



WORKOUT SYSTEMS BASED ON A RELATIONSHIP PERSPECTIVE PANCASILA INDUSTRIAL

Rupian Joyo ¹, Johni Najwan ², Yetniwati³

Correspondence: rupianjoyo10@gmail.com

Abstract: Legal Reconstruction Research The outsourcing work agreement is based on the still differences of opinion and even the rejection of the outsourcing work agreement both by workers / laborers and by Trade Unions / Trade Unions. This shows that in the outsourcing work agreement there are still things that are not in accordance with what is expected, especially by outsourced workers and trade unions. The formulation of the problem in this research are: (1) How is the construction of outsourcing work agreements at present, (2). Is it true that the outsourcing work agreement is not fair, (3). How is the Reconstruction of outsourcing work agreements as protection of workers based on fair value, The research methods used are: (1) using a constructive theory paradigm, (2) the type of qualitative research. (3) socio-legal research approach method. Conclusions from this Dissertation are (1). The construction of an Outsourcing Work Agreement currently involves companies that use workers / laborers services and companies providing workers / laborers services even though the work agreement does not see workers / laborers. Protection of outsourced workers includes: (a). The right to leave if it has fulfilled the terms of service; (b). The right to social security; (c). The right to holiday allowances; (d). Rest right for at least 1 (one) day in 1 (one) week; (e). The right to receive compensation in the event of an employment relationship is terminated by the company providing workers / laborers' services before the work agreement for a certain time ends through no fault of the worker;.

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¹Doctoral Program Student of Law Faculty, Jambi University, Indonesia

²Professor of Law Faculty, Jambi University, Indonesia.

³ 'Professor of Law Faculty, Universitas Jambi, Indonesia.



Introduction

Indonesia, which adheres to the ideology of Pancasila and the 1945 Constitution 1, emphasizes that the state protects all its citizens and all of Indonesia's blood, based on unity and oneness, demands the fulfillment of all rights and obligations, and guarantees social justice for all Indonesian people, while the Indonesian industrial relations system is oriented towards welfare. According to the second article, the Indonesian state will not only create the widest possible employment opportunities, but will also contribute to the security and protection of work relations for all employees. is the right of workers/laborers who meet the requirements to receive fair treatment and be responsible for all applicable legal consequences, because Article 27 of the Law describes the legal ideals of Indonesian workers which are in line with the national development of the Pancasila ideological system. the aim of achieving prosperity for all its people.

Labor is the most critical factor in the national development sector; Apart from that, labor law is the most important law in Indonesia, because it is a positive law that applies to Indonesian society. In the field of employment, which is one of the discussions in the Job Creation Law, there is a degradation in the value of welfare for workers in Indonesia. There are several shifts in content regarding Employment, including regarding Foreign Workers (TKA), Specific Time Work Agreements (PKWT), outsourcing.), wages, and so on, the Government believes in enacting the Job Creation Law through The omnibus law approach will be able to encourage investment in Indonesia, so improve the country's economy. However, the government must remember that Indonesian laws and regulations are prepared in accordance with ideals Pancasila is the basis of state philosophy (filosofische grondslag). Including in the field of employment in Indonesia.

Indonesian industry is the lifeblood of the Indonesian economy essentially based on Pancasila. Pancasila values are included in and implemented into Indonesian labor regulations. The initial principle of Pancasila manifested in the employment law, which prohibits layoffs when workers fulfill their religious and cultural commitments. The second principle of Pancasila, as exemplified in UUK, is that male workers and women have the same status. There is no difference between male workers and women in terms of rights. The third principle of Pancasila, Indonesian Unity, enforced in UUK through restrictions on termination of employment for employees who have different ethnicities from their employers. Apart from that, the fourth principle of Pancasila shows that the legislature, as a representative the people, are responsible for establishing UUK and balancing the interests of the parties involved in industrial relations, especially government, employers and employees. As mandated by the 1945



Constitution, Social security creates social justice for all Indonesian people. Body The Social Security Provider in Indonesia was established with the aim of providing social security for all Indonesian citizens, including workers, without guarantee.

