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## SETTLEMENT OF TERMINATION OF EMPLOYMENT DUE TO THE IMPACT OF THE COVID-19 PANDEMIC BASED ON THE LEGAL SYSTEM IN INDONESIA

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**ABSTRACT:** The Confederation of Indonesian Trade Unions (KSPI) has recorded approximately 50,000 (Fifty Thousand) workers/laborers laid off since the beginning of 2021 due to the impact of the Covid-19 Pandemic. Therefore, the authors researched this problem. This study aims to analyze the process of resolving layoffs due to the effects of the Covid-19 Pandemic following Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement (UUPPHI) based on Pancasila theories of justice aspects of legal change. This article concludes that layoffs are one type of industrial relations dispute regulated in Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement (UUPPHI); there are 2 (two) categories of causes for layoffs, violations of the law, or absence of law violations. The Covid-19 pandemic does not include layoffs in the category of legal breaches, layoffs due to the Covid-19 pandemic an effort to prevent companies from losing money or closing, however layoffs for any cause must be stopped, employers, workers/laborers, trade unions/labor unions with all their might and efforts must be made in order to avoid layoffs, for workers/labourers layoffs are the beginning of suffering, layoffs must be carried out in very forced conditions (force majeure) while still maintaining harmonious industrial relations (industrial peace), in the event that layoffs cannot be avoided, then the purpose of layoffs must be resolved by deliberation (bipartite), if the bipartite settlement is not successful, termination of employment can only be carried out after obtaining a determination from the Industrial Relations Dispute Settlement Agency (LPPHI) in accordance with UUPPHI accompanied by granting rights to workers/laborers in the form of working conditions, both normative (labor legislation) as well as terms of employment as regulated in Law Number 13 of 2003 concerning Manpower (UUK) and Law Number 11 of 2020 concerning Job Creation (UUCK) following aspects of legal change (Standard of conduct, as a tool of social engineering, as a tool of social of control, as a facility on human interaction) based on Pancasila Industrial Relations (HIP) and theories of justice (Distributive, Commutative, Utility, Protective) so that workers/laborers are laid off due to the Covid-19 pandemic in addition to receiving protection to obtain the working conditions as described above, as well as getting empowerment and utilization to have work competencies so that they can work for other companies or be able to do entrepreneurship independently.

**Keywords:** Layoffs, Covid-19, Law, Theory of Justice. Working Condition, Empowerment, Worker or Labor.

### I. INTRODUCTION

As explained above, the Confederation of Indonesian Trade Unions (KSPI) recorded approximately 50,000 (Fifty Thousand) workers/laborers laid off since early 2021 due to the impact of the Covid-19 pandemic. Layoff disputes are one type of industrial relations dispute regulated in Article 1 point 1 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes from now on referred to as UUPPHI, or as held in Article 1 number 22 of Law number 13 of 2003 concerning Manpower from now on called UUK. Other types of industrial relations disputes apart from layoffs are rights disputes, interest disputes, disputes between trade unions/labor unions in only 1 (one) company. The causes of releases can be preceded or not preceded by a violation of the law (criminal or non-criminal) whether committed by workers/laborers or entrepreneurs, and the cause of layoffs due to the impact of the Covid-19 Pandemic is not a layoff that was preceded by a violation of the law.

Employers, workers/laborers, and the government, with all their might and efforts, must prevent layoffs, including the causes of releases due to the Covid-19 Pandemic. Dismissals must be carried out in very forced circumstances (force majeure), such as layoffs to prevent companies from making losses and closing due to the impact of the Covid-19 pandemic. 19. And the procedure for the settlement must be following UUPPHI, namely, non-litigation or litigation; the mechanism for resolving layoffs in non-litigation is the settlement of

releases by: Bipartite, Mediation, and Conciliation. Meanwhile, the payment of layoffs by litigation is through the Industrial Relations Court (PHI) and the Supreme Court (MA). Settlement of layoff disputes, either non-litigation or litigation, must prioritize protection for all parties involved in it (employers, workers/laborers), namely layoffs must guarantee the fundamental rights of workers/laborers, both in terms of work norms (labor legislation) and terms of employment, ensuring equal opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while still paying attention to the development and continuity of the company during the Covid-19 Pandemic. So this study aims to analyze the process of resolving layoffs due to the impact of the Covid-19 Pandemic following Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement (UUPPHI) based on Pancasila, theories of justice, and aspects of legal change.

## II. DISCUSSIONS

### Termination Dispute Is One Type of Industrial Relations Dispute

Industrial relations dispute is a difference of opinion that results in a conflict between the entrepreneur or a combination of employers and workers/labor or trade/labor unions due to disputes regarding rights, disputes over interests, disputes over the termination of employment, and disputes between trade unions/labor unions in only 1 (one) time one company" (Vide Article 1 number 22 UUK). Referring to the definition of industrial relations disputes above, the types of industrial relations disputes are rights disputes, interest disputes, layoff disputes, and disputes between trade unions/labor unions in only 1 (one) company. Disputes over layoffs are one type of industrial relations dispute.

According to H.M. Laica Marzuki, the International Labor Organization (ILO) only divides labor disputes (Labour Disputes) into 2 (two) cases, namely conflicts of rights (competition of rights, rechtsgeschillen), which are rechtmatigheid in nature and conflicts of interest (conflict of interest, belangengeschillen), which are doelmatigheid (Wijayanto Setiawan, 2007). Next, H.M. Laica Marzuki argues, layoffs are included in the conflict of rights (conflict of rights, rechtsgeschillen) because layoffs are essentially rechtmatigheid (Wijayanto Setiawan, 2007). Because the nature of layoffs is the termination of a work agreement, the basis is an agreement.

