

Dynamics of Law and the Transformation of the Mediator's Role in Resolving Industrial Disputes

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ABSTRACT

This research examines the legal dynamics and transformation of the role of mediators in the settlement of industrial disputes in Indonesia. The background of the problem arises from the increasing number of conflicts between workers and companies that require effective resolution through mediation. This research uses a normative juridical method with a statutory approach and secondary data analysis, including labor laws and relevant court decisions. The results show that although mediators have an important role in encouraging amicable settlement, their legal position is still not optimal and is often ignored by the disputing parties. Existing regulations need to be updated to strengthen the role of mediators, including improving their legal position and competence through training. Mediators serve as a neutral third party in the dispute resolution process, but they face various challenges, such as limited authority and lack of recognition in the legal system. The increasing number of industrial disputes in Indonesia demands competent and authorized mediators. To increase the effectiveness of mediation in resolving industrial disputes, there is a need to update regulations that recognize mediation outcomes as legally binding decisions. In addition, raising awareness among workers and employers about the benefits of mediation is also crucial. Thus, mediation can become a more effective and efficient alternative in reducing the burden on the courts and maintaining good relations between workers and companies.

Keywords: industrial disputes; mediator; dynamics of law

INTRODUCTION

The resolution of industrial disputes plays a crucial role in maintaining harmonious relationships between workers and companies. Amidst the ever-changing economic dynamics and rapid industrial development, tensions between workers and management are often unavoidable. Such disputes may arise from various factors, ranging from dissatisfaction with working conditions, wage cuts, to company policies deemed detrimental. If not handled properly, these disputes can escalate into larger conflicts, which not only harm the parties involved but also have a negative impact on productivity and overall company performance (Hermawan, 2019). Therefore, an effective and efficient resolution mechanism is essential to ensure that workers' rights are protected while still maintaining the interests of the

company. Mediators serve as neutral third parties in the dispute resolution process, assisting both sides in reaching a mutually beneficial agreement. In the Indonesian context, mediators play a strategic role given the complexities of existing industrial relations (Dhiaulhaq et al., 2014, 2015; Rokhim et al., 2020).

They not only function as facilitators in communication between workers and management but also play a role in building understanding and trust between the two parties. With the right skills and knowledge, mediators can help ease tensions, reduce conflicts, and create a constructive dialogue atmosphere. However, the role of mediators in Indonesia still faces various challenges, including a lack of recognition and legal support, which results in many mediators being unable to perform their functions optimally (Hapsari et al., 2022). The increasing number of industrial disputes in Indonesia has become one of the major issues that requires serious attention. Data shows that the number of disputes between workers and companies has been rising in recent years, both on a large and small scale. This phenomenon is caused by various factors, such as regulatory changes, dissatisfaction with working conditions, and disputes related to wage cuts that may be viewed as unfair. Economic uncertainty and non-transparent company policies also contribute to the emergence of conflicts between the involved parties. In many cases, the existing resolution processes, such as litigation in court, are often seen as an inefficient and time-consuming last resort, adding to the burden for the disputing parties (Colas, 2019).

The issues faced by workers and companies in effectively resolving disputes are becoming increasingly complex. On one hand, workers may feel that they lack adequate channels to express their dissatisfaction or to seek justice. On the other hand, companies often struggle to find solutions that are acceptable to all parties, especially when there are sharp differences of opinion. Limitations in understanding mediation procedures and a lack of training for mediators also act as hindering factors. The employment relationship between employers and workers often does not align with the ideal expectations of all parties involved. In practice, disputes frequently arise from differences of opinion, which can lead to tensions regarding rights, interests, and decisions related to termination of employment (Lotko et al., 2016). In addition, conflicts can also occur between labor unions or workers within the same company. These workplace conflicts can be understood as social processes in which individuals strive to achieve their goals, even though this sometimes involves infringing on the rights of others who are also trying to reach their objectives.

