



Problems of Execution and Implementation of Arbitration Decisions in Settling Workers' Rights Disputes

Nikmah Dalimunthe¹ Siti Nazua Novianti²

¹State Islamic University of North Sumatra

nikmahdalimunthe@uinsu.ac.id sitinazwanovianti@gmail.com

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Abstract

Arbitration, as an alternative mechanism for resolving workers' rights disputes, should offer legal certainty that is faster and more efficient than conventional litigation. However, in practice, arbitration awards, which are normatively final and binding, often face serious obstacles at the execution and implementation stages. This study critically analyzes the problems of executing arbitration awards in the context of workers' rights disputes in Indonesia, identifies legal loopholes exploited by losing parties to delay or thwart the implementation of the award, and examines their impact on the fulfillment of workers' normative rights. Using a normative juridical approach with comparative analysis and case studies, the study finds that weak execution mechanisms, multiple interpretations of public order provisions, and procedural gaps in filing applications for annulment of awards are the main root causes of the problem. Substantive reforms in labor arbitration regulations, strengthening the capacity of arbitration institutions, and stricter mechanisms for monitoring execution are absolutely necessary.

I. INTRODUCTION

Employment relationships are inherently unequal, with employers possessing far greater structural power than workers, both economically and in terms of access to legal resources. In such an imbalance, an effective dispute resolution mechanism is a non-negotiable prerequisite for fulfilling workers' basic rights (Hakim & Santoso, 2022). Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (PPI) offers various alternative resolutions, including bipartite settlement, mediation, conciliation, arbitration, and litigation in the Industrial Relations Court. Arbitration theoretically offers advantages over court proceedings: its process is faster, its privacy is private, and its decision is final and binding on all parties (Wahyudi, 2021).

However, the gap between theory and practice in labor arbitration in Indonesia has proven significant. Data from the Ministry of Manpower shows that the implementation of arbitration awards in workers' rights disputes remains unsatisfactory (Ministry of Manpower, 2023). Many decisions that have been legally binding are never enforced due to various legal actions taken by the losing party. This situation not only harms employees financially but also

undermines public confidence in the efficiency of the arbitration system as a dispute resolution option.

Academically, research on labor arbitration has focused more on procedural aspects and comparative law, while in-depth analysis of the challenges of executing and implementing decisions, particularly in the context of workers' rights, remains limited (Prasetyo & Dewi, 2022; Nugraha, 2023). This point forms the basis of this research. Through a combination of analysis of regulatory weaknesses, court practices, and industrial relations dynamics, this study seeks to present a comprehensive picture of the reasons for the failure of arbitration decisions to be implemented and to provide policy recommendations focused on worker protection.

Based on this background, this article aims to identify and analyze the factors that cause the implementation of arbitration awards to be difficult or fail in workers' rights disputes and to break down legal loopholes that are systematically exploited by the losing party to hinder the implementation of the award and assess the impact of the failure of such execution on the protection and fulfillment of workers' normative rights in Indonesia.

Disrupting the integrity of national

arbitration systems. Courts sometimes grant annulment requests that are actually disguised appeals, something that, according to doctrine, should not be allowed. This phenomenon is exacerbated by inconsistent perceptions among judges regarding the limits of judicial intervention in arbitration disputes.

II. RESEARCH METHODS

This research uses a normative juridical approach that focuses on the analysis of legal norms, court decisions, and other relevant legal sources (Marzuki, 2021). Primary legal sources include Law No. 2 of 2004 concerning the Indonesian Employment Law (PPHI), Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law No. 13 of 2003 concerning Manpower, and Supreme Court decisions regarding the annulment of labor arbitration awards for the 2020–2024 period. Secondary sources consist of academic journals, law books, ILO reports, and Ministry of Manpower documents. The analysis was conducted using a content analysis method on purposively selected court decisions, accompanied by a comparative analysis of the regulatory frameworks of countries with more developed labor arbitration systems.