According to A Ridwan Halim (1990), layoffs are steps to terminate the employment relationship between workers/labor and employers/employers due to a particular matter. Suwanto defines layoffs are: Termination of employment relationships that should continue, meaning that layoffs only occur between companies and workers/laborers with permanent status who have passed a probationary period of 3 (three) months, according to Suwanto (2003) in the case of workers/labor entering retirement actually cannot be classified as layoffs. Article 1, number 25 of the UUK defines layoffs, namely: termination of employment relationship due to a particular matter which results in the termination of rights and obligations between workers/laborers and entrepreneurs. Article 1 point 4 UUPPHI are disputes that arise because there is no conformity of opinion on the suitability of the views regarding the termination of the employment relationship carried out by one of the parties. The cause of layoffs can be preceded or not preceded by a violation of the law (criminal or non-criminal) either by the employer or by the worker/laborer.

### Termination of Employment and Working Conditions

According to A Ridwan Halim (1990), layoffs are steps to terminate the employment relationship between workers/labor and employers/employers due to a particular matter. Thus, Article 1 number 25 of the UUK provides the meaning of layoffs, namely: termination of employment relationship due to a specific topic which results in the termination of rights and obligations between workers/laborers and entrepreneurs. From the 2 (two) definitions of layoffs described above, the causes of layoffs are "certain things," are the causes of layoffs, many reasons for layoffs, for example, the existence or absence of legal violations by both workers/laborers and employers, causes of layoffs due to violations the law is criminal or non-criminal by the worker/laborer by the entrepreneur. The reasons for layoffs are violations of criminal law by workers/laborers committing theft of company property, workers/laborers committing fraud or embezzlement, and others. The causes of layoffs are not included in the criminal law aspect by workers/ laborers; among others, workers/ laborers are often absent from work, are not competent at job and others. Meanwhile, the causes of layoffs are due to violations of criminal law by employers, including employers who abuse or humiliate workers/laborers. The causes of layoffs due to the Covid-19 Pandemic are included in the category of layoffs that are not preceded by a violation of the law.

The division of the causes of layoffs as described above is very important because it relates to the process of resolving releases and the normative rights (labor legislation) of workers/laborers in the form of severance pay (UP), Period of Service Rewards (UPMK) and compensation payments (UPH). . Among other things, workers/laborers who were laid off before a violation of criminal law (theft, embezzlement, etc.) were not entitled to receive UP, UPMK. They were only allowed to UPH, and workers/laborers laid off without being preceded by a violation of the law (Covid-19 pandemic) were entitled to UP, UPMK, and UPH as regulated in

**UUK or UUCK.**

Completing layoffs (including layoffs that caused the Covid-19 Pandemic) must prioritize protection for both workers/laborers and employers; layoffs must guarantee the fundamental rights of workers/laborers and ensure equal opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers. Workers and their families, while still taking into account the development of the progress of the business world (Vide consideration of the UUK, letter d), in essence, layoffs are a legal act which is generally not desired by all parties involved (employers, workers/laborers, government). For workers/laborers, layoffs are the beginning of misery, unemployment, and life difficulties; for entrepreneurs, it is the loss of workers/laborers who have competencies (knowledge, abilities, experience, skills, attitudes) that are very useful for the continuity and progress of the company—unemployment and poverty in Indonesia. Therefore, layoffs must be carried out in a state of necessity and are the last resort after various efforts have been made. Employers, workers/laborers, trade unions/labor unions, the government must make every effort to prevent layoffs from occurring (Vide Article 151 paragraph (1) to paragraph (3) of the UUK). Still, suppose layoffs cannot be avoided. In that case, the purpose of this is to terminate or terminate employment must be negotiated between employers of workers/labor or trade unions/labor unions. Suppose the negotiations do not result in an agreement. In that case, the entrepreneur can only carry out a layoff after obtaining a determination from the industrial relations dispute settlement institution/LPPHI (Vide Article 151 paragraph (1) to paragraph (3) of the UUK).

The legal function of regulating the implementation of layoffs due to the impact of the Covid-19 pandemic cannot be static, it must be dynamic, meaning that changes must be made according to the causes of layoffs for the Covid-19 pandemic, this is in line with Abdul Manan's opinion (2003), to carry out its functions the law must not be static, the law must dynamic, changes must be made in line with the times and the dynamics of people's lives, namely in addition to providing protection to workers/laborers, they must also pay attention to the development of companies affected by the Covid-19 Pandemic, as stated in letter d of the consideration of the UUK which states the definition of labor protection: manpower (worker/labor) is intended to guarantee the fundamental rights of workers/laborers and to ensure equal opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while taking into account the progress of the business world.

The definition of guaranteeing the fundamental rights of workers/laborers and ensuring equal opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families about the settlement of layoffs due to the Covid-19 Pandemic, meaning that the implementation of releases is genuinely a forced condition force majeure), a situation where the company has taken various preventive measures to prevent layoffs, among others, the company has made considerable savings and efficiency in all resources as described above, even though in the end the dismissals were carried out in a forced state (force majeure) with the company and workers/laborers continue to maintain conditions of harmonious industrial relations (industrial peace), maintain peace of mind and work or a dynamic state in working relationships in companies where there are 3 (three) essential elements, namely: 1) Rights and obligations are guaranteed to be implemented; 2) If a dispute arises (industrial) it can be resolved internally; 3) Strikes and company closures (lock-outs) do not need to be used to impose their will, because the disputes (industrial: author) that have occurred have been appropriately resolved (Suwarto, 2003).

The definition of guaranteed rights and obligations is carried out, as mentioned in the letter above. Suwarto (2003) calls it the notion of working conditions, namely: It is the level of employment conditions seen from the arrangement of rights and obligations between workers/laborers and entrepreneurs or company leaders. According to Suwarto, working conditions can be divided into 2 (two) broad outlines, namely work norms (labor legislation) and terms of employment (terms of employment).

