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Reassessing Trade Unions' Role in Achieving Fair Industrial Relations

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Abstract

This study aims to analyze the role of labor unions in achieving industrial relations justice in Indonesia and to identify whether the legal issues that arise stem from weaknesses in the norms or from the effectiveness of implementing the norms of freedom of association.

This study uses a normative-conceptual legal method by examining constitutional provisions, labor laws and regulations, ILO conventions, as well as industrial relations theory and theories of justice. Data were obtained through a literature review encompassing primary, secondary, and tertiary legal sources, and were then qualitatively analyzed to assess the effectiveness of trade unions' role within the national labor law system.

The novelty of this research lies in the assertion that the primary issue in achieving industrial relations justice does not stem from a lack of legal norms, but rather from the gap between the normative guarantees of freedom of association and their implementation in industrial relations practice.

The results of the study indicate that, normatively, the legal framework regarding freedom of association and the role of labor unions is adequate. Trade unions serve as providers of legal protection, balancers of bargaining power in collective bargaining, and facilitators of tripartite social dialogue. However, the effectiveness of these roles still faces obstacles in the form of limited institutional capacity, organizational fragmentation, increasing flexibility in employment relationships, and suboptimal law enforcement.

The conclusion of this study is that efforts to improve industrial relations justice must be directed toward strengthening the effectiveness of the implementation of freedom of association norms through institutional strengthening of labor unions, consistent labor oversight, and the state's commitment to ensuring substantive protection of the right to organize.

Keywords: Labor Unions; Justice; Industrial Relations; Freedom of Association

Abstrak

Penelitian ini bertujuan untuk menganalisis peran serikat pekerja dalam mewujudkan keadilan hubungan industrial di Indonesia serta mengidentifikasi apakah persoalan hukum yang terjadi terletak pada kelemahan norma atau pada efektivitas implementasi norma kebebasan berserikat.

Metode Penelitian ini menggunakan metode hukum normatif-konseptual dengan menelaah ketentuan konstitusional, peraturan perundang-undangan di bidang ketenagakerjaan, konvensi ILO, serta teori hubungan industrial dan teori keadilan. Data diperoleh melalui studi kepustakaan yang mencakup bahan hukum primer, sekunder, dan tersier, kemudian dianalisis

secara kualitatif untuk menilai efektivitas peran serikat pekerja dalam sistem hukum ketenagakerjaan nasional.

Kebaruan penelitian ini terletak pada penegasan bahwa persoalan utama dalam mewujudkan keadilan hubungan industrial bukan terletak pada kekurangan norma hukum, melainkan pada kesenjangan antara jaminan normatif kebebasan berserikat dan implementasinya dalam praktik hubungan industrial.

Hasil penelitian menunjukkan bahwa secara normatif kerangka hukum mengenai kebebasan berserikat dan peran serikat pekerja telah memadai. Serikat pekerja berperan sebagai pemberi perlindungan hukum, penyeimbang posisi tawar dalam perundingan kolektif, serta fasilitator dialog sosial tripartit. Namun demikian, efektivitas peran tersebut masih menghadapi hambatan berupa keterbatasan kapasitas kelembagaan, fragmentasi organisasi, fleksibilitas hubungan kerja yang meningkat, serta belum optimalnya penegakan hukum.

Kesimpulan penelitian peningkatan keadilan hubungan industrial harus diarahkan pada penguatan efektivitas implementasi norma kebebasan berserikat melalui penguatan kelembagaan serikat pekerja, konsistensi pengawasan ketenagakerjaan, serta komitmen negara dalam menjamin perlindungan hak berserikat secara substantif.

Keywords : Serikat Pekerja; Keadilan; Hubungan Industrial; Kebebasan Berserikat

1. INTRODUCTION

Fair industrial relations are one of the key pillars of national labor development. The concept of fairness in industrial relations is not merely understood as a formal balance between workers and employers, but also as a guarantee of the fulfillment of workers' basic rights, including the right to a living wage, social protection, occupational safety, and freedom of association. The industrial relations system in Indonesia is fundamentally built upon the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD 1945), which place human beings at the center of development and affirm the principles of just and civilized humanity. The industrial relations system involves three main parties: employers, workers, and the government, who must work in synergy to create harmony and justice.¹ In this context, labor unions play a strategic role in advocating for social justice for workers through democratic, participatory, and equitable industrial relations mechanisms.

Normatively, the role of labor unions has been guaranteed by Law No. 21 of 2000 on Labor Unions (Labor Union Law), which grants every worker the right to form and join a labor union without interference from any party. This law constitutes the implementation of the fundamental principles set forth in ILO Convention No. 87 of 1948 concerning Freedom of Association and Protection of the Right to Organize, as well as ILO Convention No. 98 of 1949 concerning the Right to Organize and Collective Bargaining, which have been ratified by the Government of Indonesia. The ratification of these two conventions reaffirms Indonesia's commitment to guaranteeing freedom of association as part of human rights in the field of

¹ Ahmad Hunaeni Zulkarnaen, "Hukum Pengupahan Undang-Undang Cipta Kerja (UUCK) Dan Keinginan Semua Pihak Dalam Hubungan Industrial," *Jurnal Hukum Mimbar Justitia* 6, no. 2 (2020): 102–28, <https://doi.org/10.35194/jhmj.v6i2.1177>.

labor.²

Legally, the role of labor unions in Indonesia has a strong legal foundation, both at the national and international levels. The guarantee of freedom of association in the Trade Union Law, which is in line with ILO Conventions No. 87 and No. 98, affirms that the state normatively recognizes trade unions as an important instrument in the protection of workers' rights and interests. This reflects Indonesia's commitment to international labor standards as well as the recognition of freedom of association as part of human rights. However, this normative recognition does not automatically guarantee the effectiveness of trade unions' role in practice. There remains a gap between legal provisions and their implementation on the ground, such as obstacles to forming trade unions, the weak bargaining position of unions in industrial relations, and the potential for intervention by employers. Therefore, the existence of this progressive legal framework must be accompanied by oversight, law enforcement, and capacity building for labor unions so that freedom of association is not merely formal but also substantive in realizing industrial justice.

