

TRIPARTITE DIFFICULTIES IN INDONESIAN INDUSTRIAL RELATIONS CREATING HARMONY

DIFICULDADES TRIPARTITES NAS RELAÇÕES INDUSTRIAIS INDONÉSIAS CRIANDO HARMONIA

Article received on: 7/18/2025

Article accepted on: 9/20/2025

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The authors declare that there is no conflict of interest

Abstract

The task of the Indonesian state is not only to create jobs, but the state must also ensure that in every employment relationship, all parties, especially workers/laborers, receive a decent standard of living as human beings and are treated fairly. A common problem faced in the business world is that employees' rights are not granted in accordance with regulations and the 1945 Constitution, namely the right to a decent standard of living and income. This research was conducted based on the numerous problems between entrepreneurs, the government, and employees. The data used to address the problem is collected using a legal approach and a case study approach. The research results explain that the characteristics of the employment relationship in Indonesia are still in the form of a subordinate relationship between employers and workers, one of the reasons being the still unbalanced bargaining power of workers.

Keywords: Tripartite. Indonesian Industrial Relations Creating. Harmony.

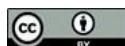
Resumo

A tarefa do estado indonésio não é apenas criar empregos, mas o estado também deve garantir que, em cada relação de emprego, todas as partes, especialmente os trabalhadores/empregados, recebam um padrão de vida digno como seres humanos e sejam tratados de forma justa. Um problema comum enfrentado no mundo dos negócios é que os direitos dos empregados não são concedidos de acordo com as regulamentações e a Constituição de 1945, nomeadamente o direito a um padrão de vida e renda dignos. Esta pesquisa foi conduzida com base nos inúmeros problemas entre empresários, o governo e os funcionários. Os dados utilizados para abordar o problema foram coletados por meio de uma abordagem legal e uma abordagem de estudo de caso. Os resultados da pesquisa explicam que as características da relação de emprego na Indonésia ainda estão na forma de uma relação subordinada entre empregadores e trabalhadores, sendo uma das razões o poder de barganha ainda desequilibrado dos trabalhadores.

Palavras-chave: Tripartite. Industrial Indonésio. Criação de Relações. Harmonia.

1 INTRODUCTION

Industrial relations are a system of relationships formed between the actors in the



process of producing goods and/or services, consisting of employers, workers/laborers, and the government, based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. From the definition of industrial relations, it appears there are three parties involved: workers/laborers, employers, and the government. This indicates government intervention in the relationship between workers and employers ¹. In this case, the state is represented by the government as an instrument of society that has the power to regulate human relations within society.

Based on this, the Indonesian government, as the holder of state power, needs to create a specific regulation to protect workers in Indonesia. This protection is expected to ensure the continuity of harmonious working relationships without pressure from the strong against the weak ². On the other hand, Indonesia's industrial relations system adheres to an economic democracy system with a welfare state model. This is reinforced by the formulation of Article 27 paragraph (2) jo. Article 28 D paragraph (2) of the 1945 Constitution, which states that every citizen has the right to work and a decent standard of living for humanity, and every person has the right to work and receive fair and decent compensation and treatment in employment relationships.

Therefore, based on these two articles, the task of the Indonesian state is not only to create jobs, but the state must also ensure that in every employment relationship, all parties, especially workers, receive a decent standard of living as human beings and are treated fairly. In principle, the protection of workers in labour law is very crucial because this protection is expected to guarantee the basic rights of workers, provide equal opportunities, and ensure fair treatment to achieve the welfare of workers while still considering the development and progress of the company/workplace³. Thus, the government directly bears the responsibility for realising the welfare of workers through the formation of legal regulations that also protect workers but still take into account the business climate.

In addition to protecting workers/laborers, the government also needs to pay

¹ Ann D. Velenchik, "Government Intervention, Efficiency Wages, and the Employer Size Wage Effect in Zimbabwe," *Journal of Development Economics* 53, no. 2 (August 1997): 305–38, [https://doi.org/10.1016/S0304-3878\(97\)00019-9](https://doi.org/10.1016/S0304-3878(97)00019-9).

² Mary E. Gallagher and Baohua Dong, "» Legislating Harmony «," *Sarosh Kuruvilla/Ching Kwan Lee/Mary E. Gallagher (Hg.), From Iron Rice Bowl to Informalization. Mar-Kets, Workers, and the State in a Changing China*, Ithaca, 2011, 36–60.