Work norms (labor legislation), basically are: The regulation of rights and obligations for workers/laborers and employers contained in the bill, which is imperative and mandatory, must be implemented, binding on all companies, minimally macro. Macro in the sense of securing the company without exception, whether in place, size, type of business, nature of the legal entity, and so on. At least in the sense that in practice, the things that are regulated can be carried out better or greater depending on the ability and willingness of the individual company (Suwarto, 2003).

Terms of employment (terms of engagement) are: "Regulation of the rights and obligations of workers/laborers and employers of various aspects of the employment relationship that have not been regulated or not regulated by laws and regulations (work norms), this arrangement is micro-conditional. Micro in the sense that it is regulated only for certain companies individually, conditional in that the arrangement is adjusted to the conditions or capabilities of the company concerned. The form of working conditions is a work agreement, company regulations, collective labor agreement (PKB)" (Suwarto, 2003).

Based on Suwarto's understanding of working conditions about the implementation of layoffs, during determining LPPHI, the company provides "Waiting Money" at least equal to the basic salary per month. A waiting fee is a form of terms of employment. And after LPPHI determines the layoffs, the workers/laborers get

UP, UPMK, and UPH as regulated in Article 156-157 of the UUK, which is a form of compliance with work norms (labor legislation) by the company against workers/laborers who have been laid off due to the impact of the Covid-19 Pandemic. The granting of rights to workers/laborers, both in terms of work norms (labor legislation) and terms of employment (terms of engagement) as mentioned, while taking into account the progress and capability of companies affected by the Covid-19 Pandemic.

### **Termination of Employment and Legal Change Aspects**

Based on the definition of worker/labor protection as described above, in fact, the law for settling layoffs (UUPPHI, UUK) was made and promulgated for the benefit of all parties involved (employers, workers/laborers, government), while the interests of all parties, including the causes of layoffs due to the pandemic Covid-19, is not the same or different, during the Covid-19 Pandemic many companies laid off because they were losing money and even closed. In contrast, workers/labor layoffs were the beginning of misery due to loss of income, releases for the government increased unemployment. Therefore, if a previous layoff settlement law was following the needs (before the Covid-19 Pandemic), then the needs changed due to the impact of the Covid-19 pandemic, then it is a sage thing to amend the layoff settlement law and adjust it to the condition of the company affected by the Pandemic. Covid-19. This is in line with Ahmad Nusthafa al-Maraghi that rules are made and promulgated for the benefit of humans. In contrast, human interests are not the same, different from one another due to differences in conditions, situations, times, and places. Therefore, if a law is made when the law is felt like a need, then the market no longer exists, then the sage thing is that the law is changed and adapted to the conditions of the times (Abdul Manan, 2013).

The law for the settlement of layoffs must be changed or adapted to the conditions of companies affected by the Covid-19 pandemic so that these changes run in an orderly manner and meet the sense of justice of all parties.

1. As a standard of conduct, namely the law as a basis or measure of behavior that must be obeyed by everyone in acting about one another, namely all parties involved in implementing layoffs due to the Covid-19 pandemic (employers, workers/laborers, government ) must have a back-up or size for the settlement of releases in the process following the applicable laws and regulations (UUPPHI) and workers/laborers are guaranteed to get their rights both in terms of work norms (labor legislation) and terms of employment as described above (Abdul Manan, 2013);
2. As a tool of social engineering, namely law as a means or mechanism to change society for the better personally and in public life or the settlement of layoffs due to the Covid-19 Pandemic is a means or tool to change all parties involved in the settlement Layoffs in a better direction, namely the implementation of releases due to the Covid-19 Pandemic does not result in the production process stopping or the company closing. Workers/laborers who are forced to be laid off are guaranteed to get working conditions, both in terms of work norms (labor legislation) and are working conditions (duration of employment), and get empowerment and utilization so that workers/laborers affected by layoffs can work in other companies or can conduct entrepreneurship independently: the broadest possible employment for Indonesian workers (workers/bureau uh got laid off due to the Covid 19 Pandemic). Furthermore, Indonesian workers (workers/laborers laid off due to the Covid-19 Pandemic) are expected to participate optimally in national development while still upholding human values. Thus, workforce development aims to make Indonesian workers (workers/laborers laid off due to the Covid-19 Pandemic) the subject of action, not the object of development (Abdul Khakim, 2013). Empowerment and utilization of workers/labor can be done by developing human resources (HR) workers/labor. Human resource development (workers/labor: writers) is based on a philosophy, namely humans (workers/laborers who have been laid off due to the Covid-19 Pandemic) who are disciplined, professional, and visionary. The development of human resources (workers/laborers affected by layoffs due to the Covid-19 Pandemic) is focused on improving skills, knowledge, and attitudes which is implemented through the implementation of technical, managerial, and leadership training programs, on job training, assignments (transfers, rotations) and job promotion. Through these programs, it is hoped that all employees (workers/laborers affected by the layoffs due to the Covid 19 Pandemic) can set goals, targets, activity processes, and benchmarks for their respective performance to produce more efficient, effective, and productive work so that they can support the program. Company savings to prevent mass layoffs due to the impact of the Covid-19 Pandemic” (Donni Juni Priansah, 2018). One type of worker/labor development to increase the competence of workers/laborers affected by layoffs due to the Covid-19 Pandemic is through job training and apprenticeships. Job Training is All activities to provide, obtain, improve, and develop work competence, productivity, discipline, attitude, and work ethic at a particular skill and expertise level following the level and qualification of the position or job (Vide Article 1 point 9 UUK) so that workers/laborers affected by layoffs have the work competencies required by other companies or can become entrepreneurs themselves”. Apprenticeship is part of a job training system that is held in an integrated manner between



training in training institutions and working directly under the guidance and supervision of instructors or more experienced workers/laborers, in the process of producing goods or services in companies, in the context of mastering specific skills or expertise (Vide Article 1 number 11 UUK) required by other companies or being able to start their own business. Strictly speaking, the objectives of the empowerment program are empowering the development of workers/laborers who have been laid off due to the Covid-19 Pandemic, and so on, so that after being laid off, these workers/laborers can have the competencies needed by other companies or can do entrepreneurship independently. The definition of work competence according to Article 1 point 10 UUK is. The workability of each individual (worker/labor) which includes aspects of knowledge, skills, and work attitudes that are following established standards (needed by other companies or as capital for workers/laborers for entrepreneurship)”.

