

Conference Paper

Settlement of Labor Disputes After the Covid-19 Pandemic Based on Local Wisdom of the Sasak Tribe

Asri Wijayanti^{1*}, Lelisari², Indah Kusuma Dewi³, Chamdani⁴, Achmad Hariri¹

¹University Muhammadiyah Surabaya, Surabaya, Indonesia

²University Muhammadiyah Mataram, Mataram, Indonesia

³University Muhammadiyah Buton, Buton, Indonesia

⁴University Wijaya Putra, Surabaya, Indonesia

ORCID

Asri Wijayanti: <https://orcid.org/0000-0001-6542-2958>

Abstract.

The COVID-19 pandemic has an impact caused by a labor or industrial relations dispute, so alternative solutions are needed to reduce disputes post-COVID-19 pandemic. Efforts to resolve labor disputes or industrial relations must be carried out thoroughly in one system. Need developed substance, structure, and cultural law in looking for alternative dispute industrial relations. The purpose of the study describes the value of local wisdom, Sasak people, as a substance alternative solution to a labor dispute. This study uses a non-doctrinal paradigm with descriptive analysis. It also uses cases and legislations based on a series of observations, interviews, and literature reviews to be analyzed qualitatively. The results of the research findings are that the Sasak people have three krame as dispute resolution institutions, namely krame waris, krame gubuk, and krame desa. These three krames apply the five principles of local wisdom of the Sasak people, namely the principle of divinity and self-control; the principle of equal rights; the principle of harmony and kinship; the principle of deliberation and consensus, and the principle of justice. In conclusion, the five principles of local wisdom of the Sasak people which are applied in the three krame institutions can be the substance of alternative solutions to minimize industrial relations disputes. The resulting recommendation is the active role of the government in building a krame institution in the mediation center that has structured funding support.

Keywords: Sasak tribe, local wisdom, dispute resolution, industrial relations

Corresponding Author: Asri
Wijayanti; email:
[asri.wijayanti@fh.um-
surabaya.ac.id](mailto:asri.wijayanti@fh.um-surabaya.ac.id)

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1. INTRODUCTION

COVID-19 pandemic has determined by the World Health Organization (WHO) on March 11, 2020 [1]. Covid-19 is an abbreviation of Coronavirus Disease-2019, namely disease caused by Severe Acute Respiration Syndrome Coronavirus 2 (SARS-COV2) [2]. Disease this discovered in Wuhan, China, in December 2019 [3]. Diseases this attack humans and animals. Disease this causes infection channel breathing [4]. Infection rate channel respiration range from the lowest in the common cold until the condition is severe,

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namely Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS) [5]. Amount Covid-19 cases spread across 34 provinces in Indonesia as of July 12, 2022, totaled 6,116,347. Of these, 156,806 patients died due to Covid-19, or 2.56%. They healed as many as 5,937,625 people, or 97.07%. 21,916 insiders care or currently undergo isolation independent or 0.003%.

Amount more minor Covid-19 cases of the 3% who died. At least a number of Covid-19 issues have disturbed recovery conditions economy national. The existence of business and social restrictions causes the disturbance of implementation connection work [6], [7]. Businessman to do change method work for anticipating a lot of cost product that is not balanced with results sale product. [8] Reduction of working hours, wages worker, work from home [9], lay off workers, and disconnection connection work. Change method work and loss rights worker consequence The Covid-19 pandemic has caused a dispute in industrial relations.

Dispute labor or industrial relations can result in a strike [10], closure of the company [11], [12], demonstration, demonstration, pollution name good, and destruction of goods belonging to someone else until loss life someone. This negatively affects serenity and comfort in work, security national, and stability. The existing dispute in industrial relations must be quickly resolved. Need existence alternative solutions for reducing industrial dispute relations, post- COVID -19 pandemic.

Efforts to settle industrial relations disputes must be comprehensive in one system. It is necessary to develop the substance, structure, and legal culture in finding alternatives to industrial relations disputes. Legal culture can be traced from the behavior of ethnic groups in indigenous peoples. One of the ethnic groups in Indonesia is the Sasak people. Research on local wisdom in West Nusa Tenggara has been studied by Hunaepi, but from the point of view of attitude student's, it has not specifically studied employment. The principle of dispute resolution is based on the value of local wisdom in West Nusa Tenggara, research has been carried out by Sajim Sastrawan, who researched from the perspective of the Sasak, Samawa, and Mbojo tribal communities, but is still general in nature, has not specifically studied employment. Research on the resolution of social conflicts for communities affected by the COVID-19 pandemic in West Nusa Tenggara has also been carried out by Hilman Syahrial Haqi, still studying from the point of view of legal culture. Suparman Jayadi, has conducted a study on the Sasak people, from the point of view of inter-religious tolerance, it is also still general from the point of view of the topat war tradition.