³ Valerio De Stefano and Antonio Aloisi, "Fundamental Labour Rights, Platform Work and Human Rights Protection of Non-Standard Workers," in *Research Handbook on Labour, Business and Human Rights Law* (Edward Elgar Publishing, 2019), <https://doi.org/10.4337/9781786433114.00033>.

attention to labour development. The development referred to is the development of a prosperous, just, and prosperous Indonesian society in all aspects. This development requires the involvement of the state, entrepreneurs, and workers/laborers so that it can be implemented in an integrated manner through mutually supportive collaboration ⁴. The Labour Law itself is a standard rule for workers/laborers and employers, with the aim of ensuring an equal business process involving both parties. The purpose of enacting the Labour Law is to achieve social justice, especially in the field of labour, and to protect workers with limited power from the arbitrariness of employers.

Business owners, as stakeholders in the company's sustainability, have responsibilities as leaders and an orientation towards earning profits in proportion to the capital invested ⁵. Workers have an interest in the company as a source of income and livelihood, while the government has an interest in the company's sustainability in relation to economic growth at both the regional and national levels. Therefore, as explained above, the position of the employer as the capital owner becomes dominant and the worker/laborer becomes subordinate ⁶. If we look at the role of the worker/laborer, they are in a position below the employer. This situation provides opportunities for the stronger party to exploit the interests of the workers/laborers for the benefit of the employer, which will affect the fulfilment of the workers'/laborers' rights.

Therefore, the most fundamental regulation in an employment relationship concerns the regulation of rights and obligations between the employer and the employee. Clarity regarding rights and obligations is a crucial condition of employment, essential for providing certainty and serving as a guarantee of protection, particularly for workers ⁷. Clear rights and obligations foster trust between the parties, which in turn boosts productivity and well-being. In this case, the rights and obligations of workers/laborers,

⁴ Adnan Hamid and Adilla Meytiara Intan, "Legal Protection for Informal Sector Workers in Employment Development in Indonesia: Challenges and Opportunities.," *International Journal of Research in Business & Social Science* 13, no. 5 (2024).

⁵ Alice Klettner, Thomas Clarke, and Martijn Boersma, "The Governance of Corporate Sustainability: Empirical Insights into the Development, Leadership and Implementation of Responsible Business Strategy," *Journal of Business Ethics* 122, no. 1 (June 29, 2014): 145–65, <https://doi.org/10.1007/s10551-013-1750-y>.

⁶ Bambang Utoyo, Ramlani Lina Sinaulan, and Marsha Angelina Utoyo Sinaulan, "The Working Relationship Between Employers And Workers Is Based On A Work Agreement, Elements Of Wages And Elements Of Orders Reviewed From Business Legal Protection," *European Journal of Research Development and Sustainability* 3, no. 9 (n.d.): 109–16.

⁷ Wandi Wandi, "The Ideal Arrangement of Legal Protection for Informal Sector Workers in the Perspective of the Principles of Legal Certainty, Justice and Expediency," *International Journal of Law Reconstruction* 7, no. 2 (2023): 141–63.

employers, and the government, as regulated by the Indonesian state in conducting industrial relations, will be detailed.

2 METHOD

This research was conducted based on the numerous problems between entrepreneurs, the government, and employees. The data used to address the problem is collected using a legal approach and a case study approach. The data collected consists of interview results from relevant parties, cases that have been decided by the court, and regulations that govern problem resolution. This data is then analysed in depth to find solutions to the existing problems

3 DISCUSSION

3.1 Tripartite legal obstacles in creating harmonious industrial relations in Indonesia

Industrial relations are expected to run harmoniously, meaning that a balanced, harmonious, and synchronised relationship is maintained, leading to a peaceful working and business environment. In addition, the minimal conflict between workers/laborers and employers is also a prerequisite for achieving harmonious relations. However, in practice, achieving a harmonious relationship is not easy. The initial imbalance in the positions of the parties can be said to be a trigger for industrial relations conflicts⁸. The situation of workers/laborers, who are often at a weaker level compared to employers, results in their inability to negotiate with employers, while employers, as capital owners, have sufficient strength.