In practice, ideal industrial relations require a balance among the three main stakeholders: workers, employers, and the government. The government acts as a regulator and facilitator, ensuring that labor laws are enforced fairly.³ Entrepreneurs act as employers and production partners,⁴ meanwhile, workers are the key players in the production process, providing labor, skills, and tangible contributions to economic growth.⁵ These three actors form a dynamic industrial relations triangle, in which the presence of labor unions is key to maintaining a balance of power and interests among them. Without strong and independent labor unions, industrial relations tend to be subordinate in nature, with workers occupying the weakest position in the negotiation and decision-making processes. However, the state of industrial relations in Indonesia to date still reveals structural inequalities between workers and employers. These inequalities are reflected in the low minimum wage levels in some regions, high rates of unilateral layoffs, and weak enforcement of laws regarding violations of workers' rights. In this context, the role of labor unions becomes crucial as a platform for collective struggle to fight for justice, correct structural inequalities, and strengthen workers' bargaining power in relation to employers and the state.⁶

² Arif Havas Oegroseno, "Undang-Undang Republik Indonesia Nomor 12 Tahun 2005 Tentang Pengesahan International Covenant on Civil and Political Rights/ICCPR (Kovenan Internasional Tentang Hak-Hak Sipil Dan Politik)," *Indonesian Journal of International Law* 4, no. 1 (2021), <https://doi.org/10.17304/ijil.vol4.1.136>.

³ Zulkarnaen, "Hukum Pengupahan Undang-Undang Cipta Kerja (UUCK) Dan Keinginan Semua Pihak Dalam Hubungan Industrial."

⁴ Ida Bagus Kade Putra Manuaba and Ida Ayu Sadnyini, "Perlindungan Dan Upaya Hukum Bagi Pekerja Karena Pemutusan Hubungan Kerja Sepihak," *Analisis Hukum* 1, no. 1 (2018): 52–66, <http://journal.undiknas.ac.id/index.php/JAH/index>.

⁵ Firdausi Dhulhijjahyani, Sjamsiar Sjamsuddin, and Mohammad Nuh, "MANAJEMEN KONFLIK DALAM PENYELESAIAN PERMASALAHAN HUBUNGAN INDUSTRIAL (Studi Dalam Bidang Hubungan Industrial Dinas Tenaga Kerja Kabupaten Pasuruan)," *Profit* 14, no. 01 (2020): 32–41, <https://doi.org/10.21776/ub.profit.2020.014.01.4>.

⁶ Ricky Chrisandi Gunawan and Spto Hermawan, "Pelaksanaan Perlindungan Pekerja Dalam Keselamatan Dan Kesehatan Kerja Di PT Tun Hong Garment Indonesia," *Jurnal Discretie* 1, no. 3 (2020): 161–71, <https://doi.org/10.20961/jd.v1i3.50241>.

The evolution of industrial relations in the era of globalization and digitalization has also presented new challenges for labor unions. The emergence of flexible work arrangements, the digital economy, and outsourcing has transformed traditional employment relationships into more complex ones. Many workers have shifted to short-term contract work, freelance work, or digital platform-based work, where they lack adequate legal protections.⁷ These conditions necessitate that labor unions adapt by adopting new approaches, both in terms of advocacy strategies and in expanding their membership to include informal and non-traditional workers. Without innovation and institutional reform, labor unions risk losing their relevance in the face of changes in the modern economic and labor market structures.

From a legal theory perspective, the existence of labor unions can be understood as an embodiment of the theories of distributive and commutative justice as articulated by Aristotle and later developed by John Rawls. Within the framework of industrial relations, distributive justice emphasizes the proportional distribution of workers' economic and social rights, while commutative justice demands equality in the relationships between interacting parties. John Rawls (1971) in *A Theory of Justice* asserts that social justice must be built on the principles of "fair equality of opportunity" and the "difference principle"-that is, inequality is only justifiable if it benefits the most disadvantaged. Labor unions serve as the primary instrument to ensure that workers, as a vulnerable group, receive protection and fair opportunities within the economic and social system.⁸

Furthermore, the role of labor unions can also be analyzed through the industrial relations pluralism theory as proposed by John T. Dunlop, which positions labor unions as one of the key subsystems within the national industrial relations system. In this theory, industrial relations are viewed as the result of interactions among social actors (workers, employers, and the government) governed by a set of formal and informal rules. Dunlop emphasizes that systemic balance can only be achieved if each actor has equal opportunities for participation in the decision-making process.⁹ Thus, strengthening the role of labor unions is a crucial step in maintaining the stability and sustainability of Indonesia's industrial relations system.

Nevertheless, the effectiveness of labor unions is often hindered by a number of internal and external factors. Internal factors include low managerial capacity, inadequate legal education for members and leaders, and organizational fragmentation resulting from the proliferation of labor unions operating without effective coordination. External factors, meanwhile, include political pressure, employer intervention, and inconsistent government policies that do not yet fully favor workers. The fragmentation of the labor movement in Indonesia has also led to weak solidarity among unions, making it difficult to build collective

⁷ Suyoko Suyoko and Mohammad Ghufon AZ, "Tinjauan Yuridis Terhadap Sistem Alih Daya (Outsourcing) Pada Pekerja Di Indonesia," *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 99–109, <https://doi.org/10.26905/idjch.v12i1.5780>.

⁸ Dhulhijjahyani, Sjamsuddin, and Nuh, "MANAJEMEN KONFLIK DALAM PENYELESAIAN PERMASALAHAN HUBUNGAN INDUSTRIAL (Studi Dalam Bidang Hubungan Industrial Dinas Tenaga Kerja Kabupaten Pasuruan)."

