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THE ROLE OF MEDIATORS IN RESOLVING INDUSTRIAL RELATIONS DISPUTES (STUDY AT THE MANPOWER AND TRANSMIGRATION OFFICE OF WEST NUSA TENGGARA PROVINCE)

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Abstract

The Role of Mediators in the Settlement of Industrial Relations Disputes at the Manpower and Transmigration Office of West Nusa Tenggara Province. The role of the mediator is to serve as a neutral third party, assisting in the resolution of industrial relations disputes in order to facilitate peace between the two parties. The objective of this study is to ascertain the role of mediators in mediating cases of industrial relations dispute settlement at the Manpower and Transmigration Office of West Nusa Tenggara Province and to identify and analyze potential obstacles to the settlement of industrial relations disputes. This type of research is normative and empirical research with a legislative approach and a sociological approach. Data collection techniques and tools include interviews with one of the industrial relations mediators.

The results of this study indicate that industrial relations disputes are primarily the result of disagreements between workers and employers. These disputes can be broadly classified into four categories: disputes over rights, disputes over interests, disputes over termination of employment, and disputes between labor unions. However, the obstacles that frequently arise in the resolution of industrial relations disputes at the Manpower and Transmigration Office of West Nusa Tenggara Province are the number of cases that are delayed due to the number of mediators who are not commensurate with the number of cases submitted. Furthermore, the absence of one of the parties in the

mediation process and the absence of good faith on the part of both parties also impede the resolution of industrial relations disputes.

Keywords: Role, Mediator, Industrial Relations Dispute

Abstrak

Peran Mediator Dalam Penyelesaian Perselisihan Hubungan Industrial di Dinas Ketenagakerjaan dan Transmigrasi Provinsi Nusa Tenggara Barat. Peran mediator sangat dibutuhkan sebagai pihak ketiga yang bersifat netral dalam membantu Penyelesaian Hubungan Industrial hingga terciptanya perdamaian antar kedua belah pihak. Tujuan penelitian ini adalah untuk mengetahui peran mediator dalam memediasi perkara Penyelesaian Perselisihan Hubungan Industrial di Dinas Ketenagakerjaan dan Transmigrasi Provinsi Nusa Tenggara Barat dan untuk mengetahui dan menganalisis apa saja yang dapat menjadi kendala dalam Penyelesaian Perselisihan Hubungan Industrial di Dinas Ketenagakerjaan dan Transmigrasi Provinsi Nusa Tenggara Barat Jenis penelitian ini adalah penelitian Normatif dan Empiris dengan pendekatan Perundang-Undangan dan pendekatan sosiologis, sedangkan teknik dan alat pengumpulan data yaitu wawancara dengan salah satu mediator hubungan industrial.

Berdasarkan hasil penelitian ini, menunjukan bahwa terjadinya perselisihan hubungan industrial disebabkan oleh ketidak sepahaman antara pekerja dan pengusaha sehingga mengakibatkan terjadinya perselisihan. Jenis perselisihan yaitu meliputi: Perselisihan Hak, Perselisihan Kepentingan, Perselisihan Pemutusan Hubungan Kerja dan Perselisihan antar Serikat Buruh/Serikat Pekerja. Perselisihan Pemutusan Hubungan Kerja menjadi hal yang paling mendominasi dalam Dinas Ketenagakerjaan dan Transmigrasi Provinsi Nusa Tenggara Barat Namun kendala yang sering terjadi dalam Penyelesaian Perselisihan Hubungan Industrial di Dinas Ketenagakerjaan dan Transmigrasi Provinsi Nusa Tenggara Barat yaitu banyaknya perkara yang tertunda disebabkan karena jumlah mediator yang tidak sebanding dengan jumlah perkara yang diajukan. Selain itu, ketidak hadiran salah satu pihak dalam proses mediasi serta tidak adanya itikad baik kedua belah pihak juga menjadi kendala dalam Penyelesian Perselisihan Hubungan Industrial.