3. As a tool of social control, namely the law as a tool to control human behavior and actions, so that they do not act against legal norms, religion, morality, or the law for resolving layoffs due to the Covid-19 pandemic, it can be used as a tool to control the behavior and actions of all parties involved in settlement of dismissals (especially entrepreneurs) following applicable laws and regulations (UUPPHI and UUK) (Abdul Manan, 2013);
4. As a facility on human interaction, the law functions not only to create order but also creates social change by facilitating the process of social interaction and is expected to be a driving force to cause changes in people's lives (Abdul Manan, 2013). The implementation of layoffs due to the COVID-19 pandemic is not only to create order and keep companies from closing but also to create changes to all parties involved in the implementation of layoffs (employers, workers/laborers, the government) by facilitating the process of social interaction between all these parties. So that it is expected to be an impetus to cause changes in the lives of all parties involved in the implementation of layoffs due to Covid-19, the changes in question, the performance of releases due to the Covid-19 pandemic does not result in the production process stopping or the company closing, and workers/laborers who are forced to be affected Layoffs are guaranteed to get their rights, both rights that are work norms (labor legislation) and terms of employment (terms of employment) and empower and utilize workers/laborers affected by the layoffs to have the competencies needed by other companies or to be able to do entrepreneurship independently.

The legal functions of regulating layoffs based on standards of conduct, as a tool of social engineering, as a tool of social control, as a facility on human interaction as described above, have a meaningful substance, the law regulating layoffs is positioned as a tool for implementing the soul Pancasila means that companies with all their power and efforts must prevent or minimize the occurrence of releases including layoffs due to the impact of the Covid-19 pandemic. layoff settlement policy based on as described above) is a tool or means and steps that can be used by the government (all parties in the implementation of layoffs) to create a national legal system (law for implementing layoffs) to achieve the nation's ideals and state goals or the ultimate goal of releases namely the welfare of all parties involved in the implementation of releases, therefore yes the legal functions of releases based on standards of conduct, as a tool of social engineering and others as described above, can also be said to be the principle and purpose of resolving layoffs due to the Covid-19 pandemic based on Pancasila Industrial Relations (HIP) prioritizing the concept of harmony, namely focusing more on efforts to reduce the intensity of disputes between employers and workers/laborers, by resolving industrial relations disputes (PHKs) based on Pancasila Industrial Relations.

### **Pancasila Industrial Relations and Termination of Employment as Impact of the Covid-19 Pandemic**

According to R. Herlambang Perdana Wiratraman, in the 1970s, Pancasila Industrial Relations (HIP) was introduced as a concept of 'harmony' in industrial relations. In this case, harmony is more conceptually focused on efforts to reduce the intensity of labor disputes (workers) with employers, and the state can intervene in labor issues (industrial relations) through repressive instruments (military-police) (Sayid Mohammad Rifqi Noval, 2017). HIP according to Sedjun. H. Manulang is a system of relationships formed between actors in producing goods and services (workers, entrepreneurs, government) based on values that are a manifestation of the overall precepts of Pancasila and the 1945 Constitution (UUD'45). ) which grows and develops above the nation's personality and Indonesian national culture (Zainal Asikin, 2016). According to FX Djumialdji and Wiwoho Soedjono, HIP is industrial relations (HI) which are imbued with the five principles of Pancasila, which reads: a) A labor relationship that recognizes and believes in work as human service to God and fellow human beings; b) Workers/laborers are not only as factors of production but as individual human beings with all their dignity and worth; c) Labor relations that encourage Indonesian Unity do not discriminate against class, belief, politics, understanding, sect, religion, ethnicity, gender; d) Labor relations based on the principle of deliberation and consensus, eliminating differences, seeking commonalities towards an agreement between workers and employers; e) A labor relationship that encourages the creation of social justice for all Indonesian people, for that the results of economic development must be enjoyed together in a harmonious, balanced and equitable manner (Zainal Asikin, 2016).

Based on HI, which is based on the five principles of Pancasila, as described above, the settlement of layoffs due to the Covid-19 pandemic must be based on the spirit of Pancasila, namely: 1) Admitting, believing that the completion of layoffs is a human service to God and fellow human beings. The implementation of layoffs is indeed correct. -truly is a forced condition (force majeure), namely the company takes various actions to prevent layoffs, including the company has made efficiency savings in various resources (raw materials, energy, spare parts, reduced work shifts and overtime hours of workers/laborers, reduce and/or eliminate monthly or annual bonuses that are usually received by workers/laborers, lay off workers/laborers, etc.); 2) Settlement of layoffs due to the impact of the Covid-19 Pandemic based on the principle that workers/laborers are not only as factors of production but as individual human beings with all their dignity, namely after obtaining a determination from LPPHI and during the process of obtaining LPPHI determination the worker/labourer gets "Waiting Money" A minimum of the basic salary per month, for the sake of legal certainty, the length and amount of waiting money is stated in the Company Regulation (PP) or Collective Labor Agreement (PKB) which is made (PP, PKB) based on the Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number Per. 16/MEN/XI/2011 concerning Procedures for Making and Legalizing PPs and Registration of PKB (Permenakertrans No 16/2011); 3) Encouraging the implementation of layoffs in forced circumstances (force majeure) towards the creation of social justice for all parties involved in resolving layoffs due to the impact of the Covid-19 Pandemic (entrepreneurs, workers, and their families) in a harmonious, balanced and equitable manner, namely for entrepreneurs, layoffs are a forced Majeure or last resort as described in points 1 (one) and 2 (two) above. For workers/laborers carrying out layoffs after obtaining a determination from LPPHI and during the process of determining LPPHI workers/laborers receive "Waiting Money" at least equal to the basic salary per month and at the time of implementation of layoffs receive Severance Pay (UP), Service Period Award (UPMK), Money Replacement of Rights (UPH) as regulated in Article 156 to Article 157 of Law Number 13 of 2003 concerning Manpower (UUK) or regulated in Law Number 11 of 2020 concerning Job Creation (UUCK) or regulated in PP or PKB, as long as the amount of UP, UPMK, and UPH regulated in PP or PKB is not lower than UUK or UUCK; 4) The company's profits in the production process can be enjoyed by all parties involved in IR (employers, workers/laborers), meaning that the company's profits obtained before the Covid-19 Pandemic can be used to pay "waiting for fees" for UP, UPMK, and UPH as described in number 3 (three) above.