From historical experience, it is realised that the colour of the conflict underlying the philosophy and processes of industrial relations essentially arises from the determination of the actors to absolutely achieve their respective interests. This attitude clearly contradicts the Pancasila philosophy, which desires the wholeness and balance, awareness and harmony of each industrial actor⁹. This is where the government

⁸ Walter Korpi and Michael Shalev, "Strikes, Industrial Relations and Class Conflict in Capitalist Societies," *The British Journal of Sociology* 30, no. 2 (1979): 164–87.

⁹ Moh Gufron Eramansyah and Masduki Asbari, "Pancasila as an Industrial Development Paradigm," *Journal of Information Systems and Management (JISMA)* 1, no. 6 (2022): 24–30.

deliberately intervenes to mediate unequal relationship patterns so that the desired harmony can be enjoyed by both workers/laborers and employers. This subsection outlines the obstacles in maintaining the tripartite relationship that have prevented the realisation of industrial harmony.

a) Job Creation and Investment Climate Law

In the standard economic cycle that has been believed until now, economic activity is driven by two axes: investment and savings. Economic growth is only possible if there is investment, because with investment, two things are achieved simultaneously:

- 1) Investment creates demand for labour and thus generates purchasing power due to the income levels (wages) received by workers (demand side);
- 2) Investment produces goods/services that are put into the market, and this forms the basis of national income/economic growth (supply side);

In short, through investment, opportunities are gained to create jobs, increase income, and produce goods/services. However, according to Stiglitz, the above reality occurs when the market operates under optimal conditions, whereas the fact is that the market will never function unless supported by physical, social, mental, educational, and organisational infrastructure, all of which can only be realised with state involvement. There are three factors that are at least the main ones that decision-makers and lawmakers, particularly regarding labour, need to consider: labour laws must be orientated towards reducing unemployment, promoting the investment climate, and adapting to current labour market conditions. Meanwhile, the functioning of an economic system is determined by the issue of the quality of law, namely:

- 1) The element of stability, where the law has the potential to maintain balance and accommodate competing interests;
- 2) Predictability serves to forecast the consequences of steps taken, which is particularly important for countries where the majority of the population is entering economic relationships beyond social and traditional environments for the first time;
- 3) The aspect of fairness is equal treatment and standard patterns of government behaviour, which are necessary to maintain market mechanisms and prevent excessive bureaucracy.

The Constitutional Court's mandate is to suspend all strategic and far-reaching actions/policies, and it is also not permissible to issue new implementing regulations

related to the UUCK. However, the government instead signed Presidential Regulation 113/2021, which is an implementing regulation of the UUCK. This government action seems to indicate a strong desire to keep the UUCK legal. However, the implementation of the Constitutional Court's decision should not be interpreted solely as restoring the legitimacy of the UUCK and the omnibus law method used. Instead, a clear rationale must first be provided regarding the existence of the method and why it is needed in Indonesia. Implementing an omnibus law also requires a test of its effectiveness. Therefore, this issue of legitimacy does not end simply with the existence of a legal framework for the omnibus law.

The Job Creation Law, in its conception, actually has a positive impact on the development of community welfare because it opens up investment opportunities for entry into Indonesia, thus creating more job opportunities. However, in several of its articles, the Job Creation Law actually benefits employers more than workers. The Job Creation Law is the government's effort to cut red tape to facilitate the investment climate in Indonesia ¹⁰. This effort is expected to attract investors and create job opportunities. Besides opening up investment opportunities for entry into the country, the government also needs to issue economic policies that support the lives of the people. One economic policy that needs to be adopted is encouraging increased economic circulation in the regions, for example, through the "buy local products" movement ¹¹. Every economic policy adopted by the country must align with the mandate of the constitution, Article 33 of the 1945 Constitution, which states that incoming investments must bring prosperity, not marginalise the people.

b) Revision of Articles in the Labour Cluster

In the Job Creation Law, there are many changes, deletions, and the insertion of new articles in the labour cluster, namely amending 31 articles, deleting 29 articles, and inserting 13 new articles, including the following:

Table 3 Changes to Articles from Law No. 13 of 2003 on Manpower in the Job Creation Law.

¹⁰ Diego Moccoero, "Improving the Business and Investment Climate in Indonesia," *OECD Economic Department Working Papers*, no. 638 (2008): 0_1.