The presence of negative conflicts can have adverse effects on worker productivity. One of the negative impacts of conflict is the emergence of feelings of disappointment and stress in the individuals involved (Greenhaus & Parasuraman, 2014; Rothman et al., 2017; Sarafis et al., 2016). Conversely, if conflicts can be resolved effectively, this has the potential to enhance productivity, which in turn will benefit both the organization and its workers. Therefore, it is important to approach every dispute with a constructive mindset so that the outcomes can be beneficial for all parties involved. In national development, both employers and workers play a very important role, particularly in the Indonesian economic sector. Employers are expected to contribute to meeting the community's needs for goods and services, while also reducing unemployment rates (Emirzon, 2022). On the other hand, national development also requires active participation from workers, who play a role in producing goods and services for the community. In this regard, the government as the authorized authority has the responsibility to create and maintain a conducive situation between employers and workers, so that labor relations can be harmonious and productive.

Regarding disputes in industrial relations, Minister of Manpower Hanif Dhakiri stated that the number of disputes between companies and workers has decreased over the past three years (Moore, 2014). However, various forms of disputes still frequently occur, covering issues such as wages, workplace accidents, working hours, and violations of existing labor norms. According to Hanif, most disputes that arise are usually rooted in violations of established norms, including issues related to wages, working hours, and overtime. To address these industrial relations disputes, the role of a mediator is needed to bridge the differences between workers and employers. Mediators serve as a neutral and competent third party that can assist in the negotiation and conflict resolution process (Barsky, 2016). With the presence of a mediator, it is hoped that the dispute resolution process can be more efficient, allowing for the maintenance of relations between employers and workers while enhancing organizational productivity.

The role of mediators in resolving industrial disputes in Indonesia has undergone significant dynamics with the development of labor law. Essentially, mediators function as a neutral third party, tasked with facilitating communication between workers and employers, as well as helping to find mutually beneficial solutions. However, challenges arise when regulations governing mediators and mediation itself are not fully recognized within the existing legal system. This can affect the effectiveness of mediators' roles, as they often do not have clear legal authority to compel disputing parties to follow the proposed recommendations or solutions. This limitation can hinder the very goals of mediation, which should serve as a more efficient alternative to litigation in court.

With the increasing number of industrial disputes, the need for competent and authorized mediators is becoming more urgent. In this context, existing regulations must adapt to the new conditions and challenges faced. For instance, there needs to be an update in the laws governing the role and responsibilities of mediators, as well as granting them clearer authority in the dispute resolution process. With the strengthening of the legal position of mediators, it is expected that they can function more effectively in both managing conflicts and providing solutions that are acceptable to both parties. The skills and competencies of mediators also need to be enhanced through training and formal education, so they can meet the expectations of the disputing parties.

On the other hand, it is important to create awareness among employers and workers regarding the role and benefits of mediation in resolving industrial disputes. Often, both parties do not fully understand the mediation mechanism, leading them to choose the lengthy and exhausting litigation route instead. Education on the mediation process and the advantages of resolving conflicts peacefully needs to be improved. Thus, it is hoped that mediators can function not only as conflict resolvers but also as agents of change that can enhance harmonious industrial relations and create a more productive and conducive work environment for all parties involved.

RESEARCH METHODS

Research on the dynamics of law and the transformation of the role of mediators in resolving industrial disputes utilizes a normative juridical method, focusing on the study of written legal norms applicable within the legal system. This method involves analyzing various legal sources, such as legislation, legal doctrines, and relevant court decisions. In this context, a statutory approach is employed to examine regulations concerning employment and the role of mediators in resolving conflicts. The researcher studies labor laws, such as Law Number 2 of 2004 concerning the Settlement of Industrial Relations

Disputes, along with other related regulations. Additionally, this research includes analysis of secondary data, such as academic journals, legal books, and various official documents that support a deeper understanding of the role of mediators. This approach allows the researcher to identify, understand, and evaluate the transformation of the mediator's role in the industrial dispute resolution system from a juridical perspective, thereby connecting legal theory with field practice. The analysis of court decisions related to industrial disputes also serves as an essential part of this research, as it provides insight into how these legal norms are applied in real contexts and how the role of mediators is understood and practiced.