With this, researchers want to examine the value of Pancasila industrial relations contained in the omnibus law employment cluster with research methods qualitative descriptive, as an effort to understand a concept discovered in a research process, using materials techniques analysis (content analysis) and library research. Widiastiani Research regarding the strike in the Pancasila Industrial relations constellation cited as a precedent by the author. As a legal settlement of the results of the relationship Industrial, the strike has no effect on the order of harmony pursued by the Pancasila workers union. Employment rights granted to workers used to help achieve balance in labor negotiations. In times of conflict and poor labor relations, a strike is a way to improve things. "Wage Law, Job Creation Law (UUCK) and

The Desire of All Parties in Industrial Relations" conducted by Ahmad Hunaeni Zulkarnaen, found that alignment of awareness and political attitudes in the Government regarding the UUCK Wage Law could be achieved. The desire of all parties in industrial relations (employers, employment and government) to realize company productivity and/or profits, namely the desire of the entrepreneur group. Therefore, the government must make and/or recommend strategic decisions to implement the Job Creation Law on wages which can simultaneously realize the wishes of all parties in industrial relations. The problem formulation can be concluded as follows:

- 1) Pancasila Industrial Relations and Its Position in Indonesia
- 2)

Methods

The research used is normative juridical legal research which focuses on positive legal studies. Normative juridical research is legal research that places law as a building system of norms. The norm system in question is about principles, norms, rules of laws and regulations, court decisions, as well as doctrines or teachings. Another name for normative legal research is doctrinaire legal research, also referred to as library research or document study. It is called doctrinal legal research, because this research is carried out or aimed only at written regulations or other



legal materials. It is said to be library research or document study because this research is mostly carried out on secondary data in libraries.

In accordance with the character of normative legal science, the study of positive law includes the study of legal dogmatics, the study of legal theory, and the study of legal philosophy. At the level of legal dogmatics, emphasis is placed on identifying several laws and regulations related to the social system in Indonesia, while at the level of legal theory, a study is carried out on theories that can be used to analyze the legal system, legal certainty, the operation of the law and property rights. towards the legal construction of copyright as an object of fiduciary security based on legal certainty and usefulness. A research approach is a method or way of conducting research so that researchers obtain information from various aspects to find the issue they are looking for an answer to. In accordance with the type of research, namely normative juridical, the research approach used in this research is: Normative/Statute Approach

Namely by reviewing all laws and regulations related to the legal issue being handled. In this case, the approach is taken by examining the laws and regulations relating to copyright as an object of fiduciary guarantee starting from the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law Number 28 of 2014 concerning Copyright , Law Number 42 of 1999 concerning Fiduciary Guarantees. Conceptual Approach (Conceptual Approach) Is a departure from the views and doctrines that have developed in legal science. By studying views and doctrines in legal science, researchers will find ideas that give rise to legal understandings, legal concepts and legal principles that are relevant to the content at hand.

A conceptual approach can also carry out research on legal concepts such as; legal sources, legal functions, legal institutions, and so on. This legal concept is in three domains or levels according to the level of legal science itself, namely: the level of dogmatic legal science, the legal concept is technical juridical, the legal theory level is the general concept of law, the legal philosophy level is the basic concept of law. In this case, the approach taken is to examine the concepts of copyright as an object of fiduciary guarantee. Case Approach: This approach is carried out by examining cases related to the legal issues being faced that have received court decisions and have permanent legal force. These cases can be cases that occur in Indonesia or in other countries. The main study in the case approach is ratio decidendi or reasoning, namely the court's considerations in arriving at a decision. Both for practical purposes and for academic studies, ratio decidendi or reasoning is a reference for preparing arguments in solving legal issues.



In this research, we examine cases or decisions regarding the regulation of copyright as an object of fiduciary guarantee. Historical Approach (Historical Approach) This approach is carried out within the framework of understanding the philosophy of legal rules over time, as well as understanding changes and developments in the philosophy that underlies these legal rules. This approach is carried out by examining the background of what is being studied and developments in regulations regarding the legal issues being faced. Such research is needed by researchers when researchers really want to reveal the philosophy and thought patterns that gave birth to something being studied. From a historical perspective, the history of the development of the immigration control function that has been in force in Indonesia and looks at the implementation of a combination of copyright regulations as an object of fiduciary security before the 1945 Constitutional Amendment. Also looks at the history of the Indonesian government system.