Kata Kunci: Peran, Mediator, Perselisishan Hubungan Industrial

INTRODUCTION

Industrial relations disputes are becoming increasingly common in developing countries such as Indonesia, affecting a wide range of individuals. Therefore, the principles of industrial relations adopted in Indonesia can serve as a reference for addressing various labor-related issues. In industrial relations,

any grievances that arise at the company level and other labor problems must be resolved in a manner that fosters consensus.[1]

Nevertheless, it is recognized that not all labor disputes can be resolved through family mediation or deliberation. This is due, in part, to differences in understanding or perception of various matters relating to labor relations and/or other conditions of employment. Consequently, the emergence of industrial relations disputes cannot be avoided.[2]

The relationship between employers and employees does not preclude the possibility of conflict. In such conflicts, workers/laborers are often the most disadvantaged party. Therefore, it is necessary to have a law that regulates the settlement of labor conflicts. Until the enactment of a law governing industrial relations disputes between employers and workers, as well as disputes between employers and trade unions or labor unions, the Industrial Relations Dispute Resolution Act was in effect. This act was incorporated into Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution.

In accordance with Article 1, Number 1 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, it is stated that Industrial Relations Disputes are differences of opinion that result in conflict between employers or a group of employers and workers/laborers or trade unions/labor unions due to disputes over rights, disputes over interests, disputes over termination of employment, and disputes between trade unions/labor unions within a company.

In the event of an industrial relations dispute, the parties, either workers or trade unions, must first make efforts to resolve it. The first step that must be taken is through a bipartite negotiation. If an agreement is reached in the negotiation, then a bipartite minutes or a Joint Agreement is made. In the event that an agreement is not reached, the settlement of industrial relations disputes

[1] For further information, please refer to Ida Hanifah, Labor Law in Indonesia, Pustaka Prima, Medan, 2020, p. 185.
[2] Ibid.

can be resolved through tripartite processes, including mediation, conciliation, and arbitration.

In the event that a settlement cannot be reached through tripartite negotiations, either party may file a lawsuit with the Industrial Relations Court. If the dispute is of a fundamental nature, the decision may be appealed directly to the Supreme Court for review.

Mediation is a form of alternative dispute resolution that occurs outside the court through a peaceful negotiation process, with the goal of reaching a settlement in the form of an agreement between the parties, which is assisted by a third party, namely the mediator. In dispute resolution through mediation, both parties are placed in the same position; no party is considered to have been "won" or "lost." The mediation process is based on the values held by the parties involved. These values may include those derived from law, religion, ethics, and a sense of fairness. The mediator, who is a neutral third party, facilitates the resolution of the dispute between the parties. The mediator does not take part in the decision-making process.

In accordance with data from the Department of Manpower and Transmigration, in 2022 there were 53 industrial relations cases involving 189 workers, with details of 5 rights disputes involving 124 workers, 47 layoff disputes involving 64 workers, and 1 interest dispute involving 1 worker. In contrast, during the first half of 2023, there were 25 cases involving 62 workers, with details of rights disputes as many as 1 case involving 1 worker and layoff disputes as many as 24 cases involving 61 workers. These cases were resolved through the mediation process.[3]

The prevalence of labor relations disputes is one of the factors that necessitates the presence of a mediator, whose role is to assist the disputing parties. The ongoing impact of the pandemic persists, with employers

[3] Lalu Suparman Ambakti, "Head of the Manpower and Transmigration Office of West Nusa Tenggara Province Encourages Dispute Settlement with Dialogue and Consensus," MetroNTB.com, July 10, 2023, https://www.google.com/amp/s/www.metrontb.com/pemerintahan/amp/8189427369/kadisnakertrans-ntb-dorong-penyelesaian-perselisihan-dengan-dialog-dan-musyawarah-mufakat

continuing to terminate relationships with workers due to financial constraints. Until now, the mediator's role has been to facilitate communication between the parties in dispute, creating a conducive environment that can facilitate the resolution of the dispute in a way that benefits both parties.