There is no research on the local wisdom of the people of West Nusa Tenggara, especially the Sasak people from the point of view of employment, especially the

resolution of labor disputes or industrial relations during the Covid-19 pandemic, so this research is very important to be carried out as an alternative solution for the government to prevent industrial relations disputes in the community. The purpose of this study is to describe the value of local wisdom of the Sasak tribe as an alternative substance for resolving industrial relations disputes.

2. METHODOLOGY/ MATERIALS

This legal research uses a non-doctrinal approach, namely describing the process of formulating and implementing the law in society [13]. The typology of this research is socio-legal. Social and empirical doctrinal research on the law will produce results related to the existence and function of law in society [14]. This type of descriptive research is used to describe clearly through inventory and exploration related to alternative dispute resolution, especially those that occur in the Sasak community, Lombok, West Nusa Tenggara.

The COVID-19 pandemic has brought many problems to society. This is the reason this research uses a case approach and a law approach. Place of research in Bale Mediation West Nusa Tenggara. Bale mediation has become the community's choice to resolve the dispute. Bale mediation is the embodiment of an alternative community dispute resolution institution based on legal culture. Data collection techniques consist of library studies, interviews, and observations.

The research step is to find an inventory of information studying the laws and regulations related to the object of research, namely the West Nusa Tenggara regional regulation number 9 of 2018 concerning Bale mediation. Furthermore, conducting intensive and in-depth interviews with informants who understand the value of local wisdom and know the patterns of community conflict resolution in the past in the province of West Nusa Tenggara. There are three important informants in this study, namely Sajim Sastrawan, Chair of the Bale Mediation of West Nusa Tenggara Province, Mamiq Raden Rais, leaders and members of the Sasak Indigenous Community (MAS), and Mamiq Lalu Prima, Chairman of the Indigenous Peoples Alliance of the Archipelago (AMAN). After that, make unstructured observations of other informants to strengthen the existing descriptive materials.

The analysis in this study begins with the collection of materials both verbally and in writing from Informa through in-depth intensive interviews and from the behavior of informants in several different situations. After obtaining a summary of the materials obtained from the informants, a study was carried out based on the doctrine used in

this study. After going through these efforts, an interpretation was made to see the correlation relationship in the material, especially from the researcher's point of view. Furthermore, a study of the interpretation of the legal culture that exists in the Sasak community of West Nusa Tenggara is carried out. The value of local wisdom that exists in the Sasak community of West Nusa Tenggara is formalized so that it can be the basis for the panel of judges to apply customary law when examining cases at the industrial relations court.

3. RESULTS AND DISCUSSIONS

3.1. West Nusa Tenggara Province Profile

This study limits the object only to local wisdom in West Nusa Tenggara Province, especially Lombok. The province of West Nusa Tenggara is geographically located between 115. 46' – 119. 5' east longitude and 8. 10' - 9.5' south latitude. The northern boundary is the Java Sea and the Flores Sea to the south is the Indian Ocean, the west is the Lombok strait and the province of Bali, then to the east is the Sape strait and the province of East Nusa Tenggara. East Nusa Tenggara Province is a province consisting of an archipelago of two large islands, namely the island of Lombok with an area of 4,738.70 km² and the island of Sumbawa with an area of 15,414.5 km² in addition there are 378 small islands surrounding it and only 38 different inhabitants.

West Nusa Tenggara Province which consists of two islands, 10 districts or cities, 117 sub-districts, and 1,143 villages or sub-districts. Lombok Island has five districts or cities. Sumbawa island has five districts or cities. The administrative area on the island of Lombok consists of the district or city of Mataram, West Lombok, Central Lombok, East Lombok, and North Lombok. Of the five regencies, the city is divided into 54 sub-districts and 598 villages or ward. On the island of Sumbawa, there are five regencies or cities, namely Sumbawa, Dompu, Bima, and West Sumbawa. Of the five urban districts on the island of Sumbawa, they are divided into 63 sub-districts and 546 villages or ward. The total population in the province of East Nusa Tenggara from 2010 to 2020 is 5,013,687 people, consisting of 2,433,731 males and 2,579,956 females.

