), p.7]. In many countries, bipartite mechanisms exist in the framework of legal requirements and/or in the context of collective or other voluntary agreements. These mechanisms are generally associated with trade unions [Ebisui et al., (2016), p.10]. However, it is important to note that solutions to industrial worker layoff disputes do not always lie in the processes discussed above. Human rights or anti-discrimination legislation offers procedures and remedies from both specialised labour courts/tribunals and/or dispute resolution agencies [Ebisui et al., (2016), p.23].

5 Execution of court decision on layoff dispute cases

Law No. 13/2003 on manpower says that if a company/business arbitrarily or unlawfully dismisses a worker/employee then the dismissal can be categorised as an illegal layoff and therefore worker/employee must be reinstated in their position. However, should the

company/employer, refuse to comply with the law, the worker/employee may take legal action on his or her own for their rights to be restored. Should a labour court judge pronounce a verdict in his or her favour, workers must submit a verdict execution request to the district court, which requires additional time and money (Maryono, 2018). In practice, the crucial issue in resolving layoff disputes at the industrial relationship courts is the difficulty of executing court decisions. The execution of the verdict must be submitted to the district court under civil procedure law. The execution mechanism is carried out as follows:

5.1 Warning (Aanmaning)

- The defendant is summoned to attend on the date specified to be warned to carry out the payment of his fine.
- At the commemorative hearing, the district court chief justice gives a deadline for fulfilling the decision. This is called a warning. The warning period should not be more than eight days as stipulated in article 196 HIR or Article 207 RBg.
- If the defendant does not answer the warning call for no valid reason, or after the warning period has run out and he/she still has not made the payment, the district court chief justice may issue a decree to the clerk or bailiff to carry out seizure execution against defendant's assets with the terms and procedures stipulated in Article 197 HIR or article 208 RGB.

5.2 Confiscate execution

- After the warning is carried out and the defendant is still unwilling to fulfil the contents of the decision, the requesting party can ask the district court chief justice to carry out the seizure of execution and the request is made in writing.
- The format for seizure placement requests contains; the identity of the parties, the contents of the decision requested to be carried out, the object requested is confiscated, including the name of the object, type, number, address, identity, and owner's name.
- The seizure is carried out by the district court clerks or other officials appointed and requested by the district court chief justice as stipulated in Article 197 Paragraph (2) HIR.
- The seizure by the clerk is done by making a report on the seizure placement.

5.3 Implementation of auction

- Submitting an auction application letter. The application is submitted in writing to the district court chief justice and must contain the matters of the parties, the reasons for the request for the auction, and the things requested to be done.
- The announcement of auctions.
- The district court chief justice requests the assistance of the State Auction Office and the planned sale of goods by the auction office in writing based on the law.

- Before the auction day, an announcement must be made twice with an interval of 15 days.

5.4 Auctions

- On a determined day, the district court, with State Auction Office's assistance, conducts an auction before the public for the items confiscated and the auction is conducted based on auction Regulation No. 189/1998.

What precedes shows the difficulties in the execution of the industrial relationship court verdicts, these difficulties include among others:

a the applicant's lack of understanding of the procedures of verdict execution application

b the applicant's lack of data on company assets to include in the seizure application

c the applicant for the execution lacks the cost of conducting seizure execution or auction

d no budget is provided by the state to carry out executions

e the losing party's deliberate refusal to carry out the decision

f the existence of a jurisprudence prohibiting the confiscation of goods used for business/livelihood.

Evidence of how difficult the execution of the verdict of an industrial relationship disputes case is can be seen from the 2016 Final Report of Class I A Central Jakarta Special Court in Table 1.

Table 1 Execution of industrial relationship disputes at Class I A Central Jakarta Special Court in 2016

No.	*Execution of the verdicts of industrial relationship disputes (amendment)*	*Total*
1	Remaining Cases (2015)	296
2	New Cases (2016)	83
3	Processed Cases	-
4	Completed Cases	14
5	Withdrawn Cases	2
6	Remaining Cases (2016)	363

From the above data, it can be seen that in one year, Class I A Central Jakarta Special District Court was only able to execute 14 cases out of 379, no more than 3, 69% of the total cases. Execution at Class I A Padang District Court in 2017 can be seen from Table 2.

Table 2 Execution of industrial relationship disputes at Class I A Padang District Court in 2017

No.	*Remaining cases 2016*	*New cases 2017*	*Decided cases*	*Remaining cases 2017*	*Appeals (2017)*	*Cassation (2017)*	*PK (2017)*	*Execution*
1	8	53	55	6	-	20	4	16

At Class I A Padang District Court, on the other hand, the executions carried out in one year were only 16 cases out of 55 cases decided, while 24 cases are still being handled in cassation. That is 51, 6% execution out of the total cases. Unlike the district courts in both Padang and Central Jakarta, Class I A Pekanbaru District Court does not even include the word 'execution', but the word 'successful' instead. This is illustrated in Table 3.