Human resources development is based on Pancasila and the 1945 Constitution of the Republic of Indonesia/UUD 1945 (Vide Article 2 UUK). Human resources development is carried out in the context of developing Indonesian people as a whole. Therefore, human resources development is carried out to create prosperous, just, successful, and equitable Indonesian people and society, both materially and spiritually (Vide Explanation of Article 2 of the UUK). Human resources development is carried out on integration through functional coordination across central and regional sectors (Vide Article 3 of the UUK).

Based on the principles of human resources development described above, the law for resolving disputes over layoffs due to the Covid-19 pandemic must be based on Pancasila. The 1945 Constitution, implemented in the context of developing Indonesian people as a whole, to create prosperously, just, successful, and equitable Indonesian people and people, both materially as well as spiritual ones, which are held on the principle of integration through functional coordination across central and regional sectors, as well as according to Abdul Khakim (2004), the focus of human resources development (settlement of layoffs due to the Covid-19 Pandemic) is following the principles of national development, particularly the principles of democracy, fair and equitable principles. This is done because human resources development involves multi-dimensional and relates to various parties, namely between the government, employers, and workers/laborers. Therefore, human resources development (settlement of layoffs due to the Covid-19 Pandemic) is integrated with mutually supportive cooperation. Hence, the principle of labor law is the principle of integration through functional coordination across central and regional sectors.

Referring to the opinion of Abdul Khakim as described above, the principle of labor development in resolving disputes over layoffs due to the Covid-19 pandemic must be following the principles of national development, particularly the principles of democracy, fairness, and equity, considering that employment development as the last one, involves multi-dimensional and related to various parties (government, employers, and workers). Therefore, the settlement of layoff disputes as a result of the Covid-19 Pandemic must be carried out in an integrated manner in the form of mutually supportive cooperation between all parties involved in the settlement of layoffs (employers, workers/laborers, and the government) through functional coordination across central and regional sectors, namely the settlement Layoff disputes due to the Covid-19 Pandemic must be carried out based on the UUPPHI which regulates the settlement of layoff disputes through central and regional cross-sectoral functional coordination or the payment of layoffs due to the Covid-19 Pandemic, must be carried out in stages which is operational coordination across main and regional sectors, namely the first stage, carried out by deliberation to reach consensus (bipartite), namely through meetings between employers and workers/laborers with or without being represented by trade unions/ labor unions without involving parties outside the

company. Settlement of the second stage of layoff disputes, namely the payment of layoff disputes through mediation by the employment agency at the place where the territory of the layoff disputes takes place, if the settlement of the second phase of layoffs is not successful, the third phase of termination of employment must be pursued, namely through PHI. The completion of the fourth stage of releases, namely through the Supreme Court (Vide Article 6 to Article 16; Article 81 to 112; Article 113-115 UUPPHI), the purpose of the stages of completing layoffs due to the Covid-19 Pandemic as described above, is to protect workers/laborers affected by layoffs due to the Covid-19 pandemic from arbitrary actions or the unlimited power of employers, with the stages of completing the releases as described above, without going through these stages, entrepreneurs cannot unilaterally lay off workers because the company is losing money or closing due to the impact of the Covid-19 pandemic.

The stages of settlement of layoffs as described above have placed the law on the territory of releases (UUPPHI) as a tool of social control, namely as a tool to control human behavior and actions (entrepreneurs) so that they (entrepreneurs) do not commit crimes activities that violate legal norms, religion, morality in resolving layoffs due to the Covid-19 pandemic, this is following the objectives of labor development namely empowering and utilizing the workforce (workers/labor: writers) optimally and humanely, realizing equal distribution of employment opportunities and providing human resources (workers/laborers) following national and regional development needs, providing protection to workers (workers/laborers) in realizing and improve the welfare of the workforce (workers/laborers) and their families (Vide Article 4 UUK) during the Covid-19 Pandemic (Abdul Manan, 2013).

Based on the employment development objectives described above, the development objectives for resolving layoffs due to the Covid-19 pandemic are to optimally and humanely empower workers/laborers in determining layoffs due to the COVID-19 pandemic, to create opportunities, and to provide workers/laborers affected by the COVID-19 pandemic for national and regional development needs, protecting workers/laborers affected by layoffs due to the Covid-19 Pandemic to maintain the welfare of workers/laborers and their families after being laid off due to the Covid-19 Pandemic. One of the subsystems of labor law in Indonesia is the industrial relations law subsystem (HI), and one of the IR subsystems is the law for the settlement of layoffs due to the Covid-19 pandemic, to be precise, the legal subsystem for the Industrial Relations Dispute Settlement (PPHI) as described above. The definition of IR is: "A system of relations formed between all parties involved in the process of producing goods or services (employers, workers/laborers, and the government) based on Pancasila and the 1945 Constitution of the Republic of Indonesia/UUD 1945 ( Vide Article 1 paragraph 16 UUK).

