

# Artikel

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## Research Article

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

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**Abstract.**

The COVID-19 pandemic has an impact on causing labor disputes or industrial relations, so there is a need for alternative solutions to reduce disputes after the COVID-19 pandemic. Efforts to resolve labor disputes must be comprehensive in one system. It is necessary to develop the substance, structure, and legal culture in finding alternatives to industrial relations disputes. The purpose of this study is to describe the value of local wisdom of the Sasak tribe as an alternative substance for resolving labor disputes. This study uses a non-doctrinal paradigm with descriptive research. This study uses cases and legislation based on a series of observations, interviews, and literature studies to be analyzed qualitatively. The results of the research findings were that the Sasak tribe has three Krama as dispute resolution institutions, namely Krama of inheritance, hut and village. These three Krama apply the five principles of local wisdom of the Sasak tribe, namely the principles of divinity and self-control; equal rights; harmony and kinship; deliberation and consensus, and justice. In conclusion, the five principles of local wisdom of the Sasak tribe which were applied in the three Krama institutions can be the substance of alternative solutions to minimize industrial relations disputes. The resulting recommendation was the active role of the government in building a krame institution in the mediation center that has structured funding support.

**Keywords:** Sasak tribe; local wisdom; dispute resolution; industrial relations.

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## 1. INTRODUCTION

The COVID-19 pandemic was declared by the World Health Organization (WHO) on March 11, 2020 [1]. Covid-19 stands for Coronavirus Disease-2019, which is a disease caused by Severe Acute Respiration Syndrome Coronavirus 2 (SARS-COV2) [2]. This disease was discovered in Wuhan, China in December 2019 [3]. This disease affects both humans and animals [4]. This disease causes respiratory tract infections. Respiratory tract infection rates range from the lowest, namely the common cold to serious diseases, namely Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS) [5]. The number of Covid-19 cases spread across 34 provinces in Indonesia as of 12 July 2022 was 6,116,347. Of this number, 156,806 patients died from Covid-19 or 2.56%. Those who recovered were 5,937,625 people or 97.07%. 21,916 people are under treatment or are undergoing self-isolation or 0.003%

The number of Covid-19 cases is less than 3% who died. The small number of Covid-19 cases has disrupted the recovery of national economic conditions. The existence of restrictions on business and social activities causes disruption of the implementation of work relations [6], [7]. Employers make changes to the way they work to anticipate the large number of production costs that are not balanced with the results of product sales [8]. Reducing working hours, reducing worker wages, working from home [9], laying off workers, to termination of employment. Changes in working methods and the loss of workers' rights due to the Covid-19 pandemic have led to industrial relations disputes.

Labor disputes or industrial relations disputes can result in strikes [10], company closures [11], [12], demonstrations, defamation, and destruction of property of others to the loss of one's life. This negative impact greatly affects the peace and comfort of work, national security, and stability. The existence of industrial relations disputes must be resolved immediately. An alternative solution is needed to reduce industrial relations disputes after the COVID-19 pandemic.

Efforts to settle industrial relations disputes must be comprehensive in one system. It is necessary to develop the substance, structure, and legal culture in finding alternatives to industrial relations disputes. Legal culture can be traced from the behavior of ethnic groups in indigenous people. One of the ethnic groups in Indonesia is the Sasak tribe. Research on local wisdom in West Nusa Tenggara has been studied by Nasri, but from the point of view of the Bale Mediation Institute which has not specifically studied employment. Research on the principle of dispute resolution based on the value of local wisdom in West Nusa Tenggara has been carried out by Sajim Sastrawan. His research was conducted from the perspective of the Sasak, Samawa, and Mbojo tribal communities, but is still general in nature and did not specifically study employment. Research on the resolution of social conflicts for communities affected by the COVID-19 pandemic in West Nusa Tenggara has also been carried out by Hilman Syahril Haqi which still focused on the point of view of legal culture. The last was the research by Suparman Jayadi with the point of view of inter-religious tolerance and it was also still general from the point of view of the Topat war tradition.

Due to the fact that there is no research on the local wisdom of the people of West Nusa Tenggara yet, on the Sasak people from the point of view of employment, especially the resolution of labor disputes or industrial relations during the Covid-19 pandemic, so this research is very important to be carried out as an alternative solution for the government to

prevent industrial relations disputes in the community. The purpose of this study is to describe the value of local wisdom of the Sasak tribe as an alternative substance for resolving industrial relations disputes.