¹¹ Tisa Daka and Harrison Daka, "Effects of Consumer Preferences for Local vs. Imported Products on the Competitiveness of Small and Medium Enterprises in Zambia: A Case Study of Mtendere Compound.," 2025.

Table 1 - Article Changes

No.	Labour Law	Job Creation Law
1	Chapter 13	Changes in Article 13 include the addition that training providers can be company training institutions, and the addition regarding the registration of activities from government training institutions and company training institutions to the agency responsible for labour affairs in the district/city.
2	Chapter 14	Changes to this article concern how private job training institutions with foreign capital participation, and business licenses are issued by the central government. And business permits must meet the norms, standards, procedures, and criteria set by the central government.
3	Chapter 37	Changes to this article relate to private employment placement agencies, which, when providing employment placement services, must obtain business permits issued by the central government and must meet the norms, standards, procedures, and criteria set by the central government.
4	Chapter 42	The change in this article is the requirement for employers who hire foreign workers to have a Foreign Worker Utilisation Plan (RPTKA).
5	Chapter 43	Deleted
6	Chapter 44	Deleted
7	Chapter 45	The change in this article is to repatriate foreign workers to their country of origin after their employment relationship ends.
8	Chapter 46	Deleted
9	Chapter 47	The change in this article is that the provisions regarding the amount and use of compensation are regulated in accordance with the provisions of the law, whereas previously they were regulated in a Ministerial decree.
10	Chapter 48	Dihapus
11	Chapter 49	In this chapter, further provisions regarding the use of foreign labour are regulated in government regulations, whereas previously they were regulated in presidential regulations.
12	Chapter 56	Changes to Article 56 concern fixed-term employment agreements (PKWT).
13	Chapter 57	Changes in this article regarding fixed-term employment agreements made in writing are deleted, so that Article 57 only has 2 paragraphs.
14	Chapter 58	PWKTT related to this article stipulates a probationary period of employment, in addition to the recognition of continuous service which will still be counted.
15	Chapter 159	Changes to this article regarding fixed-term employment contracts (PKWT) can

		be converted into permanent employment contracts (PKWTT) depending on the type and nature of the activity, the duration, and the time limit, which are further regulated in Government Regulations.
16	Chapter 61	The change in this article is the addition of the completion of a specific task being one of the ways a work agreement ends, particularly for a Fixed-Term Work Agreement (PKWT).
17	Chapter 64	This chapter adds 2 paragraphs, namely that the government will determine the partial implementation of the work, which will be regulated in government regulations.
18	Chapter 65	Deleted
19	Chapter 66	The change to Article 66 is to provide protection for outsourced workers.
20	Chapter 77	In this article, the addition of a paragraph is that the implementation of working hours for workers/laborers in the company is regulated in the employment agreement, company regulations, or collective bargaining agreement.
21	Chapter 78	Changes to Article 78 are that the maximum overtime hours, which were initially 3 hours per day and 14 hours per week, have been increased to 4 hours per day and 18 hours per week.
22	Chapter 79	The change to Article 79 is that long leave or rest is no longer mandatory, and there is no regulation on the duration of long rest, which was previously at least 2 months and could be taken in the seventh and eighth years, each for one month, for workers/laborers who had worked continuously for 6 years in the same company.
23	Chapter 88	The changes to Article 88 essentially stipulate that the minimum wage is determined based on a decent standard of living, taking into account productivity and economic growth, and further provisions regarding wages are regulated in government regulations.
24	Chapter 89	Deleted
25	Chapter 90	Deleted
26	Chapter 91	Deleted
27	Chapter 92	The changes in this article relate to the structuring and scaling of wages in the company, taking into account the company's capabilities and productivity.
28	Chapter 95	The change in this article is that previously it stated that violations due to intent or negligence could be fined, but this has been changed to companies declared bankrupt or liquidated under the provisions of the law, while wages and other rights have not yet been paid to