Based on the definition of IR as mentioned above, Indonesia adheres to IR based on Pancasila, from now on, abbreviated as HIP. The HIP principle is based on an atmosphere of complete harmony, harmony, and balance between the parties in the entire production process, namely workers/laborers, entrepreneurs, and the government. HIP adheres to the tri dharma, namely that workers, employers, and the government create a sense of belonging, participate in maintaining, maintain, constantly introspective and joint responsibility (Zainal Asikin, 2016). Based on the HIP principle, the settlement of layoffs due to the Covid-19 Pandemic must be based on an atmosphere of harmony, harmony, and balance between all parties involved in IR (payment of layoffs due to the Covid-19 Pandemic). And must adhere to the tri dharma, namely between workers/laborers and entrepreneurs who are involved in IR (settlement of layoffs due to the Covid-19 Pandemic) there must be a sense of mutual belonging, participating in maintaining, participating in maintaining, constantly introspective and shared responsibility, increasing company productivity from time to time to realize the ultimate goal of IR regulation, namely welfare for all parties which is correlated with the welfare of workers/laborers and their families (Suwanto, 2003).

The ultimate goal of regulating industrial relations is in line with the objectives of the HIP, namely realizing a just and prosperous society based on Pancasila, independence, eternal peace, social justice through creating peace of mind and business, increasing production, improving worker welfare, and the degree of workers according to human dignity (Zainal Asikin, 2016). The purpose of the HIP is in line to resolve layoffs due to Covid-19, the principle aims to meet basic needs (needs) with desires (wants) to achieve a better level of community life to create a just and prosperous society based on Pancasila, independence, eternal peace, justice social welfare through creating work and business calm, increasing production, improving the welfare of workers/ laborers and their families as well as the degree of workers/ laborers following their human dignity.

HIP (settlement of layoffs) in achieving its objectives is based on 3 (three) principles of cooperation, namely: 1) Workers/laborers and entrepreneurs are comrades in arms in the production process, meaning that workers/laborers and entrepreneurs are obliged to work together, to help each other to smooth the company's business for the sake of increasing production that is correlated with the welfare of workers/ laborers and their families; 2) Workers/laborers and entrepreneurs are comrades in arms in that the profits received by the company are also enjoyed by the workers/laborers and their families, according to a fair and harmonious share; 3) Workers/laborers and entrepreneurs are comrades in arms in their responsibilities which include: a)

Responsibility to God Almighty; b) Responsibility to the nation and state; c) Responsibility to the surrounding community; d) Responsibilities to workers/ laborers and their families; e) Responsibility to the company where they work (Zainal Asikin, 2016).

The correlation of the 3 (three) principles of HIP as mentioned above in relation to the implementation of layoffs due to the Covid-19 Pandemic, are: a) Workers/laborers and employers are comrades in the struggle for the settlement of layoffs due to the Covid-19 Pandemic, meaning that workers/laborers and employers are required to work together, helping each other in an effort to prevent layoffs due to the Covid-19 Pandemic, even if a layoff is forced, they must go through the stages of the layoff process as regulated in Article 6 to Article 16; Article 81 to 112 ; Article 113-115 UUPPHI as described above and workers/laborers during the process of completing the layoffs receive "Waiting Money" at least equal to the basic monthly wage that workers/laborers usually receive, at the time of implementation of layoffs workers/laborers get UP, UPMK, UPH the minimum amount in accordance with the rights of workers/labourers in the nature of work legislation (labor legislation) as regulated in the UUK or UUCK; b) Workers/labor and entrepreneurs, are comrades in arms in profit, namely the profits that had been received by the company before the Covid-19 Pandemic could be enjoyed by workers/laborers who were forced to be laid off due to the Covid-19 Pandemic, the benefits of the company in question, are: in the form of "Waiting Money", UP, UPMK and UPH as described above; c) In the implementation of layoffs due to the Covid-19 Pandemic, workers/laborers and entrepreneurs are comrades in arms in their responsibilities to: God Almighty, the nation and state, society, workers/labor and their families as well as comrades in arms in their responsibility for the continuity of the company in the future. The Covid-19 pandemic and companies that are forced to lay off workers/laborers due to the impact of the Covid-19 Pandemic, the layoff process is carried out following the applicable laws and regulations (UUPPHI), and workers/laborers receive "Waiting Money," UP, UPMK and UPH as mentioned in number 1 (one) and number 2 (two) above.

The settlement of layoffs due to the impact of the Covid-19 pandemic following the principles and objectives of the HIP will be achieved if it is supported by social attitudes and mental attitudes based on Pancasila, which are carried out by all parties involved in resolving layoffs due to the Covid-19 pandemic.

#### **Termination of Employment Due to the Impact of the Covid-19 Pandemic Based on Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (UUPPHI) and Pancasila**

Based on the explanation above, the legal system for the settlement of Indonesian layoffs is based on the principles of Pancasila, namely that the payment of releases due to the Covid-19 pandemic is an act of worship to God Almighty (the One Godhead), so that entrepreneurs, workers/labor, trade unions/ labor unions, and the government must make every effort to prevent layoffs from happening, even if there are forced layoffs, they must be in a very, very forced manner, the process of resolving layoffs by taking into account the interests of all parties (employers, workers/laborers, the government), the interests of the entrepreneurs prevent the company from closing, the interests of workers/laborers, the final (forced) layoffs are carried out in stages, namely Bipartite, Mediation, PHI and MA (Vide Articles 6 to 16; Articles 81 to 112; Articles 113-115 of Law Number 2 2004 Industrial Relations Dispute Settlement (UUPPHI) and during the process to obtain a determination from LPPHI workers/laborers receive a minimum "Waiting Money" as much as the basic monthly salary typically received by workers/laborers and get UP, UPMK and UPH whose minimum amount is in accordance with the rights of workers/laborers in the nature of work norms (labor legislation) as regulated in UUK or UUCK.