⁹ Nindry Sulistya Widiastiani, "EKSISTENSI SERIKAT PEKERJA/SERIKAT BURUH SEBAGAI SUBJEK HUKUM DALAM LINGKUP HUKUM KETENAGAKERJAAN INDONESIA," *Jurnal Ilmu Hukum* 10, no. 1 (2021): 113, <https://doi.org/10.30652/jih.v10i1.8047>.

strength in advocating for pro-worker policies at the national level.¹⁰ As a result, labor unions' efforts are often fragmented across sectoral issues without a comprehensive strategic direction.

In this context, it is important to revisit the ideal functions of labor unions as stipulated in Article 4 of Law No. 21 of 2000 on Labor Unions, namely as a channel for expressing aspirations, a defender of rights, and a partner to employers in fostering harmonious, dynamic, and equitable industrial relations. Labor unions do not merely serve as tools for economic struggle but also as instruments of industrial democracy, functioning to oversee the implementation of labor standards and uphold the principles of social justice. Through this role, the law has, by its very nature, granted labor unions a clear and robust legal standing as an integral part of the labor law system, which is oriented toward collective well-being and the protection of human rights in the workplace.

However, the legal issue that is the focus of this study does not lie in the weaknesses of the provisions set forth in Article 4 of the Trade Union Law. Textually and systematically, these provisions clearly define the functions, status, and scope of action of trade unions. The legal problem arises at the level of implementation, namely the gap between normative regulations and actual industrial relations practices in the field. In practice, obstacles to union formation, union-busting practices, weak bargaining power in collective bargaining, and suboptimal government oversight and law enforcement are still encountered. These conditions indicate that the primary issue does not lie in gaps or ambiguities in the legal provisions, but rather in the effectiveness of their implementation and enforcement in achieving substantive industrial justice.

This study addresses the issue of legal effectiveness—specifically, the extent to which the legal provisions on freedom of association, which have been adequately established in legislation, can actually be implemented to foster fair and balanced industrial relations.

This study aims to conceptually examine the role of labor unions in promoting fairness in industrial relations in Indonesia, with a focus on a normative analysis of legislation and theories of social justice. Through this approach, it is hoped that a conceptual framework can be developed regarding strategies to strengthen the role of labor unions as key actors in building fair, democratic, and sustainable industrial relations.

Based on this normative discussion, the legal problem in this study does not lie in the absence or weakness of legal norms. Legally, freedom of association has been constitutionally guaranteed through Article 28E paragraph (3) of the 1945 Constitution and reinforced through Law No. 21 of 2000 concerning Trade Unions as well as the ratification of ILO Conventions No. 87 and 98. However, in practice, a gap still exists between the norms and their implementation, such as union-busting practices, weak bargaining positions in collective bargaining, and inconsistent government oversight. Thus, this study focuses on the problem of the effectiveness of implementing the norm of freedom of association in realizing substantive industrial justice. Labor unions serve not only as tools for economic struggle but also as

¹⁰ Widiastiani.

instruments of industrial democracy that monitor the implementation of labor norms and uphold the principle of social justice.¹¹

Several studies over the past five years have examined the role of labor unions in the industrial relations system. Saputra, Aldianto, and Al Ghifari (2024)¹² analyze the role of labor unions in preventing and resolving industrial relations disputes at the company level and demonstrate that the effectiveness of unions is greatly influenced by organizational capacity and management support. Uniariny, Nur, and Sulandri (2025)¹³ highlights the role of labor unions in resolving industrial relations disputes in Tangerang City and finds that the success of advocacy efforts depends heavily on internal cohesion and the quality of social dialogue.

Saputra (2025)¹⁴ emphasize the role of labor unions in protecting workers' statutory rights, particularly in cases of wage violations and termination of employment. Meanwhile, Palanikumar and Arumugasamy (2025)¹⁵ examined workers' perceptions of the role of unions in promoting harmonious industrial relations and demonstrated that union legitimacy is a key determinant of the effectiveness of collective bargaining. At the international level, Lupo and Verma (2025)¹⁶ emphasizes that the existence of labor unions and collective bargaining mechanisms significantly contribute to improved compliance with labor standards in the global supply chain.

Although these studies have examined the functions, effectiveness, and contributions of labor unions in industrial relations practice, they generally focus on empirical or managerial aspects and have not explicitly placed the issue of the effectiveness of freedom of association within a normative analytical framework based on distributive justice theory and industrial relations pluralism theory. This study differs in that it explicitly identifies that the main problem in the Indonesian context does not lie in a lack of legal norms, but rather in the gap between the normative guarantee of freedom of association and its implementation in industrial relations practice. Thus, this study offers a conceptual approach that places the effectiveness of the implementation of norms at the core of the legal issue in realizing industrial relations

¹¹ Muhammad Afzulkifli, "Penyelesaian Tunggakan Iuran Dalam Penyelenggaraan Jaminan Sosial Ketenagakerjaan Sebagai Upaya Perlindungan Hukum Terhadap Pekerja," *Lex LATA* 2, no. 2 (2022): 687–708, <https://doi.org/10.28946/lexl.v2i2.707>.

¹² Eka Saputra, Guruh Novan Aldianto, and Muhammad Ikhwan Al Ghifari, "PERAN SERIKAT PEKERJA DALAM PENCEGAHAN DAN PENYELESAIAN PERSELISIHAN HUBUNGAN INDUSTRIAL DI PERUSAHAAN X," *Syntax Literate: Indonesian Scientific Journal p-ISSN: 9*, no. 12 (2024): 7069–77, <https://doi.org/https://doi.org/10.36418/syntax-literate.v9i12.17081>.

¹³ Uniariny, Auliah Ichwan Nur, and Sulandri, "PERAN SERIKAT PEKERJA DALAM MENYELESAIKAN PESELISIHAN HUBUNGAN INDUSTRIAL DI KOTA TANGERANG," *Jurnal Bisnis Dan Manajemen* 7, no. 1 (2025): 75–85, <https://doi.org/https://doi.org/10.32509/jmb.v5i1.5784>.