Table 3 Execution of industrial relationship disputes at Class I A Pekanbaru District Court in 2017

No.	*Remaining cases 2016*	*New cases 2017*	*Decided cases*	*Remaining cases*	*Appeal (2017)*	*Cassation (2017)*	*PK (2017)*	*Successful*
1	28	98	92	34	-	59	3	

Based on the above data, it is clear how little executions of court verdicts were carried out by the three courts. Execution difficulties are usually related to court decisions that instruct employers/companies to pay their obligations based on the provisions of Article 156 Paragraphs 1, 2, 3, and 4 of the labour law. Although mandatory, these provisions do not contain administrative sanctions, fines, and/or criminal sanctions against employers/companies. On the contrary, Article 90 Paragraph 1 of the same labour law, which prohibits employers from paying wages lower than provincial minimum wages (UMP) or regional minimum wages (UMR), stipulates that the employer's failure to comply with the minimum wage standard is a criminal offense subject to a minimum of one year and a maximum of four-year imprisonment, and/or a fine of at least Rp. 100,000,000.00 and at most Rp. 400,000,000.00 (labour law, Article 185).

If the violation of article 90 of the labour law is considered a punishable criminal offense, then we do not see any reason why the violation of a court decision regarding the rights of the same workers cannot be treated as a criminal offense. If both conditions are meant for the protection of workers, then they should be treated likewise. To ensure legal certainty and justice for workers, criminal sanctions must be imposed on parties that do not execute court verdicts regarding employment termination disputes. Provisions requiring such punishment are contained in Article 26 Paragraph (7) of Law No. 22/1957 on the settlement of labour disputes and Article 18 Paragraph (3) of Law No. 16/1951 on the settlement of labour. In general, these provisions stipulated that if a court decision on a lobar dispute is not carried out by a legal entity, union, or many people, then the charges are directed and punishments are imposed against the management or leaders of the legal entity, union or many such persons. Likewise, if the head of a legal entity or union is handed over to another legal entity or union, then the provisions in Paragraph 1 apply to administrators of legal entities or associations holding the lead (Law No. 22/1957; Law No. 16/1951). This is punished by a maximum of only three-month imprisonment.

The threat of imprisonment and fines as outlined in Law No. 22/1957 and Article 19 of Law No. 16/1951 are very low compared to the provisions of Article 185 Paragraph 1 of the labour law, and therefore, they must be revised. As argued earlier, we reiterate that the first improvement to this labour law is to provide criminal sanctions and/or fines if the employer does not carry out his obligations as stipulated in Article 156 Paragraphs 1, 2, 3, and 4 of the labour law. This improvement is expected to reduce the number of disputes cases filed to industrial relationship dispute courts because with the payment of obligations based on the provisions of Article 156 Paragraphs 1, 2, 3, and 4 of the labour law, the employer would be protected from criminal threats, fines, and payment of processes and workers' claims to the courts. These criminal sanctions and/or fines must be proportional and commensurate, at least equal to the sanctions contained in Article 185 Paragraph 1 of the labour law. The failure to make a voluntary decision must be considered as an act of contempt of court.

6 Conclusions

Forced by globalising economies marked by high international competition, an increasing number of companies are forced to adjust their production operations. Especially poorly performing companies realising the need to improve their profitability through downsizing or relocating their operations, which in many cases causes collective employee layoffs. The settlement of disputes arising from this phenomenon has led to the establishment of the industrial relationship dispute court referred to as *PHI*. However, the implementation of the verdicts pronounced by judges in cases of employment termination disputes at the industrial courts, especially in both Padang and Central Jakarta District Courts fail to apply as they provide no clear guidelines for implementation and no criminal sanctions or fines should any party fail to comply with the ruling. The verdicts do not also guarantee and protect the rights of labourers seeking justice. This is because Law No. 2/2004 on the Settlement of Industrial Relationship Disputes and *HIR*/*Rbg* requires that the execution process of the verdict of any industrial relationship disputes be carried out under the supervision of the labour court within the district court. The problem with this law is that it does not impose any criminal sanctions should either party refuse to comply with the ruling of the court. To overcome this problem, criminal sanctions and/or fines must be imposed on the party that does not carry out its obligations as stipulated in Article 156 Paragraphs 1, 2, 3, and 4 of the labour law. These criminal sanctions and/or fines must be proportional and commensurate to the sanctions contained in Article 185 Paragraph 1 of the labour law to guarantee legal certainty and justice to workers in Indonesia. A breach of the labour law is a crime under the Indonesian Criminal Law, but there has not been any criminal sanction against the disregard of court verdicts ordering the restoration of a worker's rights after a layoff. Embracing this new path would most certainly give more strength and trust not only to the Indonesian Criminal Law but also and more importantly to its criminal justice system in general. The limitation of this study lies in the number of layoff cases examined at the district court as well as workers interviewed. For a broader and nationwide picture, there is a need to increase the number of these variables.

References

Asfinawati (2006) *Buku Manual PPHI, Petunjuk Praktis Bagi Buruh/Serikat Buruh Menghadapi Pengadilan Hubungan Industrial*, LBH Jakarta, Jakarta.

Banai, A., Ronzoni, M. and Schemmel, C. (2011) *Social Justice, Global Dynamics: Theoretical and Empirical Perspectives*, Taylor and Francis, Florence, ISBN: 978-0-203-81929-6.