## 2. METHODOLOGY/ MATERIALS

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

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

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

The analysis in this study begins with the collection of both verbal and written materials from the informan through in-depth intensive interviews and from the behavior of informants in several different situations. The summary of the materials then analysed based on the doctrine used in this study. After going through these steps, an interpretation was made to see the correlation relationship in the material, especially the researcher's point of view. Furthermore, a study of the interpretation of the legal culture that exists in the Sasak community of West Nusa Tenggara is carried out. The value of local wisdom that exists in the Sasak community of West Nusa Tenggara is formalized so that it can be the basis for the panel of judges to apply customary law when examining cases at the industrial relations court.

## 3. RESULTS AND DISCUSSIONS

### The Profile of West Nusa Tenggara Province

This study limits the object only to local wisdom in West Nusa Tenggara Province, especially Lombok. The province of West Nusa Tenggara is geographically located between 1150. 46' – 1190. 5' east longitude and 80 10'. - 90.5' south latitude. The northern boundary is the Java Sea and the Lorez Sea to the south is the Indian Ocean, the west is the Lombok strait and

the province of Bali, then to the east is the Sape strait and the province of East Nusa Tenggara. East Nusa Tenggara Province is a province consisting of an archipelago of two large islands, namely the island of Lombok with an area of 4,738.70 km<sup>2</sup> and the island of Sumbawa with an area of 15,414.5 km<sup>2</sup> in addition there are 378 small islands surrounding it with only 38 different inhabitants.

East Nusa Tenggara Province which consists of two islands, 10 districts or cities, 117 sub-districts and 1,143 villages or sub-districts. Lombok Island has five districts or cities Sumbawa island has five districts or cities. The administrative area on the island of Lombok consists of the district or city of Mataram, West Lombok, Central Lombok, East Lombok, North Lombok. Of the five regencies, the city is divided into 54 sub-districts and 598 villages or kelurahan. On the island of Sumbawa, there are five regencies or cities, namely Sumbawa, Dompur, Bima, City, Bima and West Sumbawa. Of the five urban districts on the island of Sumbawa, they are divided into 63 sub-districts and 546 villages or kelurahan. The total population in the province of East Nusa Tenggara from 2010 to 2020 is 5,013,687 people consisting of 2,433,731 male and 25,79956 female.

### Employment profile in West Nusa Tenggara Province

Employment conditions in West Nusa Tenggara Province, namely there are 786 company regulations. 217 collective labor agreements, 569 workers who have a certain time work agreement status. 6035 contract workers from 216 outsourcing companies, 214 companies providing labor services. During 2022, there will be no strikes. There are 43 industrial relations cases in 2022. The number of mediators is 3 people who hold the first functional position and 7 people who hold the junior functional position.

### Local wisdom

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

### Dispute resolution institutions in the indigenous community of West Nusa Tenggara.

The institution where the dispute resolution exists between the indigenous community of West Nusa Tenggara is referred to as Krama. Krama is a traditional institution based on local wisdom. There are two kinds of manners, namely Krama as a traditional institution and Krama as social rules. Second, this is referred to as Adikrama Lambat Adat, which means the sacred value of a social strata of Sasak custom based on its customary territory.

Krama as a traditional institution is divided into three, namely Krama Banjar Urip Pati, Krama Gubuk and Krama Desa. Rama Banjarturi Pati is a group or association of indigenous community consisting of residents from several villages/hamlets/dasans who have the same goal. Rahma Kubuk is a traditional Krama whose members are in one hut without exception. They are legal residents in a hut (hamlets/village) by custom and

administratively. Krama Desa is a traditional assembly at the village level. Consists of pemusungan/customary village head, guide/assistant to village head, village langlang/head of village security, prosecutor/village judge, escape/coordinator of village welfare and Kiai Penghulu.

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

### Legal principles in dispute resolution institutions in the Sasak community

Apart from manners, there is a legal culture of *sesenggak* in the form of proverbs in the Sasak community. Proverbs are expressions that contain implied meanings and can be understood by listeners or readers because they live in the same cultural sphere. The proverb has two meanings. Proverbs are groups of words or sentences that have a fixed structure, usually symbolizing a certain purpose. Both proverbs are expressions or concise sentences containing solid comparisons. Parables, advice, principles of life or rules of behavior. The purpose of the proverb is to rebuke someone so that the person will not be offended.