¹⁴ Renaldi Saputra, "Peran Dan Fungsi Serikat Pekerja Dalam Melindungi Tenaga Kerja Diperusahaan," *Jurnal Teknik, Komputer, Agroteknologi Dan Sains* 4, no. 1 (2025): 20–26, <https://doi.org/https://doi.org/10.56248/marostek.v4i1.109>.

¹⁵ S. Palanikumar and Dr. S. Arumugasamy, "Perception of Employees on Trade Unions in Promoting Industrial Relations," *International Journal of Research in Commerce and Management Studies* 07, no. 02 (2025): 56–67, <https://doi.org/10.38193/ijrcms.2025.7205>.

¹⁶ Luisa LUPU and Anil VERMA, "Do Workplace Unions and Collective Bargaining Matter for Labour Standards Compliance? The Role of Local Industrial Relations in Global Supply Chains," *International Labour Review* 164, no. 2 (2025): 0–22, <https://doi.org/https://doi.org/10.16995/ilr.18841>.

justice.

2. METHOD

This study employs a normative-conceptual legal research method, which focuses on the analysis of positive legal norms, legal principles, and relevant legal doctrines and theories. According to Soerjono Soekanto and Sri Mamudji, normative legal research is conducted by examining literature or secondary data as the primary sources of legal research.¹⁷ This approach is also consistent with the view of Peter Mahmud Marzuki, who states that normative legal research serves to identify legal rules, legal principles, and legal doctrines in order to address the legal issues at hand.¹⁸

The research data sources include primary legal materials, namely Law No. 21 of 2000 on Trade Unions, Law No. 13 of 2003 on Manpower and its implementing regulations, as well as international instruments such as ILO Conventions Nos. 87 and 98. In addition, secondary legal materials were utilized, including books, scientific journal articles, and research findings addressing labor law and theories of social justice, as well as tertiary legal materials encompassing legal dictionaries and relevant official documents.

Data collection was conducted through library research, employing a qualitative-descriptive analysis method to interpret the relationship between legal norms and their application within the context of industrial relations. The analysis involved identifying relevant legal norms, assessing their alignment with principles of justice and the protection of workers' rights, and evaluating the effectiveness of their implementation in industrial relations practice. This study employs the statutory approach and the conceptual approach, as outlined in the methodology of normative legal research.¹⁹

This approach aims to assess the coherence of Indonesia's labor law system while examining the gap between legal norms and their implementation from the perspective of industrial relations pluralism theory and John Rawls's theory of distributive justice.

3. DISCUSSION

3.1 A Normative Framework for the Role of Labor Unions in Achieving Industrial Justice

Labor unions are a vital component of Indonesia's industrial relations system, which is grounded in a robust legal framework at both the national and international levels. Legally, the freedom of association is guaranteed under Article 28E, paragraph (3) of the 1945 Constitution, which affirms every person's right to form associations, assemble, and express opinions. This constitutional provision is further clarified through the Trade Union Law, which provides workers with the freedom to form and join unions and to carry out organizational activities independently without coercion or interference from other parties.²⁰

¹⁷ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)* (Jakarta: Rajawali Press, 2015).

¹⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

¹⁹ Marzuki.

²⁰ Haerudin, Endeh Suhartini, and Edy Santoso, "Analisis Yuridis Keberadaan Perusahaan Outsourcing Dan Hak Pekerja Terkait Sistem Kontrak Berdasarkan Undang-Undang Nomor 13 Tahun 2003," *Jurnal Ilmiah Living Law* 13, no. 1 (2021): 20–34, <https://doi.org/10.30997/jill.v13i1.4200>.

From an international perspective, this legal framework is consistent with ILO Convention No. 87 of 1948 and Convention No. 98 of 1949, which Indonesia has ratified through Presidential Decrees No. 83 of 1998 and No. 34 of 1957.²¹ Both of these conventions affirm that freedom of association is a fundamental right that must be protected as part of human rights in the workplace.

Philosophically, the existence of labor unions is rooted in the principles of social justice and a just and civilized humanity, as enshrined in the second and fifth principles of Pancasila. These principles imply that the relationship between workers and employers must not be based solely on economic interests but must also take into account the values of humanity, justice, and the common good. In this context, the existence of labor unions reflects the spirit of democratization in the labor sector and serves as a manifestation of workers' collective participation in determining their own fate.²²

According to the theory of industrial relations pluralism proposed by John T. Dunlop, the industrial relations system consists of three main actors-workers and their organizations (labor unions), employers and their associations, and the government-who interact within a framework of formal and informal rules.²³ In this context, labor unions serve as a counterbalancing force that prevents the dominance of any single party and ensures fairness in labor relations.

The existence of labor unions is inseparable from the concept of the rule of law (*rechtstaat*), which places the protection of citizens' fundamental rights-including workers' rights-as an integral part of the national legal system. Labor unions play a strategic role in realizing the principle of social justice in the labor sector through dialogue, collective bargaining, and active participation in the public policy-making process.²⁴

This role positions labor unions as collective representatives that not only advocate for economic interests but also play a social and political role in national development. Labor unions play a role in negotiating Collective Bargaining Agreements (CBAs), advocating against labor rights violations, and participating in tripartite bodies alongside the government and employers.²⁵

Trade unions' involvement in Collective Bargaining Agreement negotiations, advocacy regarding violations of statutory rights, and participation in tripartite bodies demonstrate the concrete role of unions within the formal mechanisms of industrial relations. However, the effectiveness of these functions depends heavily on the union's organizational capacity, the

²¹ Harold DUNNING, "The Origins of Convention No. 87 on Freedom of Association and the Right to Organize," *International Labour Review* 137, no. 2 (2006): 149–67.

²² Qamar et al., *Metode Penelitian Hukum (Legal Research Methods)* (Makassar: CV. Social Politic Genius (SIGn), 2017), h. 84.

²³ John Thomas Dunlop, *Industrial Relations Systems*, Southern Illinois University Press, 1958, h. 25.