		workers, which are prioritised for payment.
29	Chapter 96	Deleted
30	Chapter 97	Deleted
31	Chapter 98	The change in this article is the deletion of one paragraph, reducing the previous four paragraphs to three.
32	Chapter 151	Article 151 regulates that termination of employment is carried out based on an agreement between the employer and the worker/employee. This change not only eliminates the obligation to avoid termination but can also open the door for unilateral termination by the employer because the worker/employee is the weaker party in the agreement. Therefore, agreements regarding termination will also be very difficult to achieve justice for workers/employees because they can eliminate the role of labour unions in negotiating termination with the company.
33	Chapter 152	Deleted
34	Chapter 153	This article removes the point regarding the prohibition of terminating employment for those with blood ties and/or marital relationships with other workers/laborers within the same company. This was previously stated in employment agreements, company regulations, or collective bargaining agreements.
35	Chapter 154	Deleted
36	Chapter 155	Deleted
37	Chapter 156	Article 156 regulates severance pay provided by the company to workers affected by Termination of Employment (PHK).
		This article has received attention regarding the maximum severance pay limit, which has decreased from 32 (thirty-two) times previously to 25 (twenty-five) times. The payment consists of severance pay equivalent to 19 (Nineteen) times the wage borne by the company and 6 (Six) times the wage provided by the Social Security Agency (BPJS) Ketenagakerjaan in the form of Job Loss Insurance (JKP).
38	Chapter 157	In this article, point b paragraph 1 is shortened to fixed allowances provided to workers/laborers and their families. Next, the deletion of paragraph 4 regarding work depending on weather conditions and wages based on piecework wages is changed to: in the event that the monthly wage is lower than the minimum wage, the wage used as the basis for calculating severance pay is the minimum wage applicable in the company's area of domicile.
39	Chapter 158	Deleted

40	Chapter 159	Deleted
41	Chapter 160	This article eliminates 2 paragraphs: paragraph 6, which states that termination of employment can be carried out without a decision from the industrial relations dispute resolution institution, and paragraph 7, which states that employers are obliged to pay workers/laborers who experience termination of employment.
42	Chapter 161	Deleted
43	Chapter 162	Deleted
44	Chapter 163	Deleted
45	Chapter 164	Deleted
46	Chapter 165	Deleted
47	Chapter 166	Deleted
48	Chapter 167	Deleted
49	Chapter 168	Deleted
50	Chapter 169	Deleted
51	Chapter 170	Deleted
52	Chapter 172	Deleted
53	Chapter 184	Deleted
54	Chapter 185	In this chapter, the addition of the violated article provisions is article 88A paragraph 3, article 88E paragraph 2, article 156 paragraph 1, and the deletion of sanctions in article 90 paragraph 1.
55	Chapter 186	This article removes the sanctions in Article 137 and changes can be subject to the sanctions in Article 35 paragraph (2) or (3), or Article 93 paragraph (2).
56	Chapter 187	This article removes the sanctions in Article 37 paragraph (2).
57	Chapter 188	This article removes the sanctions in Article 14 paragraph (2).
58	Chapter 190	In this article, the addition of sanctions to Article 14 paragraph 1, Article 37 paragraph 2, Article 42 paragraph 1, Article 61A, Article 66 paragraph 4, Article 92, and the removal of the sanction in Article 45, as well as administrative sanctions, are regulated in government regulations.

Source: Law No. 13 of 2003 concerning Manpower and the Job Creation Law

1) Baru New Chapter

Table 2 - New Articles Regulated in the Job Creation Law

No.	Job Creation Law	Key Provisions Regulated
1	Pasal 61A	Regulating compensation for all fixed-term employment contracts that expire.
2	Pasal 88A	mengatur hak pekerja/buruh atas upah, yaitu: 1. Wages arise when an employment relationship exists between the worker/laborer and the employer; 2. Wages end when the employment relationship ends.