The settlement of layoffs due to the Covid-19 Pandemic based on the UUPPHI above is not only a reflection of the Precepts of the One Godhead as previously described above, but it is also a reflection of the Precepts of Humanity and the Precepts of Unity. Completion of layoffs due to the Covid-19 Pandemic and protecting the interests of workers/laborers whose economic and social position is weaker than employers also does not interfere with the spirit of the partnership of all parties in IR (employers, workers/laborers). This is in line with Soerjono Soekanto's view that the principle of unity is the values that form the basis of Indonesian customary law, namely "A matter which views that individuals are part of society (unity) each individual with their respective functions is obliged to maintain the continuity or integrity of society. As part of a unitary environment, individuals serve the community (unity) (Soerjono Soekanto, 2005).

Referring to Soerjono Soekanto's opinion, the principle of unity in resolving layoffs due to the Covid-19 Pandemic are the values of Indonesian customary law, namely "a matter that views that the individuals of the parties involved in settlement of layoffs are part of all parties in IR (entrepreneurs, workers/labor, government) or is a unit of each individual or of the parties involved in settlement of the layoffs, with their respective functions, namely the obligation to maintain the continuity or integrity of the interests of all parties in the payment of releases (employers, workers/laborers, government ). The settlement of layoffs resulting from the Covid-19 Pandemic based on the Precepts of One Godhead, the Precepts of Humanity, and the Precepts of Unity is also the embodiment of the Precepts of Deliberation in Representatives and the Precepts of Justice for All Indonesian People. The Precepts of Deliberation in Representatives, namely the settlement of layoffs, must be based on the



principle of kinship and be considered as a settlement in one big family, prioritizing consensus or (bipartite) deliberation as regulated in Article 6; Article 7 UUPPHI. Payment of layoffs, i.e., the completion of the process, is carried out in stages and stages (Bipartite, Mediation, PHI, MA); during the gradual and multilevel process, they receive waiting for money, and during the execution of layoffs workers/laborers get UP, UPMK, UPH as regulated in UUK or UUCK, implementation The process of layoffs is gradual and multilevel and workers/laborers get waiting for money, UP, UPMK, UPH is the process and performance of releases that reflect the 5th (fifth) Precepts of Pancasila (Social Justice for All Indonesian People).

The precepts of Social Justice for All Indonesian People, namely the settlement of layoffs due to the Covid-19 Pandemic, must protect all parties involved (employers, especially workers/laborers) so that no one will get arbitrary treatment (protective justice), namely layoffs are the last resort (forced) whose completion process is carried out in stages and stages as regulated in Article 6 to Article 16; Article 81 to 112; Article 113-115 UUPPHI) and workers/laborers get their labor legislation as handled in UUK or UUCK, namely waiting for money during the process to get a layoff decision from LPPHI and get UP, UPMK and UPH after the dismissal is determined from LPPHI.

The application of the Pancasila precepts in settlement of layoffs which refers to the UUPPHI as described above, will be realized if the completion of releases accompanies it due to the Covid-19 pandemic based on ethical justice theories, utility, and guardianship justice theories.

### **Application of the Theory of Ethical Justice, Utility, Protection in the Resolution of Termination of Employment in the Impact of the Covid-19 Pandemic**

The ethical theory argues that the purpose of the law is to achieve justice. According to Aristotle, justice means giving everyone their part or rights (*ius suum cuique tribuere*). Everyone's share of ownership is not the same; Aristotle distinguishes two types, namely: a) Distributive justice is justice that gives everyone a percentage or claims following their services, which is the principle of distributive justice, not equality of parts, but comparison. Distributive justice is the principle that controls or regulates the relationship between citizens and society as a unit (the state) (Tim, 1995). Implementation of the settlement of layoffs due to the Covid-19 Pandemic based on distributive justice, giving to all parties involved in the payment of releases due to the Covid-19 Pandemic (employers, workers/laborers, government) following their services, including providing UP, UPMK, UPH to workers/ workers according to their working period as regulated in UUK or UUCK; b) Commutative justice, justice that gives everyone the same amount regardless of their services, which is the principle in commutative justice is the principle of equality. Commutative justice is the principle that governs the relationship between individual community members, for example, buying and selling connections and exchanging (Tim, 1995). The implementation of the settlement of layoffs due to the Covid-19 Pandemic based on commutative justice, the payment of releases due to the Covid-19 pandemic provides for all parties involved in the territory of layoffs due to the Covid-19 pandemic without regard to their services or based on the principle of equality, namely giving to entrepreneurs so that the company does not close due to the impact of the COVID-19 pandemic. Covid-19 pandemic and giving to workers/laborers, namely during the process of determining from LPPHI in the form of "Waiting Money" at least equal to the basic monthly salary typically received by workers/laborers and at the time of execution of layoffs workers/laborers get UP, UPMK and UPH the amount of which is at least according to the rights of workers/laborers like work legislation (labor legislation) as regulated in the UUK or UUCK.

The theory of utility justice, namely the law, aims to realize what is practical or valuable (*doelmatig*) for people, namely realizing as much happiness as possible for as many people as possible. Only in order does everyone have the opportunity to discover as much pleasure as possible. The application of the Utility Justice Theory in resolving layoffs due to the Covid-19 Pandemic, namely the law for resolving layoffs due to the Covid-19 Pandemic, aims to realize what is practical or valuable (*doelmatig*) for all parties involved in determining layoffs due to the Covid-19 Pandemic, namely realizing happiness as much as possible. -a lot for as many as possible all parties involved in resolving layoffs due to the Covid-19 Pandemic (employers, workers/laborers, government), namely the completion of releases due to the Covid-19 Pandemic does not result in the company closing and giving to workers/laborers, namely during the determination process from LPPHI in the form of waiting for money, after the determination from LPPHI to get UP, UPMK and UPH as regulated in the UUK or UUCK accompanied by empowerment, utilization, training and apprenticeship programs to increase the competence of workers/laborers affected by layoffs, so that workers/laborers affected by layoffs have competence to work in other companies or be able to do entrepreneurship independent way so that it can help government programs to reduce the number of unemployed due to the impact of the Covid-19 Pandemic (Tim, 1995).