Results / Discussion

1. Pancasila Industrial Relations and Its Position in Indonesia

Industrial Relations refers to the relationship between actors in the production process (workers, entrepreneurs) who create goods and services as a result of business and the government, which protects and advances the National economy. Industrial Relations consists of: (1) Formation of work agreements/collective work agreements which become the basis of Industrial relations; (2) The obligation of the worker/laborer to work for or under the direction of the entrepreneur which is the entrepreneur's right to the worker/laborer; workers/laborers (3) the entrepreneur's obligation to pay wages to workers/laborers which is the worker/laborer's right to wages; (4) Termination of industrial relations; and (5) how to resolve disputes in a good manner.

Because each nation and country has a unique philosophical foundation, Industrial relations systems between countries vary greatly. 5. In Indonesia, where Pancasila functions as the philosophy of the nation and state, Industrial relations are also based on Pancasila. Thus, in Indonesia industrial relations are more often referred to as Pancasila Industrial Relations. All legal regulations governing Pancasila Industrial Relations, both in the form of the Constitution (1945 Constitution) and other statutory regulations, are based on Pancasila values. As a result, laws governing industrial relations in Indonesia must always be examined for their suitability with Pancasila values.



From the description above, it can be concluded that Pancasila Industrial Relations is a system of relations between actors involved in the production of goods and services (workers, entrepreneurs and government) which is based on values which are a manifestation of Pancasila. precepts and the 1945 Constitution, and which grows and develops independently of the national personality and national culture of Indonesia. According to the 1974 National Seminar on Pancasila Industrial Relations, the aim of Pancasila Industrial Relations is "to realize the ideals of the Proclamation of Independence of the Republic of Indonesia dated 17 August 1945 in national development, to create a just and prosperous society based on Pancasila. , and participate in implementing world order based on Pancasila.

Thus, it is clear that the aim of Pancasila Industrial Relations is to make development successful in order to carry out the ideals of the Indonesian nation, namely a just and prosperous society: a) to play a role in implementing world order based on independence, eternal peace and social justice; b) create calm, tranquility and work order as well as business tranquility; c) increase production and work productivity; d) improve the welfare of workers and their level in accordance with human dignity.

Pancasila Industrial Relations is based on the entirety of the Pancasila principles which are interconnected with each other and must not emphasize one more than the others 8.

- 1) The 1945 Constitution, as the constitutional basis.
- 2) Pancasila Industrial Relations is also based on the 1946 Constitution as the noble constitutional foundation of the preamble, body and explanation.
- 3) MPR Decree No. II in 1978, as a structural and operational basis.
- 4) Pancasila Industrial Relations has a structural basis and operational basis in TAP MPR No. II of 1978, namely Guidelines for the Appreciation and Experience of Pancasila (P4)
- 5) Outlines of State Policy (GBHN), as an operational basis.

Every five years, GBHN is established as the operational basis for Pancasila Industrial Relations. As a result, operations must be adjusted at least once every five years. Pancasila Industrial Relations is also regulated in statutory regulations, as well as government policies that adhere to the Development Trilogy National. Pancasila Industrial Relations recognizes and believes that work must be viewed as more than just a means of livelihood; it should be seen as a form of human devotion to God, fellow humans, and society as a whole. nationalism and statehood .



Pancasila Industrial Relations views workers as individuals who have inherent dignity and worth, not as mere factors of production. Thus, the treatment of workers cannot be seen solely from the perspective of production interests, but must be seen from the perspective of increasing human dignity. Pancasila Industrial Relations believes that although cooperation between workers and entrepreneurs is necessary for business, both parties will have the same interests, namely business capabilities. Because advanced business allows all stakeholders to improve their welfare. In Pancasila Industrial Relations, every dispute between workers and employers must be resolved amicably through deliberation. As a result, the use of coercion and unilateral actions such as work strikes, lockouts, etc. violate the principles of Pancasila Industrial Relations.

Pancasila Industrial Relations believes that there is a balance between the rights and obligations of both parties in business. This balance is achieved not through a balance of power, but through a sense of justice and propriety. In addition, Pancasila Industrial Relations believes that company profits which are the result of collaboration between workers and entrepreneurs must be shared fairly and evenly in proportion to the sacrifices made by each party. The history of industrial relations in Indonesia cannot be separated from the history of the struggle of the Indonesian people. The struggle before independence, during independence, and several periods until the birth of Pancasila Industrial Relations. The history of Pancasila Relations is divided into three eras, namely: The Industrial Relations System was introduced to Indonesia by Dutch colonialists at the end of the twentieth century, first in companies, especially those owned by Dutch citizens. In this way, it is as if Dutch Industrial Relations operates in Indonesia.