3.2. Employment profile in West Nusa Tenggara Province

Employment conditions in West Nusa Tenggara Province, namely there are 786 company regulations, 217 collective labor agreements, 569 workers who have a certain time

work agreement status. 6035 contract workers from 216 outsourcing companies, and 214 companies providing labor services. In 2022, there will be no strikes. There are 43 industrial relations cases in 2022. The number of mediators is 3 people who hold the first functional position and 7 people who hold the junior functional position.

3.3. Local wisdom

Local wisdom comes from two words, namely arif and local. Local wisdom means that the values that are believed to be the truth by most members of the local community are the reference for thinking and acting so that the results can be accepted by the parties [15]. Local wisdom as the basis for dispute resolution, in terms of substance, is something that has long existed in Indonesian society [16]. Local wisdom is also defined as the idea of goodness that is internalized in the life of the people of an area which is manifested as a unique cultural identity and has resilience in dealing with external or external influences [17]. Local wisdom is upheld by the community itself. Local wisdom is the value of a nation's life that is sustainable and maintained by every local community [18]. Unfortunately, it seems that the position of local wisdom in customary law communities has not been applied optimally in all areas of community life.

3.4. Dispute resolution institutions in the indigenous peoples of West Nusa Tenggara

The institution where the dispute resolution exists between the indigenous people of West Nusa Tenggara is referred to as krama/krame [19]. Krama is a traditional institution based on local wisdom. There are two kinds of manners, namely krama as a traditional institution and krama as social rules. These two manners are referred to as adjikrama lambat adat, which means the sacred value of Sasak traditional social strata, based on their customary territory.

Krama as a traditional institution, is divided into three namely Krama Banjar Urip pati, Krama Gubuk and Krama Desa. Krama Banjar Urip Pati is a group or association of indigenous peoples consisting of residents from several villages/hamlets/dasans who have the same goal. Krama Gubuk is a traditional krama whose members are in one hut without exception. They are legal residents in a Guybuk (Dasan, Dusun, village) by custom and administratively. Krama Desa is a traditional assembly at the village level. Consists of pemusungan/customary village head, juru arah/assistant to the village

head, langlang desa/head of village security, jaksa desa/village judge, luput/coordinator of village welfare and Kiai Penghulu.

Krama as a rule of social intercourse consists of three forms, namely. Titi Krama, Bahasa Krama, and Aji Krama. Krama is a custom that is regulated in awig awig, because of an existing agreement from all indigenous peoples who violate the law. Krama is subject to social sanctions or moral sanctions, for example, the custom of being neighbors/neighbors, the custom of nyangkok/staying at a boyfriend's house. The second is the Bahasa Krama, namely manners, rules, or courtesy Customary manners that are regulated in awig-awig, customs that must be carried out with spoken language and body language. The third form is aji krama, namely the price of social status or the value of dignity or the customary price of a person's community related to his customary rights in the community, both within the family environment and in the community in general. This Aji Krama reflects the recognition of one's social status in society.

3.5. Legal principles in dispute resolution institutions in the Sasak people

Apart from manners, there is a "sesenggak" legal culture in the form of proverbs in the Sasak people. Proverbs are expressions that contain implied meanings and can be understood by listeners or readers because they live in the same cultural sphere. The proverb has two meanings. Proverbs are groups of words or sentences that have a fixed structure, usually symbolizing a certain purpose. Both proverbs are expressions or concise sentences containing solid comparisons. Parables, advice, principles of life, or rules of behavior. The purpose of the proverb is to rebuke someone so that the person is not offended. There are five sesenggak in the form of legal principles that exist in the Sasak community, West Nusa Tenggara, namely betegel leg reden neneq; doe sopoq, bareng ngepe; awak sopoq, saling peririq, saling angkat, saling ajinin, saling sedok; soloh; endeq naraq, bine kire, tarik nyacap.

The principle of divinity and self-control (betegel leg reden neneq). This principle is used in the dispute resolution process by reconciling disputes must be based on the spirit to carry out the commands of Allah SWT. This means that whatever the results obtained in the dispute resolution process must be carried out with full responsibility by expecting the blessing of Allah SWT. The concept of carrying out God's commands is the concept of worship carried out by the parties so that their responsibilities will be more perfect.