There are five *sesenggak* in the form of legal principles that exist in the Sasak community, East Nusa Tenggara, namely *betegel leg reden neneq*; *doe sopoq, bareng ngepe*; *awak sopoq, saling peririq, saling angkat, saling ajinin, saling sedok; soloh; endeq naraq, bine kire, tari nyacap*.

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

The principle of equal rights and the principle of equal rights (*doe sopoq, bareng ngepe*). This means that the settlement of disputes through the mediation of the West Southeastern village should not discriminate. There should be no discrimination in treating the parties to the dispute. Whatever the basis of discrimination, for example, based on gender, ethnicity, religion, social status, it should not be the thought of people who are making efforts to resolve disputes.

The principle of harmony or kinship in the proverbs (*papatah*) "*awak Sopoq, saling peririq, saling angkat, saling ajinin, saling sedok*", has the meaning of having to prioritize the spirit of kinship, mutual respect, mutual love between the parties so that the best solution can be found in efforts to resolve disputes.

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

both civil and minor criminal matters.

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

### Industrial Relations Dispute

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

Industrial relations are always expected to take place harmoniously, dynamically and fairly. The occurrence of industrial relations disputes must be prevented or resolved quickly, fairly and cheaply. Industrial relations disputes are defined in four forms, namely disputes over rights, disputes over interests, disputes over termination of employment, and disputes between unions within a company. The limitation of these four forms of industrial relations disputes creates problems in the community if they occur between workers and non-employers, differences in points of view between rights disputes and layoff disputes because they regulate an object that has been regulated in an agreement or legislation. It is also uncertain if the object of an industrial relations dispute involves a public manpower policy.

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

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

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

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

In mediation legal theory, conciliation or arbitration is an alternative form of dispute resolution outside the court. This means the freedom of the mediator to resolve the problems of the parties to the dispute based on a win-win solution. This is a form of error in the

regulation of law number 2 of 2004. Difficulties will be faced by the mediator if he will carry out a procedure outside the provisions of the civil procedural law. Civil procedural law is a formal law that is applied in the process of settling industrial relations disputes. The essence of the use of civil procedural law as regulated in the Herzine Inlands Reglement or HIR lies in the use of formal evidence in the form of a deed.

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

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

In Indonesia, not only the industrial relations dispute settlement mechanism regulated in Law No. 2 of 2004, but there is also an out-of-court dispute resolution mechanism based on Law No. 30 of 1999 concerning arbitration and alternative dispute resolution. There are five ways to resolve disputes through non-litigation, namely consultation, negotiation, mediation, conciliation and expert opinion. There is a difference in the definition of mediation in law number two of 2004 with law number 30 of 1999. In law number 30 of 1999 mediation is a settlement through negotiations to reach an agreement between the parties assisted by a mediator while mediation according to law number two of 1999 2004 was carried out exclusively by local Manpower Office officials.

The use of the term dispute which replaces the term dispute in industrial relations in this study provides more transparency. Expanding the work area of industrial relations disputes into industrial relations disputes. Industrial relations disputes must be resolved in order to establish peace of mind, work security and national stability

One of the ways to resolve industrial relations disputes is through advocacy based on local wisdom, emphasizing local wisdom because Indonesia is a nation that has a cultural plurality of cultural values spread across 1340 ethnic groups in Indonesia that must be the basis for the formation of public rules or policies, especially in the field of employment.

### **Local wisdom as the basis for resolving industrial relations disputes**

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

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

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

Efforts to find alternative solutions for resolving industrial relations disputes through local wisdom in the Sasak community can be seen from the existence of a Bale mediation dispute settlement institution. It is the embodiment of the dispute resolution institution in Lombok. The people of Lombok refer to disputes in two terms, namely *begejuh or begalur and besiak*



*or pelkare*. The term *begejuh* or *begalur* means shouting words that are not accompanied by physical action. In contrast to *besiak* or *pelkare*, it is defined as retorting words accompanied by physical actions such as hitting each other and requiring the role of the parties to stop the commotion or loss occurred.

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

#### 4. CONCLUSION AND RECOMMENDATION

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

#### 5. ACKNOWLEDGEMENTS

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