METHOD

The methodology employed in addressing the issue at hand is the normative empirical method. Normative research encompasses studies conducted on legal principles, legal rules in the sense of value (norm), concrete legal regulations, and legal systems. In contrast, the empirical approach entails examining or paying attention to the practical application of legal rules in field settings, which is pertinent to the subject matter under investigation.[4] The empirical approach involved conducting interviews with officials at the Manpower and Transmigration Office of West Nusa Tenggara Province.

In this research, two distinct approaches were employed to investigate the problem.

1. Statutory Approach

   The legal approach is the process of investigating the legal protection of work sourced from laws, textbooks, documents, and other sources.[5]

2. Sociological Approach

   The sociological approach is a methodology that can elucidate the interrelationship between law and social conduct, the legal implications of social conduct, and the legal relationships between law and social phenomena.[6]

[4] Sudikno Mertokosumo, Law Discovery, Liberty: Yogyakarta (2004), p. 29.

[5] Soerjono Soekanto, Introduction to Legal Research, Publisher University of Indonesia-UI Press 3rd Print 2011, page 114

[6] Ibid.

RESULTS AND DISCUSSION

A. The Role of Mediators in Mediating Industrial Relations Disputes at the Manpower and Transmigration Office of West Nusa Tenggara Province

The Manpower and Transmigration Office of West Nusa Tenggara Province is an agency that has the authority in the field of labor development and placement as well as labor protection in the area of West Nusa Tenggara Province. In the event of a labor dispute, the disputing party may register the dispute with the district/city manpower agency where the worker/laborer is employed, providing evidence that bipartite negotiation efforts have been made. In the meantime, the provincial manpower agency is typically authorized to register or resolve labor disputes when there is a delegation of cases in a district/city that does not have a mediator.[7]

Upon registration, the agency will direct the two disputing parties to settle the dispute through mediation, which will be led by an industrial relations dispute mediator. The mediator's role is to assist both parties in obtaining justice.[8]

In the Disnakertrans Prov. NTB, there are three mediators:

1. Samsudduha, SE
2. Mariatun Kiptiah, SH
3. Indah Cahyani, S.I.Kom

The mediators of West Nusa Tenggara Province are designated as "pure mediators," as defined by a Ministerial Decree. This designation confers upon the Minister of Manpower the authority to dismiss these mediators.[9]

West Nusa Tenggara Provincial Mediators mediate industrial relations disputes in groups. Each time they handle a dispute, West Nusa Tenggara Province mediators will jointly handle industrial relations disputes. Given that

[7] An interview with Samsudduha, an Industrial Relations Mediator at the Manpower and Transmigration Office of West Nusa Tenggara Province.
[8] Ibid.
[9] Ibid.

each mediator has a different approach to mediation, the group mediation process is expected to proceed smoothly. [10]

Furthermore, the West Nusa Tenggara Provincial Manpower and Transmigration Office does not permit the involvement of external mediators in the resolution of industrial relations disputes. All workers/laborers involved in a dispute are required to utilize a mediator from the West Nusa Tenggara Provincial Manpower and Transmigration Office.

Mediators from the West Nusa Tenggara Province mediate industrial relations disputes collectively. Each time they address a dispute, West Nusa Tenggara Province mediators will collaborate to mediate industrial relations disputes. Given that each mediator employs a distinct methodology for facilitating the resolution of disputes, the group mediation process is anticipated to be relatively straightforward.[11]

Furthermore, the West Nusa Tenggara Provincial Manpower and Transmigration Office does not permit the involvement of external mediators in the resolution of industrial relations disputes. All workers/laborers involved in a dispute are required to utilize a mediator from the West Nusa Tenggara Provincial Manpower and Transmigration Office.[12]

B. The Role of Mediators in Industrial Relations Disputes at the Manpower and Transmigration Office of West Nusa Tenggara Province

In the context of employment, the possibility of conflict between workers/laborers and employers cannot be ruled out, which may result in industrial relations disputes. Those who can dispute in industrial relations disputes include employers/groups of employers with workers/laborers or trade unions/labor unions, as well as disputes between unions in one company.