RESULTS AND DISCUSSION

1. The Legal Dynamics that Affect the Position and Role of Mediators in Resolving Industrial Disputes in Indonesia

Legislation in Indonesia, specifically Law Number 02 of 2004 concerning the Settlement of Industrial Relations, provides a definition of industrial relations disputes in Article 1 paragraph 1. In this context, a dispute is defined as a difference of opinion that leads to a conflict between employers or employer groups and workers or labor unions (Amelia, 2023; Dinata, 2021; Pramono, 2020; Ritonga et al., 2022). These disputes can encompass various issues, such as workers' rights, differing interests, termination of employment, and disputes between labor unions within one company. When such disputes arise, their impact can be extensive, including decreased worker productivity, disruptions to the production of goods and services, and negative effects on the company's image. On a larger scale, these disputes can hinder national development, provoke social instability, and diminish investors' interest in investing in Indonesia.

The government's role in resolving industrial relations disputes is crucial and is expected to be performed optimally. The government acts as a mediator to prevent social chaos that may arise from conflicts between workers and employers. History records that the government's presence in industrial relations is the result of the evolution of labor law during the era of liberalism. Initially, the relationship between workers and employers was civil, but due to power imbalances that could lead to the exploitation of workers, the state must intervene to provide protection through just regulations. In this context, labor law is not only private in nature but also contains elements of public law. The Indonesian Constitution mandates the rights of workers and emphasizes the need for their protection, as stated in the 1945 Constitution (Mofea, 2024; Sulistyarini et al., 2018; Yusa et al., 2020).

One method of resolving industrial relations disputes regulated by Law Number 02 of 2004 is mediation. Mediation is defined in Article 1 paragraph 11 as a dispute resolution process involving negotiations facilitated by a neutral mediator. Before mediation begins, the parties in dispute are required to first attempt to resolve the issue through bipartite negotiations. If these negotiations fail, mediation can then take place. During this process, the mediator plays a vital role in assisting the parties in reaching an agreement and providing written recommendations if no agreement is achieved. The presence of mediators is expected to create a conducive and productive atmosphere, allowing conflicts to be resolved without resorting to lengthy and complex litigation. The success of mediation depends not only on the mediator's skills but also on the willingness of the parties to compromise and achieve mutually beneficial solutions.

The role of mediators in resolving industrial disputes in Indonesia has experienced various regulatory changes and significant policy shifts as times have evolved. One important change occurred with the enactment of Law Number 02 of 2004 concerning the Settlement of Industrial Relations. This law not only defines the role of mediators but also emphasizes the importance of mediation as an initial step in dispute resolution before pursuing litigation. Over time, regulations related to mediation have been increasingly strengthened with the issuance of various ministerial regulations, such as Minister of Manpower Regulation Number 17 of 2014, which regulates the appointment, dismissal, and working procedures of mediators. These regulations provide a clearer legal framework regarding the position of mediators and offer a foundation for mediators to perform their duties more effectively.

In addition, the development of relevant jurisprudence has also influenced mediation practices in Indonesia. Cases decided by the courts, particularly the Industrial Relations Court, often serve as references in enforcing laws related to mediation. The courts provide insights into how mediators should operate and what is expected of them in the dispute resolution process. Through these decisions, the courts can provide guidelines regarding the limits of mediators' authority, how mediators should remain neutral, and the importance of maintaining good relations between the disputing parties. Thus, these regulatory developments and jurisprudence create a complex legal dynamic that contributes to enhancing the effectiveness of mediators in resolving industrial disputes.

Despite the positive changes in regulations and policies, mediators continue to face various legal challenges that hinder their role. One main obstacle is the lack of adequate legal recognition for the decisions or recommendations made by mediators. Although mediation results can lead to mutually beneficial solutions, parties often do not regard them as legally binding decisions. This leads the parties to disregard the mediator's recommendations and opt to continue conflicts through litigation. Furthermore, the authority of mediators is limited, especially concerning enforcing the outcomes of mediation achieved. This limitation often leaves mediators in situations where they cannot effectively implement the results of mediation.