The principle of equal rights and the principle of equal rights (doe sopog, bareng ngepe). This means that dispute resolution through mediation must not discriminate. There should be no discrimination in treating the parties to the dispute. Whatever the basis of discrimination, for example, based on gender, ethnicity, religion, or social status. There should be no thought of discrimination against people who are trying to resolve disputes.

The principle of harmony or kinship in papatah “awak Sopoq, saling peririq, saling angkat, saling ajinin, saling sedok”, has the meaning of having to prioritize the spirit of kinship, mutual respect, and mutual love between the parties so that the best solution can be found in dispute resolution efforts.

The principle of deliberation and consensus /Soloh, means that in making decisions for dispute resolution, it must be oriented to the principle of deliberation to reach consensus. Disputes in the civil sector are less likely to be resolved through litigation in court. Bale mediation is the best place for the people of West Nusa Tenggara to resolve their disputes both in the civil and minor criminal fields.

The principle of justice, contained in the proverb Endeq naraq, bine kire, tarik nyacap, means that the principle of justice to be achieved in the mediation process based on local wisdom is communal justice. Fairness that is impartial to anyone facilitated by the mediator. These five principles show that efforts to resolve disputes between indigenous peoples are the embodiment of a holistic and lasting peace.

3.6. Industrial Relations Dispute

One of the areas of community life is the field of employment. The term employment is often referred to as industrial relations. The essence of industrial relations is labor relations. Definition of industrial relations is defined by Article 1 number 16 of the Manpower Act as a system of relations formed between actors in the process of producing goods and or services consisting of elements of employers, workers, and the government based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia.

Industrial relations are always expected to take place harmoniously, dynamically, and fairly. The occurrence of industrial relations disputes must be prevented or resolved quickly, fairly, and cheaply. Industrial relations disputes are defined in four forms, namely disputes over rights, disputes over interests, disputes over the termination of employment, and disputes between unions within a company. The limitation of these four forms of industrial relations disputes causes problems in the community if they

occur between workers and non-employers, differences in viewpoints between rights disputes, and layoff disputes because they regulate an object that has been regulated in an agreement or statutory regulation. It is also uncertain if the object of an industrial relations dispute involves a public manpower policy.

For this reason, in this study, the term is used in industrial relations disputes, not industrial relations disputes. Industrial relations disputes are broader than industrial relations disputes. The object of the study of industrial relations disputes includes all things that occur related to the doing of a job, whether the work is carried out by workers in an employment relationship or outside an employment relationship.

Disputes can happen to anyone and anywhere. The disputing parties can be individuals, groups, or legal entities. Disputes can also be public or private that occur within the scope of local, national, or international. Definition disputes are defined as conflicting behavior between two or more parties that can lead to legal consequences and therefore can be given legal sanctions for one of the two.

Procedures for the settlement of industrial relations disputes have been regulated in Law number 2 of 2004 concerning the settlement of industrial relations disputes. There is a non-litigation or litigation settlement mechanism. Four forms of industrial relations disputes can be carried out through a bipartite mediation mechanism or to the industrial relations court. In contrast to non-litigation authority in the form of conciliation or arbitration. Conciliation does not have the authority to resolve disputes over rights. Arbitration does not have the authority to resolve disputes over rights and disputes over the termination of employment.

There is an obligation to go through bipartite negotiations and mediation if the dispute is to be continued for examination in the industrial relations court. Meanwhile, mediation can only be carried out by a mediator who is in each agency responsible for the district/city manpower sector. A government agency is an institution that carries out executive functions so that in carrying out its work, it must be based on the provisions of laws and regulations. This is what creates difficulties for the mediator when it comes to resolving industrial relations disputes that are not in accordance with the provisions of the legislation.

In mediation legal theory, conciliation or arbitration is an alternative form of dispute resolution outside the court [20], [21]. This means the freedom of the mediator to resolve the problems of the parties to the dispute based on a win-win solution [22]. This is a form of error in the regulation of law number 2 of 2004. Difficulties will be faced by the mediator if he will carry out a procedure outside the provisions of the civil procedural law. Civil procedural law is a formal law that is applied in the process of settling industrial

relations disputes. The essence of the use of civil procedural law as regulated in the Herzine Inlands Reglement or HIR lies in the use of formal evidence in the form of a deed.