Cascio, W.F. (1993) 'Downsizing: what do we know? What have we learned?', *Academy of Management Executive*, Vol. 7, No. 1, pp.95–104.

Clark, M.T. (2015) 'Augustine on justice', a *Chapter in Augustine and Social Justice*, Lexington Books, pp.3–10, ISBN: 978-1-4985-0918-3.

Ebisui, M., Cooney, S. and Fenwick, C.F. (Eds.) (2016) *Resolving Individual Labor Disputes: A Comparative Overview*, International Labour Office, ILO, Geneva.

Ewing, B.T. and Thompson, M.A. (2007) 'Worker compensation and macroeconomic shocks in service- and goods-producing sectors', *International Journal of Services and Operations Management*, Vol. 3, No. 4, pp.411–426, DOI: 10.1504/IJSOM.2007.013463.

Lofaso, A.M. (2017) 'Workers' rights as natural human rights', *University of Miami Law Review*, Vol. 71, No. 3, p.565.

Marshall, T.H. (1993) 'Citizenship and social class', in Marshall, T.H. and Bottomore, T. (Eds.): *Citizenship and Social Class*, pp.3–51, Pluto Press, London, England, (Original work published 1949).

Maryono, D. (2018) 'Eksekusi Putusan Pengadilan Hubungan Industrial: Beberapa Catatan Masukan RUU Hukum Acara Perdata', *Adminitrative Law & Governance Journal*, 3 August, Vol. 1, No. 3, pp.345–349.

Mudawabah, K.H. (2015) *Gizjeling dalam Hukum Pajak di Indonesia Kajian Perundang-Undangan dan Integrasi Islam*, UIN-Maliki Press, Malang.

Mujtaba, B.G. and Senathip, T. (2020) 'Layoffs and downsizing implications for the leadership role of human resources', *Journal of Service Science and Management*, Vol. 13, pp.209–228, DOI: 10.4236/jssm.2020.132014.

Neto, S. (2018) 'Perceived acceptability of organizational layoffs and job alliances during a recession: a mapping of Portuguese people's views', *Journal of Business Ethics*, Vol. 152, pp.1149–1157, https://doi.org/10.1007/s10551-016-3270-z.

OHCHR (2016) *What are Human Rights?* [online] http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx (accessed 24 January 2016).

Pekkanen, P., Puolakka, T. and Pirttilä, T. (2018) 'Analysing courts as a professional service operations management environment', *International Journal of Services and Operations Management*, Vol. 29, No. 3, DOI: 10.1504/IJSOM.2018.089831.

Rawls, J. (1971) *A Theory of Justice*, Harvard University Press, JSTOR [online] http://www.jstor.org/stable/j.ctvjf9z6v (accessed 30 November 2020).

Rawls. J. (1993) 'The law of peoples', *Critical Inquiry*, Vol. 20, No. 1.

Sibot, Y.S., Budiono, A.R. and Safa'at, R. (2013) *Pelaksanaan Putusan (Eksekusi) Perkara Perselisihan Hubungan Industrial Dalam Perspektif Pekerja/Buruh (Studi Kasus Di Pengadilan Perselisihan Hubungan Industrial Palangkaraya)*, Program Studi Magister Fakultas Hukum Universitas Brawijaya.

Stiglitz, (2002) *Washington Concensus Arah Menuju Kemiskinan*, International NGO Forum on Indonesia Development (INFID). Jakarta.

Susanti. I. (2017) 'Peluang dan Tantangan Hukum Ketenagakerjaan Dalam Mendorong Industrialisasi Yang Berlandaskan Falsafah Pancasilan', *Prosiding Konferensi Ke-2 Perkumpulan Pengajar Dan Praktisi Hukum Ketenagakerjaan Indonesia (P3HKI)*, Di fakultas Hukum Universitas Sumatera Utara (USU) Medan, 12–13 October, P3 HKI, Surabaya.

Tjandra, S. and Suryomenggolo, J. (2004) *Makalah tentang Sekedar Bekerja?*, Analisis UU No. 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Indusrtial: Perspektif Buruh, Jakarta, 19 Maret 2004.

Van den Bos, K. (2003) 'On the subjective quality of social justice: the role of effect as information in the psychology of justice judgments', *Journal of Personality and Social Psychology*, Vol. 85, No. 3, pp.482–498.

Laws and court verdicts

Law No. 2/2004 on the Settlement of Industrial Relationships Disputes, 2004 State Gazette of the Republic of Indonesia, Supplement to the State Gazette of the Republic of Indonesia No. 4356.

Law No. 13/2003 on Manpower, State Gazette of the Republic of Indonesia No. 39/2003, Supplement to the State Gazette of the Republic of Indonesia No. 4279.

Law No. 22/1957 on the Settlement of Labor Disputes.

Emergency Law No. 16/1951 on Settlement of Layoff.

Final Report 2016 of Class I A Central Jakarta Special Court.

2017 Annual Report of Class I A Padang District Court.

2017 Annual Report of the Pekanbaru District Court.