III. RESULTS AND DISCUSSION

Anatomy of Execution Failure From Norm to Practice

Article 51 of Law No. 2 of 2004 states that arbitration awards are final and binding on the parties, while Article 52 regulates the registration of such awards with the district court to obtain enforceable power. Normatively, this procedure appears straightforward, but in practice, the registration process with the court becomes the starting point for various legal steps that can hinder or invalidate the implementation of the award (Nugraha, 2023).

The most fundamental problem is the delay and uncertainty in the process of recording decisions. Based on an analysis of several cases, district courts in Indonesia often lack standardized and measurable procedures for handling the registration of labor arbitration

decisions. As a result, a process that should be administrative under the law becomes quasi-judicial, sparking debate and protests from the losing party (Prasetyo & Dewi, 2022).

The second issue relates to the actual implementation of the lawsuit after registration is complete. The losing party, typically the entrepreneur, often uses a delaying strategy by filing various requests with the court, such as requests for clarification of the decision, requests for a stay of execution on the grounds of force majeure, and filing new lawsuits that indirectly question the substance of the legal relationship terminated through arbitration. This strategy exploits the fact that Indonesian courts do not yet have a clear way to reject lawsuits intended to hinder execution (Sihombing & Hasibuan, 2023).

Failure to enforce the agreement not only results in financial losses for the workers involved. More broadly, it sets a negative precedent that encourages other employers to disobey arbitration decisions, calculating that the costs of delaying the decision are far less than the damages required by the decision. This dynamic creates a kind of moral hazard in the labor arbitration system (Park, 2022).

Exploited Legal Loopholes: Between Public Order and Annulment of Verdicts

One of the most frequently exploited legal loopholes is the public policy (*ordre public*) clause, stipulated in Article 62 of Law No. 30 of 1999 as one of the grounds for annulling an arbitration award. In international legal theory, the concept of public policy serves as a final safeguard, allowing courts to refuse to recognize or enforce awards that manifestly contradict the fundamental values of the national legal system (Blackaby et al., 2023). The problem is, this concept lacks a clear and measurable definition in Indonesian positive law, making it vulnerable to expansive and inconsistent interpretations.

In Indonesian judicial practice, applications to annul arbitral awards on the grounds of public order are often granted even when the arguments raised are actually objections to the substance of the award, not to the fundamental values of the legal system (Nugraha, 2023). Courts sometimes

accept the argument that a decision deemed unfair by one party is sufficient to constitute a violation of public order. However, both international and comparative legal doctrine clearly distinguish between decisions that may be substantially wrong and decisions that violate public order as categorically different matters (Born, 2021).

The second point lies in the provisions regarding the grounds for annulling a decision, as stipulated in Article 70 of Law No. 30 of 1999. This article lists three grounds for annulment: forged documents or letters, fraud, and decisions exceeding the arbitrator's authority. These three reasons must be interpreted narrowly and strictly. However, using innovative legal argumentation techniques, the losing party often builds an argument that the arbitrator has exceeded his authority simply because the decision is considered detrimental to a doctrinally unjustifiable change in meaning (Hermanto & Sari, 2023).

The third gap stems from the regulatory dualism between the PPHI Law and the General Arbitration Law. Because the PPHI Law does not specifically regulate the procedures for annulling labor arbitration awards, there is uncertainty as to whether Article 70 of Law No. 30 of 1999 applies *mutatis mutandis*. This ambiguity allows losing parties to experiment with various legal remedies that are procedurally acceptable to the courts, even if they are substantively unfounded (Wahyudi, 2021). The Supreme Court itself has not yet produced a fully cohesive jurisprudence addressing this issue, making inconsistencies in decisions between courts a problem in itself.

Structural Inequality and Its Impact on the Fulfillment of Workers' Rights

It is important to recognize that the challenges of enforcing arbitration awards cannot be understood solely as legal technicalities. Underlying these issues are structural inequalities that favor employers and disadvantage workers. Employers, especially large corporations, have access to high-capacity law firms, the financial capacity to finance lengthy legal proceedings, and networks that enable them to establish informal

communication with various parties within the judicial system (Sihombing & Hasibuan, 2023). Conversely, workers in disputes often find themselves without an income and are highly vulnerable to time and financial pressures.