2. Pancasila Industrial Relations in the Omnibus Law Cluster in Indonesia

Pancasila Industrial Relations, namely a system of relations between actors involved in the production of goods and services (workers, entrepreneurs and government) which is based on values which are the embodiment of the principles of Pancasila and the 1945 Constitution and which grow and develop regardless of personality individual. Indonesian Nationalism and Culture To achieve the goals of the Indonesian Government and build a prosperous, just and prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, as well as to fulfill citizens' rights to work and a decent living for humanity through work, The Job Creation Law is expected to absorb as many Indonesian workers as possible in facing competitive competition and global economic rivalry.



The Pancasila industry is based on two principles: kinship and mutual cooperation, and deliberation to reach consensus. The second manifestation of this principle, Pancasila industry, is founded on three principles: cooperation in production, cooperation in enjoying the company's results, and cooperation in accountability. Meanwhile, the Job Creation Law is guided by the principles of equal rights, legal certainty, ease of doing business, cooperation and independence. The Job Creation Law aims to create and expand employment opportunities by providing convenience, protection and empowerment to cooperatives and MSEs, as well as national industry and trade, so that they can absorb as many Indonesian workers as possible while maintaining balance and progress. between regions within the national economic unit, ensuring that every citizen gets a job and gets balanced, as well as fair and decent treatment in the workplace.

In order to strengthen protection for workers and increase the role and welfare of workers/laborers in supporting the investment ecosystem, this Law amends, deletes or establishes new arrangements for several provisions regulated in Law Number 13 of 2003, Law Number 40 2004, Law Number 24 of 2011, Law Number 18 of 2017/27.

The Job Creation Law or Omnibus Law contains seven major changes to Law (UU) number 13 of 2003 concerning employment. First, the problem of working hours. Along with general working hours (maximum 8 hours per day, 40 hours per week) 28, the Job Creation Bill regulates working hours for certain jobs, such as those requiring less than 8 hours per day, part-time jobs, and on-site jobs. digital economy. In jobs that require more than eight hours of work per day, such as oil and gas, mining, plantations and agriculture, the Job Creation Law seeks to realize the values contained in the second principle, namely just and civilized humanity. In this case, the Job Creation Law aims to realize the values contained in the second principle, namely fair and civilized human values. Likewise, accurate.

Second, regarding foreign workers (TKA). In this case, the Job Creation Law aims to significantly improve Pancasila Industrial relations. There are several new provisions, including a requirement for employers who employ foreign workers to have a plan for the use of foreign workers approved by the Central Government, a ban on foreigners entering the workforce, and a statement by the government that it will not open its doors to foreign workers. all types of foreign workers, but only for skilled foreign workers who are needed for certain conditions, for example foreign workers. services such as emergency, vocational, and research



The deletion in letter b is in accordance with Article 59 paragraph (4) which states that "certain work agreements based on a certain period of time can be entered into for one (one) year and can be extended. one (one) time for the specified period". period of not more than one year. In addition, the Job Creation Law explains the provision that PKWT which has been in effect for a period of two years plus one year can be legally changed into an unlimited work agreement (permanent work agreement).

Consequences of changes to the rules governing PKWT Apart from eliminating time limits and extensions, this new provision also eliminates the option for contract workers to become permanent workers. Indeed, the position of precarious workers is much more precarious than that of permanent workers. PKWT should be permitted only for work that is not permanent. Articles of the Job Creation Law relating to PKWT do not provide legal certainty in this area. In paragraph (3) of the amendment to Article 56 of the Job Creation Law, it is stated that "the period for completion of a particular job is determined by the work agreement". This means that the role of the state is reduced due to its inability to intervene during the PKWT period. This provision was criticized from the start because it lacked legal certainty for contract workers. In addition, changes to Article 56 and Article 59 of the Job Creation Law are subject to additional provisions in Government Regulations (respectively see Article 56 paragraph (4) and Article 59 paragraph (4) of the Job Creation Law). On the other hand, the PKWT provisions of the new Job Creation Law require employers to pay compensation to contract workers/laborers when the specified time agreement ends (see Article 61A paragraphs (1) and (2) of the Copyright Law). Work compensation is paid according to the working hours of the worker/laborer at the company concerned. According to Nguyen-Hu and Lee's research, temporary or contract worker status reduces the amount of time workers receive social security benefits by up to 34% 31. Thus, there is a lack of good industrial relations with Pancasila based on Pancasila values, the second principle of "humanity fair and civilized" and the fifth Pancasila rule "social justice for all Indonesians."