²⁴ Ida Hanifah, "Peran Dan Tanggung Jawab Negara Dalam Perlindungan Hukum Tenaga Kerja Indonesia Yang Bermasalah Di Luar Negeri," *DE LEGA LATA: Jurnal Ilmu Hukum* 5, no. 1 (2020): 10–23, <https://doi.org/10.30596/dll.v5i1.3303>.

²⁵ Wahab Aznul Hidayat, "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak," *Justisi* 5, no. 2 (2019): 86–96, <https://doi.org/https://doi.org/10.33506/js.v5i2.543>.

quality of its leadership, and a conducive policy environment. Without such support, the strategic role of labor unions risks being reduced to a mere formality, thereby limiting their contribution to national development. Nevertheless, the effectiveness of labor unions' functions is highly dependent on members' legal awareness and the organization's capacity for advocacy. Many labor unions remain reactive, acting only when rights are violated, and have yet to play a strategic role in shaping labor policies.²⁶

Developments in labor relations following the enactment of Law No. 6 of 2023 on the Conversion of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (the Job Creation Law) have created new challenges within Indonesia's labor system. Several provisions in the law are seen as altering the balance of industrial relations by expanding labor flexibility, which has the potential to reduce workers' bargaining power and weaken the role of labor unions in the collective bargaining process.²⁷

In response to these changes in the labor market, labor unions need to undergo a more adaptive and strategic institutional transformation. Strengthening organizational capacity is a key step, whether through improving labor law literacy, negotiation skills, or expertise in economic and industrial issues.²⁸

Labor unions serve as collective agents that represent workers in advocating for their rights before employers and the government. In the context of Aristotle's theory of distributive justice, the role of labor unions is to ensure that the distribution of economic and social benefits in labor relations is carried out proportionally according to the contributions and needs of each party.²⁹ Fairness in industrial relations requires that every worker be treated equally, including in terms of wages, social security, and safe and humane working conditions.

According to John Rawls, the principle of social justice can only be realized if existing social inequalities actually benefit the most vulnerable group—in this case, workers.³⁰ Trade unions thus serve as a corrective mechanism against imbalanced economic power structures, through collective bargaining, mediation, or arbitration in the resolution of industrial disputes.

In Indonesia, this role is realized through various formal mechanisms, including the establishment of Collective Labor Agreements (CLAs) and Bipartite Cooperation Bodies (BCBs), as regulated in Articles 119 through 126 of the Labor Law. Through these forums, labor unions not only play a role in advocating against rights violations but also serve as partners in

²⁶ Widiastiani, "EKSISTENSI SERIKAT PEKERJA/SERIKAT BURUH SEBAGAI SUBJEK HUKUM DALAM LINGKUP HUKUM KETENAGAKERJAAN INDONESIA."

²⁷ Zulkarnaen, "Hukum Pengupahan Undang-Undang Cipta Kerja (UUCK) Dan Keinginan Semua Pihak Dalam Hubungan Industrial."

²⁸ Setiadi Setiadi, Henny Ekawati, and Fadlan Habib, "Pelatihan Dan Pendampingan Bagi Peningkatan Kapasitas Aparat Dan Institusi Desa Dalam Perencanaan Dan Implementasi Pembangunan," *Bakti Budaya* 3, no. 2 (2020): 149, <https://doi.org/10.22146/bb.60463>.

²⁹ Dhulhijjahyani, Sjamsuddin, and Nuh, "MANAJEMEN KONFLIK DALAM PENYELESAIAN PERMASALAHAN HUBUNGAN INDUSTRIAL (Studi Dalam Bidang Hubungan Industrial Dinas Tenaga Kerja Kabupaten Pasuruan)."

³⁰ John Rawls, *A Theory of Justice*. Rawls (Cambridge: Harvard University Press, 1971), h. 75.

formulating labor policies at the company level.³¹

However, in practice, the effectiveness of labor union representation is often hampered by limited resources and weak solidarity among members. This situation is further exacerbated by the fragmentation of labor unions across various industrial sectors, which leads to poor coordination in advocating for national policies that favor workers.³²

The concept of distributive justice in industrial relations emphasizes the importance of a proportional distribution of economic and social benefits among workers, employers, and the state.³³ In this context, labor unions play a fundamental role as agents of distributive justice, bridging the gap between the interests of capital and labor. According to Aristotle, distributive justice requires that each individual receive a share commensurate with their contribution to society.

According to John Rawls, the principle of social justice requires fair equality of opportunity, in which every individual has an equal chance to improve their well-being.³⁴ In the context of industrial relations, this opportunity can only be realized if labor unions have sufficient power to advocate against policies that harm workers. Labor unions serve to correct these inequalities through collective bargaining and active participation in national, provincial, and district/municipal tripartite bodies.³⁵

This model of social dialogue shares similarities with the industrial relations systems in several developed countries. In Germany, for example, the concept of *Mitbestimmung* (co-determination) grants labor unions the right to sit on company supervisory boards and participate in strategic decision-making.³⁶ Meanwhile, in Australia, labor unions play an active role in the Fair Work Commission, which ensures protections for workers by overseeing employment contracts and minimum wage standards.³⁷ Lessons from international practices show that the success of industrial relations depends heavily on the extent to which labor unions are given meaningful opportunities to participate in labor policy. Thus, labor unions serve not only as advocacy tools but also as pillars of economic democracy that ensure substantive justice between capital and labor.³⁸

Normatively, the status of labor unions within Indonesia's industrial relations system has a strong legal foundation at both the constitutional and statutory levels. Article 28E, paragraph

³¹ Rai Mantili, "Konsep Penyelesaian Perselisihan Hubungan Industrial Antara Serikat Pekerja Dengan Perusahaan Melalui Combined Process (Med-Arbitrase)," *Jurnal Bina Mulia Hukum* 6, no. 1 (2021): 47–65, <https://doi.org/10.23920/jbmh.v6i1.252>.