[10] Ibid.
[11] Ibid.
[12] Ibid

The following types of industrial relations disputes have been identified: rights disputes, interest disputes, termination of employment disputes, and disputes between trade unions in one company.

Rights disputes are essentially disagreements over the non-fulfillment of rights due to differences in the implementation or interpretation of laws and regulations, work agreements, company agreements, or collective bargaining agreements. Interest disputes are caused by disagreements during the creation and/or amendment of working conditions stated in work agreements, company regulations, or collective labor agreements (PKB). Termination of Employment disputes arise from disagreements over the termination of employment by one of the parties, namely the employer or the employee. Disputes between trade unions in one company may result from differences of opinion regarding membership, implementation, and rights and obligations.

The mediator assumes an active role in the mediation process. As a third party, the mediator facilitates the resolution of disputes between the parties involved, refraining from intervening in the decision-making process. The mediator's role encompasses connecting the parties, conducting negotiations, maintaining and controlling the negotiation process, proposing alternative solutions, and jointly developing a dispute resolution agreement.

Although the mediator participates in proposing solutions and developing agreements, it does not follow that the mediator determines the outcome of the agreement. The final decision remains in the hands of the parties to the dispute.

The mediator plays a pivotal role in determining the mediation process. The success or failure of mediation is largely contingent upon the mediator's actions and conduct. The mediator assumes an active role in facilitating numerous meetings between the parties, directing and conducting these meetings, maintaining the continuity of the mediation process, and encouraging the parties to reach an agreement. As a neutral third party, the mediator serves the interests of the disputing parties. The mediator must establish positive

interaction and communication in order to gain an understanding of the interests of the parties and to propose alternatives that will fulfill these interests.

Prior to initiating the mediation process, it is essential for the mediator to gather preliminary information about the issues in dispute. This information should be provided to the parties in a clear and concise manner, including details about the mediation process, the stages involved, the potential benefits of mediation, and examples of similar situations that have been experienced by other parties in the mediation process.

Furthermore, the mediator should encourage the parties to engage in constructive dialogue and work together towards a mutually beneficial resolution. This approach can facilitate a more constructive and peaceful resolution to the dispute.

The effectiveness of the mediator is contingent upon the quality of the mediation. The implementation of effective mediation practices is guided by the provisions of Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution. Consequently, mediators are expected to play a pivotal role in the resolution of industrial relations disputes between workers and employers.[13]

The data presented here pertains to cases that occurred at the Manpower and Transmigration Office of West Nusa Tenggara Province.

Year 2023 (Januari-Oktober)

No	Month	Worker Name	Company Name	Quantity	The type of dispute in question is as follows.	Penyelesaian		
						collective agreement	Bipartite	Recommendation
1	11 Jan	Aris M	PT. NSS/NSC Finance	1	Termination of Employment	√		
2	17 Jan	Ni Wayan A S	PT. Aliet Sakatha Rahayu	1	Termination of Employment	√		
3	19 Jan	Anang L	PT. Bima Multifinance	1	Termination of Employment	√		
4	24 Jan	Ahmad S	PT. KB Finansia Multi Finance (Kredit Plus)	1	Termination of Employment		√	
5	1 Feb	Zaenul R	RS. Risa Sentra Medika	1	Termination of Employment		√	
6	1 Feb	Hendra, dkk	PT. Mega Central Finance	15	Termination of Employment			√
7	1 Feb	Ahmad C, dkk	PT. Mega Auto Finance	9	Termination of Employment			√
8	2 Feb	Herman	PT. NSS/NSC Finance	1	Termination of Employment		√	
9	3 Feb	Bq. Risma dan Indah P	Svarga Resort	2	Termination of Employment	√		

[13] Ibid.