Another challenging factor is the negative perception of mediation itself. Many parties, both employers and workers, still lack an understanding of the importance of mediation as a preliminary step in dispute resolution. Some prefer litigation, which is perceived as more formal and having clearer legal authority. This misunderstanding may arise from a lack of socialization and education about mediation among workers and employers. Additionally, the perception that mediation is a weaker or less effective measure than litigation can reduce the interest in participating in this process. Therefore, it is essential to enhance awareness and understanding of mediation as a beneficial dispute resolution method to improve the effectiveness of mediators in practice.

2. Challenges Faced by Mediators in Performing Their Functions and Solutions That Can Be Implemented to Strengthen the Position of Mediators in Industrial Dispute Resolution

Mediators play a crucial role in the resolution of industrial disputes, given the importance of harmonious relationships between employers and workers for maintaining workplace stability and productivity. However, in practice, mediators face various challenges that can hinder the effectiveness of their functions. These challenges are not only related to legal and regulatory aspects but also encompass social, cultural, and practical dimensions that affect the success of the mediation process. Therefore, it is important to thoroughly explore these challenges and seek solutions that can strengthen the position of mediators in resolving industrial disputes. By understanding and addressing these barriers, mediators

can be more effective in their role and create a more conducive and productive work environment for all parties involved.

One of the main challenges faced by mediators in resolving industrial disputes is the lack of legal recognition for mediation outcomes. When mediation results are not officially recognized by the legal system, the resulting decisions tend to be regarded as lacking binding legal force. This makes the parties involved hesitant to accept the mediation results, as there is no guarantee that the agreement will be honored. Such uncertainty can inhibit mediators from achieving satisfactory resolutions and diminishes trust in the mediation process itself. Additionally, the limited authority of mediators in implementing mediation decisions further complicates matters. Mediators do not have the power to compel disputing parties to comply with agreements, so if one party is unwilling to uphold the mediation results, the mediator cannot do much. The impact of this limited authority is the emergence of dissatisfaction and potential ongoing conflict, thus reducing the effectiveness of mediators in creating sustainable resolutions.

The complex legal processes also pose significant challenges that obstruct the effectiveness of mediation (Moore, 2014). Many parties feel overwhelmed or pressured by the intricate legal procedures, leading them to hesitate to choose mediation as a resolution channel. When parties face procedural ambiguities or believe that the mediation process will require more time and effort than litigation, they tend to prefer formal legal channels. This not only places an additional burden on the judicial system but also risks prolonging dispute resolution timelines, resulting in losses for all parties involved.

Socially and culturally, negative perceptions of mediation often hinder participation from the parties involved in disputes. Many individuals or groups remain skeptical about the effectiveness of mediation, viewing it as a less formal process that lacks sufficient legal authority. This perspective can lead to reluctance to engage in mediation, making it more challenging for mediators to facilitate dispute resolution. Additionally, a lack of awareness and understanding about the benefits of mediation serves as an obstacle. Both workers and employers often do not fully grasp how mediation can provide quicker, cheaper, and more satisfactory resolutions compared to litigation. Without this understanding, they are likely to overlook mediation as a viable option when facing conflicts.

The prevailing culture of litigation within society also affects the decision to utilize mediation. In this context, many parties have become accustomed to using formal legal channels to resolve disputes, making them more inclined to choose litigation over mediation. This culture not only fosters a negative stigma against mediation but also complicates mediators' efforts to persuade parties to participate in non-litigation processes. If the litigation culture remains dominant, it will be increasingly difficult for mediation to establish itself as a legitimate avenue for industrial dispute resolution in Indonesia.