³² Beni Ahmad Saebani, Syamsul Falah, and Maman Abd. Djaliel, *Hukum Perdata Islam Di Indonesia* (Bandung: CV Pustaka Setia, 2011), h. 92.

³³ Manuaba and Sadnyini, "Perlindungan Dan Upaya Hukum Bagi Pekerja Karena Pemutusan Hubungan Kerja Sepihak."

³⁴ Rawls, *A Theory of Justice*. Rawls, h. 72-75.

³⁵ Qamar et al., *Metode Penelitian Hukum (Legal Research Methods)*, h. 88.

³⁶ Wolfgang Streeck, *Social Institutions and Economic Performance: Studies of Industrial Relations in Advanced Capitalist Economies* (London: Sage, 1992), h. 121-122.

³⁷ Anthony Forsyth and Breen Creighton, *Rediscovering Collective Bargaining: Australia's Fair Work Act in International Perspective* (London: Routledge, 2014), 97-98.

³⁸ A. Sakti R.S. Rakia, "Kewenangan Khusus Majelis Rakyat Papua Terhadap Pembentukan Perdasus," *JUSTISI* 7, no. 1 (2019): 14–25, <https://doi.org/https://doi.org/10.33506/js.v7i1.1168>.

(3) of the 1945 Constitution of the Republic of Indonesia guarantees every person's right to form associations and assemble. This guarantee establishes freedom of association as a human right that must be protected by the state within the framework of the rule of law.

These provisions are clarified in Law No. 21 of 2000 on Labor Unions. Article 4 of the law states that labor unions serve as a channel for expressing the aspirations of members, as defenders of their rights and interests, and as partners in fostering harmonious, dynamic, and equitable industrial relations. Thus, legally, Indonesian law has established labor unions as formal institutions that play a role in maintaining a balance in the relationship between workers and employers. As Widiastiani noted, labor unions within Indonesia's labor law system have been recognized as legal entities with the legitimacy to advocate for their members' interests in employment relationships.³⁹

In a broader context, Law No. 13 of 2003 on Manpower also regulates the role of labor unions in the formation of Collective Bargaining Agreements (CBAs) as well as in the mechanism for resolving industrial relations disputes. This indicates that Indonesia's labor law system has provided an institutional framework for labor unions to actively participate in the negotiation process and the protection of workers' rights.

Internationally, this guarantee of freedom of association is consistent with ILO Convention No. 87 of 1948 concerning Freedom of Association and Protection of the Right to Organize, and ILO Convention No. 98 of 1949 concerning the Right to Organize and Collective Bargaining, both of which have been ratified by Indonesia. These two conventions affirm that freedom of association is a fundamental right that serves as a prerequisite for the establishment of social dialogue and fair collective bargaining.⁴⁰

According to John T. Dunlop's theory of industrial relations pluralism, the industrial relations system consists of three main actors-workers and their organizations, employers and their associations, and the government-who interact within a shared regulatory framework.⁴¹ In this system, labor unions serve as a balancing power to prevent one-sided dominance in labor relations. Without independent worker organizations, industrial relations risk creating power imbalances that disadvantage workers. Meanwhile, from an external perspective, political pressure and employer intervention remain major obstacles to the exercise of freedom of association. Many companies engage in union busting practices-systematic efforts to weaken or dissolve labor unions through the dismissal of union officials, changes in workers' employment status, or the formation of rival unions.⁴²

From the perspective of social justice, the existence of labor unions can also be analyzed through John Rawls's theory of justice, which asserts that social and economic inequality is

³⁹ Widiastiani, "EKSISTENSI SERIKAT PEKERJA/SERIKAT BURUH SEBAGAI SUBJEK HUKUM DALAM LINGKUP HUKUM KETENAGAKERJAAN INDONESIA."

⁴⁰ Harold DUNNING, "The Origins of Convention No. 87 on Freedom of Association and the Right to Organize."

⁴¹ Dunlop, *Industrial Relations Systems*.

⁴² Andika Prawira Buana et al., "Responsibility Parking Service Business to The Protection Of Consumer Of The Parking Services in Makassar" (Center for Open Science, 2018), h. 23-32.

justified only if it benefits the least advantaged.⁴³ In the context of industrial relations, workers often find themselves in a weaker bargaining position than employers. Therefore, from a normative perspective, labor unions serve as a corrective mechanism to strengthen workers' position so that the distribution of economic benefits within labor relations is more equitable.

Based on the constitutional framework, national laws, international standards, and the aforementioned theoretical foundations, it can be asserted that the normative framework regarding the role of labor unions in achieving industrial justice in Indonesia is fundamentally adequate. Thus, if in practice inequalities or injustices in industrial relations are still found, the issue does not lie solely in the absence of norms, but requires further analysis regarding the effectiveness of their implementation.

However, the adequacy of this normative framework does not automatically guarantee the realization of substantive industrial justice. Legal norms are essentially prescriptive in nature, meaning they provide guidelines on how labor relations should proceed. However, the effectiveness of these norms is heavily determined by the surrounding social, economic, and political conditions. In the context of industrial relations, the relationship between workers and employers is shaped not only by legal rules but also by economic power structures that, in practice, often place workers in a more vulnerable position.

From this perspective, the norm of freedom of association serves as a corrective instrument against structural inequalities in labor relations. However, if this instrument is not supported by effective law enforcement mechanisms and an industrial relations culture that respects workers' collective rights, freedom of association risks being reduced to a mere formal guarantee. This means that the existence of a norm does not automatically result in balanced relations; rather, it requires institutional conditions that allow the norm to function optimally.

Furthermore, the normative framework for labor unions within Indonesia's legal system fundamentally reflects a pluralistic model of industrial relations, where conflicts of interest between workers and employers are recognized as natural and must be managed through negotiation mechanisms. Within this framework, the law is not intended to eliminate conflict, but to provide fair procedures for resolving it. Therefore, the role of labor unions is not merely understood as an administrative complement within the labor system, but as a central actor in the process of institutionalizing justice.