Cases that occur in the community often do not have formal evidence in the form of a deed. There are still very many agreements made by industrial relations actors based on oral agreements without any formal evidence in the form of deeds. Judges at industrial relations courts can consider customary law and fairness. In fact, there are still a few judges who use the provisions of Article 100 of Law No. 2 of 2004.

The failure to use formal evidence in the settlement of industrial relations disputes is the reason why it is important to explore the customs that exist in Indonesian society. Many industrial relations cases that occur in the community cannot be resolved through the industrial relations dispute settlement mechanism.

In Indonesia, apart from the industrial relations dispute settlement mechanism regulated in Law No. 2 of 2004, there is also an out-of-court dispute resolution mechanism based on Law No. 30 of 1999 concerning arbitration and alternative dispute resolution. There are five ways to resolve disputes through non-litigation, namely consultation, negotiation, mediation, conciliation, and expert opinion. There is a difference in the definition of mediation in law number two of 2004 with law number 30 of 1999. In law number 30 of 1999 mediation is a settlement through negotiations to reach an agreement between the parties assisted by a mediator while mediation according to law number two of 1999 2004 was carried out exclusively by local Manpower Office officials. The use of the term dispute which replaces the term dispute in industrial relations in this study provides more transparency. Expanding the work area of industrial relations disputes into industrial relations disputes. Industrial relations disputes must be resolved, to establish peace of mind, work security, and national stability.

One of the ways to resolve industrial relations disputes is through advocacy based on local wisdom, emphasizing local wisdom because Indonesia is a nation that has a cultural plurality of cultural values spread across 1340 ethnic groups in Indonesia.

3.7. Local wisdom as the basis for resolving industrial relations disputes

Indeed, there are many approaches that can be used as alternative solutions for industrial relations dispute resolution, but local wisdom will certainly be more appropriate if used because it is in accordance with the legal culture of the Indonesian people.

Local wisdom is a value that is believed to be the truth by most of the local community and is used as a reference for thinking and acting, the results are accepted by all parties. Substantially local wisdom can be found in customary law communities. The mediator or judge can explore the values of local wisdom that live in the community and apply them in the peace deed or judge's decision so that it becomes a reference for academics.

The local wisdom in the province of West Nusa Tenggara comes from the three major tribes that inhabit the island of Lombok and the island of Sumbawa. The three tribes are the Sasak tribe, the Samawa tribe and the Mbojo tribe, often referred to as the Sasambo. This research is only limited to one tribe, namely the Sasak tribe.

Efforts to find alternative solutions for resolving industrial relations disputes through local wisdom in the Sasak community can be seen in the existence of a bale-mediation dispute settlement institution. The mediation bale is the embodiment of the dispute resolution institution in Lombok. The people of Lombok refer to disputes in two terms, namely *begejuh*, *begalur*, *besiak* or *pelkare*. The term *begejuh*, *begalur* means shouting words that are not accompanied by physical action. In contrast to *besiak* or *pelkare*, it is defined as retorting words accompanied by physical actions such as hitting each other and requiring the role of the parties to stop the commotion or loss that occurred.

Bale mediation is a form of mediation institution in the province of West Nusa Tenggara. The birth of bale mediation is based on laws and regulations related to dispute resolution outside the court. As part of the indigenous peoples' institution in West Nusa Tenggara, the mediation bale has implemented the values of local wisdom. Of course, Bale mediation can also be used as a dispute resolution institution outside the court, in the field of industrial relations as well. Bale mediation, in West Nusa Tenggara, has implemented three *krame* as dispute resolution institutions in the Sasak indigenous people, namely *krame waris*, *krame gubuk*, and *krame desa*. These three *krame*s apply the five principles of local wisdom of the Sasak tribe, namely the principle of divinity and self-control; the principle of equal rights and the principle of equality of rights; the principle of harmony and kinship; the principle of deliberation and consensus, and the principle of justice. The five principles/values of local wisdom of the Sasak tribe can be a source of settlement of industrial relations disputes so that they can be used by judges at the Industrial Relations Court in considering their decisions based on the provisions of Article 100 of Law no. 2/2004.

4. CONCLUSION AND RECOMMENDATION

The conclusion is that the five principles of local wisdom of the Sasak tribe which are applied in the three krame institutions can be an alternative substance for solutions to minimize industrial relations disputes. The resulting recommendation is the active role of the government in building a krame institution in the mediation bale that has structured funding support.

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