10	6 Feb	Jacobus J L	PT. LONG	3	Rights		√	
11	13 Feb	Puspa P	PT. Bank NTB Syariah	1	Rights		√	
12	27 Feb	Amrullah	PT. Oase Teknologi asia	1	Termination of Employment		√	
13	3 Mar	Kadek Dwi O P	PT. Bandar Trisula	1	Termination of Employment	√		
14	6 Mar	Guruh K dan Adityo P	PT. Lombok Mulia Terang	1	Termination of Employment		√	
15	7 Mar	Ika N	CV. Karya Sari	1	Termination of Employment		√	
16	28 Apr	Wiji Lestari	PT. Mad Monkey Hostel Indonesia	1	Termination of Employment		√	
17	3 Mei	Ahmad S	CV. Inaura Anuegerah	1	Termination of Employment	√		
18	3 Mei	Tri M	CV. Yamaha Indo Perkara	1	Termination of Employment	√		
19	17 Mei	Bayu G, dkk	The Beach Villa	10	Termination of Employment	√		
20	23 Mei	Khairil A, dkk	Gili Teak	4	Termination of Employment	√		
21	5 Jun	Herman A H	PT. Lumi Hotel Gili Trawangan	1	Termination of Employment	√		
22	15 Jun	Ahmad P R	PT. Nusa Karya Sampurna	1	Termination of Employment	√		
23	23 Jun	Dr. Wira H, dkk	Yayasan Pendidikan Universitas Gunung Rinjani	3	Termination of Employment			
24	3 Jul	I Ketut D J	PT. Lombok Mulia Terang	1	Termination of Employment			√
25	31 Jul	Maream dan Diana	Kampung Melayu (LEM)	2	Termination of Employment	√		
26	9 Aug	Ansori dan Haral A	Univ. Teknologi Mataram	2	Termination of Employment		√	
27	9 Aug	Azhari E S	Klinik Utama Nugraha	1	Rights			
28	3 Aug	Ahmad	PT. Sinarmas Multi Finance	1	Termination of Employment		√	
29	21 Aug	Yuda F	PT. Qreativo Inti Abadi	1	Rights		√	
30	28 Aug	Sucipto H S, dkk	PT. Lombok Energy Dynamics	37	Rights			
31	24 Aug	Dhani S	PT. BPR NTB (Perseroda)	1	Termination of Employment		√	
32	24 Aug	Fahrol R	JACCSS MPM Finance	1	Termination of Employment		√	
33	29 Aug	I Wayan J	PT. Yonasindo Intra Pratama	1	Rights		√	
34	30 Aug	Sapriadi	PT. Pilar Putra Teknik	1	Termination of Employment		√	
35	11 Sep	Azwar A	Samara Lombok	1	Termination of Employment		√	
36	2 Okt	Amrina R	PT. Global Indo Buna Sentosa	1	Termination of Employment		√	

Source: West Nusa Tenggara Provincial Manpower and Transmigration Office.[14]

[14] The data presented here pertains to cases that occurred at the Manpower and Transmigration Office of West Nusa Tenggara Province.

CONCLUSION

Industrial relations disputes typically arise from differences of opinion between workers and employers, which in turn give rise to disputes. In the event that an agreement cannot be reached through bipartite negotiations, either party may register the dispute with the District/City Manpower and Transmigration Office by presenting minutes of evidence of having conducted bipartite negotiations.

Following registration, both parties will continue the tripartite process. In this instance, the role of the mediator can be utilized as a third party, ensuring neutrality and impartiality towards all parties involved.

In the Manpower and Transmigration Office of West Nusa Tenggara Province, the role of mediators is of great importance in resolving industrial relations disputes. This is evidenced by the number of cases that can be resolved by the mediator through the mediation process.

Prior to mediation, the mediator's role is to guide the parties to conduct bipartite negotiations. If an agreement is reached in the bipartite negotiations, the mediator will assist the two disputing parties in formulating a collective agreement. However, if an agreement is not reached, the mediator will help the parties resolve their dispute through tripartite. If an agreement is not reached in the mediation process, the mediator will prepare a written recommendation, which is then registered with the industrial relations court.

REFERENCES

Books

Ali, Zainuddin. 2016. *Metode Penelitian Hukum.* Jakarta: Sinar Grafika.

Amriani, Nurnaningsih. 2012. *Mediasi Alternatif Penyelesaian Sengketa Perdata di Pengadilan.* PT Rajagrafindo Persada: Jakarta.