Four, Outsourcing. Revocation of Articles 64 and 65 of the Manpower Law. Article 64 regulates the legal framework for outsourcing in Indonesia, namely regarding the transfer of work to other businesses through work contracting agreements or providing worker/labor services. The revocation of Article 64 and Article 65 is confusing because as regulated in the Job Creation Law, Article 66 was amended to read as follows: "(1) The employment relationship between the outsourcing company and workers/laborers employed according to a written work agreement, which can be temporary, special , or unlimited." With the enactment of Article



66, it can be stated that the Job Creation Law still allows outsourcing. It needs to be understood that Articles 64, 65, and 66 of the Manpower Law are one unit that must be seen as one unit. By repealing Articles 64 and 65 but retaining Article 66, we create legal uncertainty and encourage perpetrators to disrupt Indonesia's climate and investment.

In addition, according to Article 66 paragraph (1) of the Manpower Law, employers may not use workers/laborers from companies that provide workers/laborers to carry out main activities or activities that are directly related to the manufacturing process, except for supporting activities or activities that are not directly related to the manufacturing process. related to the manufacturing process.

The outsourcing regulations in the Job Creation Law are not in accordance with the relationship between industrial justice and the ideals of Pancasila, especially the second principle of "just and civilized humanity" and the fifth principle of "social for all Indonesian people", because the Law explicitly states that outsourcing should not be done for important work within the company. Meanwhile, this provision was removed from Article 66 paragraph 1 of the Job Creation Law. The implication is clear: employment relationships will continue to proliferate even though triangular employment relationships (employment relationships involving third parties as intermediaries) such as outsourcing generally do not benefit workers.

Fifth, minimum wage. The minimum wage is non-negotiable. At the provincial level, minimum wages are determined using regional economic growth and productivity formulas, as well as district/city minimum wages, as well as minimum wages and salaries for MSMEs separately. This provision is regulated in Article 90B which reads as follows

- 1) Minimum Wage Provisions as intended in paragraph (1) and paragraph (2) of Article 88C (2);
- 2) Not eligible to be considered as a Micro and Small Business;
- 3) Wages in micro and small businesses are determined in accordance with the agreement between the entrepreneur and the workers or laborers in the business.

The agreement as intended in paragraph (2) at least represents a certain percentage of the average community consumption determined by data obtained from field institutions. Additional wage provisions will be regulated by government regulations for micro and small businesses.

Article 90B was drafted in good faith as an affirmative action for MSEs and provides wage protection for MSE workers who were previously



not protected by the Labor Law. Unfortunately, the controls in MSEs are petrifying in eliminating the concept of a minimum safety net. Wage UMK is subject to the agreement mechanism between workers and employers as intended in paragraph (2), so that it does not provide adequate legal protection for workers, because there is an unequal relationship between workers and employers in the employment relationship. This will only result in low wages for MSE workers, which goes against the stated aim of the Job Creation Law to protect MSE workers.

Sixth, recalculation of layoff severance pay. Layoffs are philosophically avoided in the Pancasila industrial relations concept. 24. Therefore, it is natural that the layoff provisions of the Manpower Law are very rigid in order to avoid layoffs as much as possible. According to Article 151 paragraph (2) of the Manpower Law, if all reasonable efforts have been made but termination of the employment relationship cannot be avoided, the employer and the trade union, or with the worker/laborer directly if the worker/laborer is not a member of the trade/labor union, must negotiate the termination of the employment relationship. If the agreement as intended in paragraph (2) is in complete conflict with the agreement, the entrepreneur can terminate the employment relationship with the worker/laborer in accordance with the provisions of the subsequent non-industrial agreement. These two paragraphs are intended to protect you from unilateral layoffs. According to this provision, all layoffs must be negotiated between the parties, and if no agreement is reached, layoffs can only occur after an agreement is reached. The formation of a comparison of industrial interactions is also a form of state presence in an effort to avoid one party being harmed by layoffs.