3	Pasal 88B	Regulating wages set based on time unit and/or output unit.
4	Pasal 88C	Regulating the determination of provincial minimum wage (UMP) and district/city minimum wage (UMK): 1. The Governor is required to set the Minimum Wage. 2. The Governor can set the Minimum Wage if the calculation of the Minimum Wage is higher than the Provincial Minimum Wage. 3. The determination of the Minimum Wage (UMK) and the Provincial Minimum Wage (UMP) is based on economic and labour conditions, using data from authorised institutions in the field of statistics. 4. The minimum wage applies to workers or labourers with less than one year of service. Employers are prohibited from paying wages lower than the minimum wage.
5	Pasal 88D	Stipulating that the minimum wage is calculated by considering certain variables, such as economic growth, inflation, and specific indices.
6	Pasal 88E	Stipulating that employers are prohibited from paying workers wages below the minimum wage. This article applies to workers or labourers with less than 1 year of service at the company in question.
7	Pasal 90A	Regulations regarding wages above the minimum wage are determined by agreement between the Employer and the Worker/Laborer in the Company.
8	Pasal 90B	Regulations regarding the affirmation of the minimum wage do not apply to micro and small businesses, which will be further regulated in a Government Regulation.
9	Pasal 92A	Stipulating that employers are required to review wages periodically. This wage review must consider the company's ability and productivity.
10	Pasal 151A	The notification referred to in Article 151 paragraph (2) is not required to be made by the Entrepreneur in the following cases: a. Workers/Laborers resign of their own accord; b. Workers/Laborers and Employers terminate their employment relationship in accordance with the fixed-term employment agreement; c. The worker/laborer reaches retirement age according to the Employment Agreement, Company Regulations, or Collective Labour Agreement; or Worker/Laborer passed away.
11	Pasal 154A	Adding some additional reasons why a company can terminate employment compared to Law No. 13 of 2003 concerning Manpower.
		During the resolution of Industrial Relations Disputes, employers and workers/laborers must

12	Pasal 157A	continue to fulfil their obligations. Employers may take disciplinary action against workers/laborers who are in the process of termination, while still paying their wages and other benefits usually received by the workers/laborers. These obligations must be fulfilled until the Industrial Relations Dispute resolution process is completed at its respective level.
13	Pasal 191A	Upon the enactment of this Law: a. For the first time, the applicable minimum wage is the minimum wage that has been set based on the implementing regulations of Law Number 13 of 2003 concerning Labour, which regulates wages; b. For companies that have provided wages higher than the minimum wage set before this Law, employers are prohibited from reducing or lowering wages.

Source: Job Creation Law

As for the changes to several articles of Law No. 13 of 2003 concerning Manpower, which are formulated in the new law, namely the Job Creation Law, they will essentially also affect the relationship between workers/laborers, employers, and the government. The following will outline some key changes that touch upon the tripartite relationship and impact the essence of the tripartite relationship in the Job Creation Law ¹².

It should be noted that determining the term of a Fixed-Term Employment Agreement (PKWT) is "protection," not "freedom." The government needs to formulate rules that limit (protect) the term of the PKWT. As stated by René H. Mankiewicz, labour law is "the general rules of law, which regulate the rights and duties of persons performing or accepting subordinate work." Therefore, it is only natural for the government to provide protection for workers who perform their jobs in a subordinate relationship (top-down) ¹³.

Tripartite relations are essential in implementing industrial relations, which are characterised by the involvement of the actors in industrial relations themselves ¹⁴, namely workers and employers, with the government included. This is expected so that every policy accommodating labour relations can reflect the interests of all parties. Furthermore,

¹² Leah F Vosko, "Legitimizing the Triangular Employment Relationship: Emerging International Labour Standards from a Comparative Perspective," *Comp. Lab. L. & Pol'y J.* 19 (1997): 43.

¹³ T T Monyepao and D E Uwizeyimana, "The Effects of the Top-down Management Approach on Employees' Attitude Towards the South African National Government Intervention in Limpopo Province," *Administratio Publica* 26, no. 2 (2018): 91–117.

¹⁴ Berndt K Keller, "The State as Corporate Actor in Industrial Relations Systems," *Journal of Industrial Relations* 32, no. 2 (1990): 254–68.

the essence of labour law cannot be overlooked¹⁵: labour laws are created, and government intervention in industrial relations exists to provide protection for workers/laborers, who are considered the weaker party. When the completion period for a specific job is determined by the employment agreement, state intervention in the employment relationship will be reduced.

4 CONCLUSION

The characteristics of the employment relationship in Indonesia are still in the form of a subordinate relationship between employers and workers, one of the reasons being the still unbalanced bargaining power of workers. The role of the state is still very much needed to provide protection for workers as the party vulnerable to injustice in the employment relationship, so labour laws are still needed to regulate employment relations today.

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Authors' Contribution

Both authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

How to cite this article (APA):

Marbun, R. J., & Agusmidah. (2025). TRIPARTITE DIFFICULTIES IN INDONESIAN INDUSTRIAL RELATIONS CREATING HARMONY. *Veredas Do Direito*, 22(2), e223072. <https://doi.org/10.18623/rvd.v22.n2.3072>