Asyhadie, Zaeni. 2009. *Peradilan Hubungan industrial.* Raja Grafindo:Jakarta.

Dhakiri, Muhammad Hanif. 2019. *Dinamika Hubungan Industrial Di Era Revolusi Industri 4.0.* Q-Media: Yogyakarta.

Hanifah, Ida. 2020. *Hukum Ketenagakerjaan Di Indonesia*. Pustaka Prima:Medan.

Narbuko, Cholid dan H. Abu Achmadi. 2015. *Metodologi Penelitian.* PT Bumi Aksara: Jakarta.

Nugroho, Susanti Adi. 2009. Mediasi Sebagai Alternatif Penyelesaian Sengketa. Telaga Ilmu Indonesia:Jakarta.

Perdana, Surya. 2013. *Penyelesaian Perselisihan Pemutusan Hubungan Kerja Melalui Mediasi.* Ratu jaya:Medan.

Soekanto, Soerjono. 2011. *Pengantar Penelitian Hukum*. Penerbit Universitas Indonesia-Ui Press cetakan Ke-3.

Umama, Khotibul. 2010. *Penyelesaian Sengketa diluar Pengadilan*. Pustaka Yustisia:Yogyakarta

Witanto, D.Y. 2012. *Hukum Acara Mediasi*. Alfabeta:Bandung.

Journals and Reports

Andry, S., Solechan., & Suhartoyo. *Penyelesaian Perselisihan Hubungan Industrial Melalui Mediasi di Dinas Tenaga Kerja dan Transmigrasi Kota Semarang.* Diponegoro Law Review. No. 2. Vol.5. Tahun 2016

Dian Maris Rahmah. *Optimalisasi Penyelesaian Sengketa Melalui Mediasi di Pengadilan.* Jurnal Bina Mulia Hukum. No. 1. Vol.4. September. 2019.

Jesisca, S. 2011. *Peranan Mediator Dalam Penyelesaian Perselisihan Hubungan Industrial (Studi di Dinas Sosial Tenaga Kerja dan Transmigrasi Kabupaten Semarang.* (Skripsi. Fakultas Hukum, Universitas Negri Semarang:Semarang). Diakses dari https://lib.unnes.ac.id/6557/1/7829

Lalu Suparman Ambakti. *Kadisnakertrans NTB Dorong Penyelesaian Perselisihan dengan Dialog dan Musyawarah Mufakat.* MetroNTB.com. 10 Juli. 2023. https://www.google.com/amp/s/www.metrontb.com/pemerintahan/amp/8189427369/kadisnakertrans-ntb-dorong-penyelesaian-perselisihan-dengan-dialog-dan-musyawarah-mufakat.

Meray Hendrik Mezak. *Jenis Metode dan Pendekatan Dalam Penelitian Hukum*, Law Review. Vol. V, No. J, 2006.

Nafiatul Munawaroh. *3 Mekanisme Penyelesaian Perselisihan Hubungan Industrial.* HukumOnline.com. 20 Oktober. 2022. https://www.hukumonline.com/klinik/a/3-mekanisme-penyelesaian-peselisihan-hubungan-industrial-lt4b82643d06be9/

Tari, M. 2021. *Peranan Mediator Dalam Penyelesaian Sengketa Hubungan Industrial Pada Dinas Tenaga Kerja Kota Banda Aceh (Tinjauan Pasal 58 Qanun A cah Nomor 7 Tahun 2014 tentang Ketenagakerjaan)*. (Skripsi, Fakultas Syari'ah dan Hukum, Universitas Islam Negri Ar-Raniry:Banda Aceh). https://repository.ar-raniry.ac.id/id/eprint/20182/

Legislations

The 2003 Manpower Law, Number 13, Year 2003

Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes

The Minister of Manpower and Transmigration of the Republic of Indonesia, through Regulation Number 31 of 2008, established guidelines for the resolution of industrial relations disputes through bipartite negotiations.

The Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures

The Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court