Practical challenges faced by mediators during the mediation process are equally important to address. One such challenge is the issue of mediator neutrality, which can significantly affect mediation outcomes. If a mediator is perceived as biased towards one party, it becomes difficult to reach a fair and mutually beneficial agreement. The objectivity and neutrality of the mediator are crucial in building trust among the disputing parties. Aside from that, the competence and skills of mediators also determine the success of the mediation process. Mediators lacking in effective communication skills or adequate knowledge of labor law may struggle to resolve disputes effectively. This can result in confusion, frustration, and even prolong the dispute resolution process. Resource limitations, such as time and budget, present additional challenges that mediators must face. If mediators do not have adequate

support to conduct mediation, including sufficient time to gather information and interact with the parties, the quality of the mediation may be compromised. Consequently, it is vital to provide adequate support, both in terms of mediator training and other resources, to ensure that the mediation process runs smoothly and effectively.

One key step to strengthen the position of mediators in industrial dispute resolution is through enhancing regulations and policies. The government and relevant institutions should review and amend existing regulations to provide stronger legal recognition for mediation outcomes. This can be done by establishing regulations that explicitly recognize the agreements resulting from mediation as legitimate and binding contracts, thus providing legal clarity for all parties involved. Furthermore, expanding the authority of mediators is crucial. By granting mediators more power to implement mediation decisions, such as the ability to reinstate mediation if one party fails to honor the agreement, the effectiveness of the mediation process will increase, and parties will have greater confidence in the process.

Education and socialization are also vital aspects in reinforcing the position of mediators. Comprehensive educational programs need to be organized for all stakeholders, including workers, employers, and lawyers, to inform them about the benefits of mediation and the process involved. This socialization can take place through seminars, workshops, and information campaigns that highlight the advantages of mediation over litigation, such as speed, cost-effectiveness, and the potential to maintain healthy relationships between disputing parties. By raising awareness and understanding about mediation, the parties involved will be more open to consider mediation as a dispute resolution option.

Additionally, enhancing the capacity of mediators through training and development is essential. Mediators must be equipped with adequate skills and knowledge to handle various types of disputes effectively. Training could include communication skills, negotiation techniques, and in-depth understanding of labor law. By improving the competencies of mediators, they are expected to feel more confident in facilitating mediation and resolving conflicts constructively. Continuous training will also help mediators stay updated with the latest developments in law and mediation practices, making them prepared to meet existing challenges.

Promoting mediation as a more efficient and effective dispute resolution alternative compared to litigation is crucial to increasing its use. Such promotional strategies can involve collaboration between the government, mediation institutions, and the private sector to create public campaigns. For instance, sharing success testimonials from cases successfully resolved through mediation can provide concrete examples that resonate with parties who may be hesitant. Furthermore, offering incentives to companies or individuals who opt for mediation could effectively encourage the adoption of this method. With appropriate promotional efforts, it is hoped that mediation will increasingly be accepted as a legitimate and beneficial method for resolving disputes in the industrial sector, thereby strengthening the position of mediators and enhancing the effectiveness of the conflict resolution process overall.

CONCLUSION

The conclusion drawn from the discussion regarding the challenges faced by mediators in resolving industrial disputes indicates that the success of the mediation process is significantly influenced by various factors, both legal, social, and practical. Challenges such as the lack of legal recognition for mediation outcomes, limited authority, and negative perceptions of mediation among disputing parties have hindered the effectiveness of mediators. Additionally, the dominant litigation culture and lack of understanding about the benefits of mediation contribute to the low level of adoption of this dispute resolution method. Therefore, it is crucial for all parties to recognize that mediation is not merely an alternative, but rather a more effective and efficient approach to conflict resolution, particularly in the industrial sector.

To strengthen the position of mediators and enhance trust in the mediation process, strategic actions are required, including strengthening regulations and policies, effective education and socialization, improving mediator capacity, and promoting mediation as a superior alternative to litigation. By amending regulations to recognize and reinforce mediation outcomes, while increasing awareness of the benefits of mediation, it is anticipated that disputing parties will be more open to choosing mediation as a method of conflict resolution. These efforts will not only strengthen the position of mediators but also create a more conducive environment for dispute resolution in the industrial sector, thereby contributing to better stability and productivity in the workplace.

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