Thus, an analysis of this normative framework reveals that, by legal design, Indonesia has positioned labor unions as a crucial pillar within the architecture of industrial relations. However, the effectiveness of this design hinges heavily on the extent to which the norm of freedom of association can be operationalized in practice. This point then becomes the focus of the analysis in the following section, namely regarding the problem of the effectiveness of the implementation of freedom of association in realizing industrial relations justice.

3.2 Challenges in the Effective Implementation of Freedom of Association in Achieving Industrial Justice

Despite having a strong legal foundation, the effectiveness of labor unions in Indonesia

⁴³ Rawls, *A Theory of Justice*. Rawls.

still faces various obstacles, both internal and external. Internally, most labor unions still suffer from limited organizational capacity, a lack of legal and organizational management training, and a reliance on charismatic leaders. Organizational fragmentation is also a serious problem; there are reportedly more than 100 labor union confederations and federations at the national level, which leads to weak coordination and solidarity in advocating for shared strategic issues.⁴⁴

Meanwhile, from an external perspective, political pressure and interference by employers remain the main obstacles to the exercise of freedom of association. Many companies engage in union busting-systematic efforts to weaken or dissolve labor unions through the dismissal of union officials, changes in workers' employment status, or the formation of rival unions.⁴⁵

In addition, changes in the economic structure resulting from globalization and digitalization have also created new challenges for the labor union movement. The rise of platform-based work (the gig economy), such as online ride-hailing services and digital freelancers, has created new issues because workers in this sector do not have formal employment relationships as defined by labor laws. This situation leaves many workers without protection of their rights and makes it difficult for them to organize.⁴⁶

Meanwhile, in Japan, the industrial relations system is known as enterprise unionism, in which labor unions are formed at the company level and maintain harmonious relations with management.⁴⁷ Labor unions in Japan focus on improving productivity and well-being through mechanisms of consultation and ongoing cooperation. While this model tends to minimize the potential for conflict, it can also create the risk of unions becoming overly dependent on company policies.

In contrast, in the United States, the industrial relations system places greater emphasis on adversarial bargaining, in which labor unions serve as the primary negotiators in determining wages and working conditions through collective bargaining agreements.⁴⁸ Although effective in wage negotiations, this model tends to lead to polarization between workers and employers. In the Indonesian context, an ideal system should combine participatory values—as seen in Germany and Japan—with strong advocacy—as seen in the United States—to strike a balance between cooperation and the protection of rights.⁴⁹

The government plays a vital role as a regulator, facilitator, and mediator in maintaining a balanced industrial relations environment. As a regulator, the government is responsible for

⁴⁴ Widiastiani, "EKSISTENSI SERIKAT PEKERJA/SERIKAT BURUH SEBAGAI SUBJEK HUKUM DALAM LINGKUP HUKUM KETENAGAKERJAAN INDONESIA."

⁴⁵ Andika Prawira Buana et al., "Responsibility Parking Service Business to The Protection Of Consumer Of The Parking Services in Makassar" (Center for Open Science, 2018), h. 23-32.

⁴⁶ Widiastiani, "EKSISTENSI SERIKAT PEKERJA/SERIKAT BURUH SEBAGAI SUBJEK HUKUM DALAM LINGKUP HUKUM KETENAGAKERJAAN INDONESIA."

⁴⁷ Hiromasa Suzuki, Katsuyuki Kubo, and Kazuya Ogura, "Employment Relations in Japan," in *International and Comparative Employment Relations* (London, 2020), 237–65, <https://doi.org/10.4324/9781003116158-10>.

⁴⁸ Richard B. Freeman and James L. Medoff, *What Do Unions Do?* (New York: Basic Books, 1984), h. 41-42.

⁴⁹ Qamar et al., *Metode Penelitian Hukum (Legal Research Methods)*, h. 102.

establishing legal standards that safeguard workers' rights and employers' obligations.⁵⁰ In this context, the government-through the Ministry of Manpower of the Republic of Indonesia and national tripartite bodies-is expected to take a proactive role by providing technical support, facilitating union education, and expanding opportunities for social dialogue.⁵¹

The role of labor unions in promoting fairness in industrial relations has significant normative implications for the development of national labor law. Labor unions not only serve as a vehicle for advocating for workers' rights, but also as legal entities that help shape public policy in the field of labor.⁵²

The existence of labor unions reinforces the principle of the rule of law in the labor sector by promoting the enforcement of human rights in the workplace. Labor unions also serve as a manifestation of economic democracy, in which a balance between the interests of workers and employers is achieved through social dialogue, rather than the dominance of one party.⁵³

Although the legal framework governing freedom of association and the role of labor unions in Indonesia is adequate, industrial relations practices reveal a gap between legal norms and their implementation. The primary legal issue in this study does not lie in the absence of legal regulations, but rather in the effectiveness of implementing the norms of freedom of association in labor relations practices.

Several empirical studies indicate that the representative functions of labor unions have not yet been fully realized. Saputra, Aldianto, and Al Ghifari (2024), in their study at the firm level, found that the effectiveness of labor unions is significantly influenced by organizational capacity, leadership quality, and structural support from the work environment.⁵⁴ When an organization's capacity is weak, the role of unions tends to be reactive and limited to conflict resolution rather than the formulation of strategic industrial relations policies.

Similar findings were reported by Uniariny, Nur, and Sulandri (2025), who noted that in the practice of resolving industrial relations disputes, the success of advocacy depends heavily on the union's internal cohesion and its negotiating skills within the tripartite forum.⁵⁵ This indicates that although the regulations have provided opportunities for participation, their effectiveness depends on the institutional strength of the labor union itself.

In addition to internal factors, external challenges also affect the effectiveness of freedom of association. Saputra (2025) asserts that in a number of cases involving violations of statutory rights, such as unilateral termination of employment and wage violations, the bargaining position of labor unions remains relatively weak.⁵⁶ This situation indicates that legal safeguards have not yet been fully accompanied by consistent law enforcement.