This perception changed dramatically with the passage of the Job Creation Act. Article 151 paragraph (2) is amended to read as follows: "In the event that termination of employment cannot be avoided and the employer shall notify the reasons for termination of employment to the worker/laborer and/or trade/labor union." This paragraph previously raised the possibility of unilateral layoffs, because layoffs can be carried out by employers without prior negotiation. As a result, this layoff regulation does not reflect the implementation of Pancasila values, the fourth principle of Democracy Led by Wisdom in Deliberation/Representation, which is the pillar of the concept of Indonesian Industrial Relations.

At first glance, it seems like there is a problem. Article 151 of the Job Creation Law's layoff regulations still allows workers to make bipatriide efforts and does not prohibit them if they refuse to be laid off. The problem is that these provisions are based on an idealized view of work, which places workers and employers on an equal footing. In reality,



workers can easily resist layoffs and defend their rights. When layoffs occur, workers often cannot be relocated due to unequal bargaining positions, fear of superiors, and ignorance of their rights as workers.

3. The Manpower Law limits employers' ability to act arbitrarily in carrying out layoffs by requiring layoffs to be preceded by negotiations and only carried out after the PPHI has been determined.

This protection is missing in the Job Creation Law, because Article 151 paragraph allows employers to dismiss workers unilaterally. In addition, the Job Creation Law changes the provisions governing the amount of severance pay and length of service that workers can receive in the event of termination of employment. In this case, fairness is a possibility, and Pancasila industrial relations does not result in the same amount of severance pay and long-service awards earned during layoffs. Uncertainty exists not only as a result of long working hours, but also as a result of layoffs. The Job Creation Law eliminates the correlation between the reasons for layoffs and severance pay and/or long service awards, effectively eliminating the multiplier for severance pay and/or long service awards which previously reached 32 times wages. Employers are required to pay severance pay and/or long service awards up to 19 times their wages under the Employment Creation Law. The Ministry of Manpower considers that the severance pay regulations have not been implemented. The question is whether the difficulty in applying the severance rules is due to a misunderstanding of the standards. Or is the Ministry of Manpower's lack of supervision over the implementation of severance pay regulations resulting in many violations? Reducing provisions for severance pay and/or long service awards will not improve a company's compliance with this rule unless it is improved through better oversight. Apart from that, the supervision aspect has been improved to achieve the ideals of a good labor law.

Seventh, the job loss guarantee program (JKP). The Job Creation Law amends the Social Security Law by adding a new type of social security program, namely job loss insurance 35. This is regulated in the Job Creation Law as amended by Law Number 40 of 2004 concerning the National Social Security System, Article 46A, which states : (1) "Workers/laborers who are dismissed are entitled to job loss insurance. "The government hopes that the guarantee of job loss will be able to eliminate the severance pay explained in the previous chapter. In addition, Article 46C paragraph (2) states that the contribution guarantees that the Central Government will



compensate for job losses. problems, benefits of job loss, but not in the form of money, "in the form of cash , access to the labor market, and job training" (See Article 46D paragraph 1 (1). (2) simply states that "the job loss guarantee is limited to six (six) months' wages". The purpose of job loss insurance is still unknown, while the purpose of severance pay is clear workers who have been laid off, because the program arrangements are still very limited and have to wait for additional provisions in government regulations.

Conclusion

Pancasila Industrial Relations is a system of relations between actors involved in the production of goods and services (workers, entrepreneurs and government) which is based on values which are the embodiment of the principles of Pancasila and the 1945 Constitution and which grow and develop regardless of individual personality. . The current position of Pancasila Industrial Relations in Indonesia is considered inadequate, because there are still many industrial relations issues that have not been resolved. Pancasila has noble values which, if implemented well, will have a beneficial impact on industrial relations. The Pancasila industry is still considered neglected due to the failure of various industrial relations issues

Acknowledgments

to finish well. The concept of Pancasila Industrial Relations is not yet fully embedded in the Job Creation Law. There must be a joint effort to rebuild industrial relations based on Pancasila so that industrial relations in Indonesia can run smoothly, fairly and on the basis of deliberation to reach consensus in order to build a better Indonesia in the eyes of the international community.

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