The theory of protective justice, namely, the law aims to provide or protect humans, means protecting humans in a passive and active sense: a) Protecting humans in a passive sense, namely preventing arbitrary actions and violations of rights. The application of the theory of passive protection justice in settlement of layoffs due to the Covid-19 Pandemic, namely by avoiding arbitrary actions and rights violations by all parties involved in resolving layoffs due to the Covid-19 Pandemic (especially by employers to workers/laborers),

namely employers, trade unions/labor unions must try to prevent layoffs, meaning that dismissals are carried out in exceptionally, very forced circumstances. The settlement process is following Law 2/2004 concerning PPHI; during the process of determining LPPHI, they receive waiting for money, and after the determination of LPPHI, they get UP, UPMK, UPH as regulated in UUK or UUCK; b) Protecting humans in an active sense, namely: 1) Encompassing all efforts to create social conditions that open the broadest possible path and encourage humans to humanize themselves continuously. Fair, so that relatively every human being gets ample opportunity to develop his human potential (talents and abilities) as a whole. Protecting humans in an active sense about the settlement of layoffs due to the Covid-19 Pandemic includes all efforts to create conditions for the payment of releases due to the Covid-19 Pandemic that opens the broadest possible way for no layoffs due to the Covid-19 Pandemic, even if layoffs occur under forced circumstances (force majeure). In which the process for obtaining the determination of LPPHI is carried out in stages according to Law 2/2004 concerning PPHI (Bipartite, Mediation, PHI, MA) and during the process and after receiving the determination of layoffs from LPPHI, workers/labourers get waiting money, UP, UPMK, UPH according to UUK and UUCK; 2) Maintain and develop human character and noble moral ideals of the people based on the One Godhead (see explanation of the 1945 Constitution) or maintain and develop human nature and noble ethical standards of the people based on the One Godhead in resolving layoffs the impact of the Covid-19 Pandemic, namely the completion of releases as a result of the Covid-19 Pandemic is worship to God Almighty by protecting the interests of workers/labourers whose economic and social positions are weaker than those of entrepreneurs; 3) Efforts to realize protection, are efforts to: Order and order; True peace (tranquil peace); Justice includes, distributive justice, commutative justice, and protective justice. Welfare and social justice; Maintenance and development of morals (noble character and ideals) based on the One Godhead (Tim, 1995).

Efforts to protect in resolving layoffs due to the Covid-19 Pandemic are efforts to create order, order, peace and tranquility, distributive justice, commutative justice, protective justice, welfare, social justice, maintenance, and maintenance development of morals (noble character and ideals). They are based on God Almighty in resolving layoffs due to the Covid-19 Pandemic for all parties involved (entrepreneurs, workers/labourers, government).

### III. CONCLUSION

Employers, trade unions/labor unions, the government must use all its power and efforts to prevent layoffs. For workers/labourers, layoffs are the beginning of suffering. Suppose all efforts and efforts have been made, but force majeure must be carried out. In that case, the solution is must be based on UUPPHI. Namely, the settlement can be non-litigation (bipartite, mediation, conciliation) or litigation (PHI, MA). Compensation of layoffs in non-litigation or non-litigation must be based on legal changes (Standard of conduct, as a tool of social engineering, as a tool of social control, as a facility on human interaction) based on Pancasila Industrial Relations (HIP) and theories of justice (Distributive, Commutative, Utility, Protective) this is to ensure that workers/labourers affected by layoffs due to the Covid-19 Pandemic get their rights or working conditions, both in terms of work norms (labor legislation) and are terms of employment following the UUK and UUCK and are empowered and utilized so that workers/labourers affected by layoffs can work in other companies or can do entrepreneurship independently..

### REFERENCES

- [1] Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia*, Cetakan ke-4- Edisi Revisi, PT Citra Aditya Bakti, Bandung, 2014.
- [2] Abdul Manan, *Aspek-Aspek Pengubah Hukum*, Cetakan ke 4 (empat), Prenada Media Group, 2013.
- [3] Ahmad Nusthafa al-Maraghi, *Tafsir al Maraghi*, Bab I al Halabi, Jus I, Cairo, tanpa tahun
- [4] A.RidwanHalim, *HukumPerburuhanDalam TanyaJawab*,Cetakan.II, GhaliaIndonesia,Jakarta, 1990.
- [5] C.F.G. Sunaryati Hartono, *Politik Hukum Menuju Sistem Hukum Nasional*, Alumni, Bandung, 1991.
- [6] Sayid Mohammad Rifqi Noval, *Hukum Ketenagakerjaan Hakikat Cita Keadilan dalam Sistem Ketenagakerjaan*, Refika Aditama, Bandung, 2017.
- [7] Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, PT Rajagrafindo Persada, Jakarta, 2005.
- [8] Suwanto, *HubunganIndustrialDalamPraktek*, AsosiasiHubunganIndustrialIndonesia,Tahun2003.
- [9] Tim Pengajar FH Unpar, *Pengantar Ilmu Hukum*, Universitas Katolik Parahyangan, Bandung, 1995.
- [10] WijayantoSetiawan, *PengadilanPerburuhanDiIndonesia*,Laros, Sidoarjo,2007.
- [11] Zainal Asikin, *Dasar-Dasar Hukum Perburuhan*, Cetakan ke-11,Rajagrafindo Persada, Jakarta, 2016.