⁵⁰ Saebani, Falah, and Djaliel, *Hukum Perdata Islam Di Indonesia*, h. 88.

⁵¹ Qamar et al., *Metode Penelitian Hukum (Legal Research Methods)*, h. 89.

⁵² Qamar et al, h. 109.

⁵³ Rawls, *A Theory of Justice*. Rawls, h. 85.

⁵⁴ Saputra, Aldianto, and Ghifari, "PERAN SERIKAT PEKERJA DALAM PENCEGAHAN DAN PENYELESAIAN PERSELISIHAN HUBUNGAN INDUSTRIAL DI PERUSAHAAN X."

⁵⁵ Uniariny, Nur, and Sulandri, "PERAN SERIKAT PEKERJA DALAM MENYELESAIKAN PESELISIHAN HUBUNGAN INDUSTRIAL DI KOTA TANGERANG."

⁵⁶ Saputra, "Peran Dan Fungsi Serikat Pekerja Dalam Melindungi Tenaga Kerja Diperusahaan."

In the context of regulatory changes brought about by Law No. 6 of 2023 on Job Creation, the increased flexibility in employment relationships-such as the expansion of fixed-term employment contracts and the outsourcing system-also has implications for workers' bargaining power. Suyoko and Ghufroon (2021) demonstrate that the outsourcing system has the potential to weaken worker protections if not accompanied by strict oversight.⁵⁷ Similarly, Haerudin and Santoso (2021) highlight the issue of employment contracts, which can affect the stability of employment relationships and the sustainability of union representation.⁵⁸ In an increasingly flexible employment landscape, the ground on which labor unions operate has become more vulnerable.

From an international perspective, Lupo and Verma (2025) demonstrate that the presence of labor unions and collective bargaining mechanisms significantly improves compliance with labor standards in global supply chains.⁵⁹ These findings reinforce the argument that trade unions play a crucial institutional role in fostering industrial justice. However, this effectiveness can only be achieved with consistent regulatory support and enforcement.

Thus, it can be concluded that the primary challenge in achieving industrial justice in Indonesia does not lie in the inadequacy of the legal framework for freedom of association, but rather in the problem of implementation effectiveness-which includes weak union organizational capacity, fragmentation of the labor movement, labor market flexibility that is not balanced by adequate protections, and the suboptimal functioning of state oversight. As long as this gap between norms and practice remains unaddressed, freedom of association risks becoming a formal guarantee that has not yet fully yielded substantive justice in industrial relations.

Furthermore, the issue of the effectiveness of freedom of association in the Indonesian context cannot be separated from the dynamics of power relations within the national economic structure. In labor relations, workers are in a position of economic dependence on employers as capital owners and employers. Sociologically, this dependence creates psychological and structural barriers for workers to actively exercise their right to organize. Thus, although legal norms provide formal protection, economic pressures and the risk of job loss often limit workers' courage to actively participate in union organizations.

Furthermore, the fragmentation of labor union organizations contributes to the weakness of collective bargaining power. The existence of numerous federations and confederations with interests that do not always align leads to fragmented advocacy on labor policies. This situation results in a weak bargaining position in the formulation of public policy as well as in collective bargaining at the company level. Conceptually, the strength of labor unions is highly dependent on collective solidarity; when that solidarity is fragmented, the

⁵⁷ Suyoko and Ghufroon AZ, "Tinjauan Yuridis Terhadap Sistem Alih Daya (Outsourcing) Pada Pekerja Di Indonesia."

⁵⁸ Haerudin, Suhartini, and Santoso, "Analisis Yuridis Keberadaan Perusahaan Outsourcing Dan Hak Pekerja Terkait Sistem Kontrak Berdasarkan Undang-Undang Nomor 13 Tahun 2003."

⁵⁹ LUPU and VERMA, "Do Workplace Unions and Collective Bargaining Matter for Labour Standards Compliance? The Role of Local Industrial Relations in Global Supply Chains."

effectiveness of their representative functions also weakens.

From a law enforcement perspective, implementation issues are also linked to the capacity and independence of labor inspection agencies. Inconsistent oversight and limited administrative resources mean that violations of the right to organize are not always dealt with decisively. Under such conditions, the norm of freedom of association loses its enforceability, which should be a fundamental characteristic of the law. Without effective sanction mechanisms, legal norms tend to become mere normative declarations lacking the power to bring about social transformation.

Furthermore, the shift in the labor policy paradigm toward emphasizing labor market flexibility also has implications for the position of labor unions. While labor market flexibility is intended to enhance economic competitiveness, if not balanced by strengthened collective protections, such policies risk weakening workers' bargaining power. In this context, industrial relations justice must be understood as a balance between economic efficiency and the protection of social rights. When policy orientation leans more toward flexibility without strengthening collective institutions, this balance is disrupted. Thus, the problem of the effectiveness of freedom of association is not merely normative or administrative, but also structural and policy-related. Industrial relations justice cannot be achieved solely through the existence of regulations but requires synergy between legal norms, the institutional capacity of unions, workers' collective solidarity, and the state's commitment to ensuring substantive protection of rights. Without the integration of these four elements, freedom of association will remain confined to the formal realm and will not fully function as a corrective instrument against industrial relations inequalities.

4. CONCLUSION

Based on the normative discussion and implementation analysis presented above, it is evident that Indonesia's labor law system has, in concept, provided a sufficient framework to guarantee freedom of association and the strategic role of labor unions in industrial relations. However, the effectiveness of these norms still faces structural and institutional challenges that result in a gap between legal regulations and on-the-ground practices. Thus, the main issue in realizing industrial relations justice does not lie in a lack of legal norms, but rather in the consistency of law enforcement, the institutional capacity of labor unions, and the state's commitment to ensuring substantive protection of freedom of association. These findings underscore that efforts to strengthen the role of labor unions must focus on improving implementation aspects so that industrial relations justice can be effectively realized.

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