This inequality is reflected in a recurring pattern: when workers win arbitration, employers file annulment requests, raise numerous procedural objections, or even resort to delaying tactics such as submitting repeated interpretive questions to the court. All of this takes time and costs workers cannot afford (International Labour Organization, 2022). Ultimately, some workers must accept settlements far below those stipulated in the arbitration award, not because the amount is unfair, but because they cannot bear the burden of a protracted legal process.

The cumulative impact of this situation is serious. From the perspective of fulfilling workers' rights, the failure to enforce an arbitration award means that normative rights legally recognized by the arbitrator remain unfulfilled in practice. This includes the right to unpaid wages, adequate severance pay, social security, and various other rights (Wijayanti, 2021). For the workers involved, the consequences can include poverty, loss of access to health services, and various other psychosocial stresses.

Furthermore, the systemic failure to enforce labor arbitration awards contributes to the general weakening of workers' collective bargaining power. When workers see that even a victory in arbitration does not guarantee the fulfillment of their rights, their willingness to use formal legal channels to pursue their rights declines. This creates a vicious cycle: the fewer those who dare to file formal disputes, the less pressure there is on employers to comply with applicable industrial relations standards (Park, 2022).

Comparison with International Practices

Experiences from other jurisdictions provide a useful perspective for evaluating the situation in Indonesia. In Singapore, for example, the principle of minimal curial intervention is

consistently applied by courts in handling appeals regarding arbitral awards. Singaporean courts will only intervene in arbitral awards in truly extreme cases and are limited to reasons strictly defined in law (Singapore International Arbitration Centre, 2023). As a result, the annulment rate of arbitral awards in Singapore is very low, and international confidence in the country's arbitration system is very high.

Malaysia, with a legal system that shares many similarities with Indonesia, has implemented significant reforms to the Arbitration Act 2005 (as amended in 2018 and 2023), explicitly limiting the grounds for annulment and strengthening the pro-enforcement principle. These changes have resulted in a marked increase in the level of compliance with arbitral awards (Hermanto & Sari, 2023). Malaysia's experience demonstrates that targeted legislative reforms coupled with strong commitment from the courts can positively transform the arbitration landscape in a relatively short period of time.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the analysis conducted, several key findings can be concluded. First, the failure to enforce arbitration awards in workers' rights disputes in Indonesia is not an isolated phenomenon, but rather the result of a combination of factors: weak enforcement procedures, unclear regulations that create legal loopholes, inconsistent judicial jurisprudence, and structural injustice in industrial relations.

Second, the most pressing legal loopholes lie in two aspects: an overly broad understanding of the concept of public order and the disproportionate use of Article 70 of the Arbitration Law as a means to annul arbitration decisions based solely on dissatisfaction with the decision's content. This loophole is deliberately exploited by parties with stronger legal resources, usually employers, to obstruct the implementation of workers' rights determined by arbitrators.

Third, the impact of this failure to enforce the law extends beyond individual material losses. It undermines the integrity of the arbitration system as a trusted dispute resolution mechanism, creates a disincentive for workers to pursue formal legal recourse, and contributes to the systemic weakening of workers' rights protections.

B. Suggestion

Based on the research findings, there are several recommendations that need to be considered. At the legislative level, revisions to Law No. 2 of 2004 and Law No. 30 of 1999 are urgently needed, especially in terms of: (1) defining the concept of public order in a more measurable and limited manner, (2) narrowing the reasons that can be the basis for annulling a labor arbitration decision, and (3) establishing strict sanctions for parties proven to use an annulment request as a mere stalling tactic.

At the institutional level, the capacity of labor arbitration institutions is needed to be strengthened, both in terms of human resources (the quality and independence of arbitrators) and administrative procedures. The establishment of a more specialized labor arbitration institution separate from general commercial arbitration is worth considering as a medium-term measure. The experiences of Singapore and Malaysia show that institutional specialization is positively correlated with the effectiveness of the system as a whole.

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