

## PERFORMANCE ANALYSIS OF MEDIATORS IN INDUSTRIAL RELATIONS PROBLEM SETTLEMENT PROCESS IN INDUSTRIAL AND MANPOWER OFFICES IN BADUNG REGENCY

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### Abstract

This FieldWork Practice Report was made as an illustration of the results of the work that has been carried out during the PKL to meet one of the graduation requirements of students of the National University of Education (UNDIKNAS) Denpasar. The implementation of PKL as a medium to provide experience and provide broad knowledge related to the world of work, train mentally and discipline before entering the world of work. PKL activities are carried out at the Industrial and Manpower Office of Badung regency Jl. Raya Sempidi, Sempidi, Mengwi District, Badung Regency, Bali. Work Practices are carried out in the section of Industrial Relations and Worker Welfare. Fieldwork Practices are carried out for 2 (two) months starting from July 4, 2022, to September 2, 2022, with 5 working days, Monday – Thursday at 07.30 WITA to 15.30 WITA and Friday at 07:30 WITA to 12:00 WITA. The activities carried out practically during the PKL are: helping to complete the database in the form of a presentation chart me.

**Keywords:** Industrial Relations, Mediator, Mediation.

### INTRODUCTION

Education and the world of work have very different characteristics or things. In the world of education, it is still limited to providing theory and practice on a limited scale. However, education has a very important and strategic role in shaping one's skills and abilities to enter the world of work. Education and work have an inseparable relationship. Through education, students gain theoretical knowledge that can be applied to direct practice in the world of work. So, universities implement a program in the form of Field Work Practice (PKL) in an institution, agency, or company, both government and private. PKL aims to develop skills and work ethics, as well as get the opportunity to apply the knowledge and skills that have been acquired during lecture activities. Thus, through street vendors in related agencies or institutions, it is hoped that they can add insight into the knowledge and experience of students before entering the world of work.

Industrial relations are the interrelationships of interests between workers/laborers and employers, which have the potential to cause differences of opinion and can even lead to disputes between the two parties. Industrial relations disputes are a common thing experienced by industrial relations actors everywhere. Industrial disputes that occur are

between the workers/laborers and the entrepreneur. Settlement of industrial relations disputes (PPHI) is an effort to re-create a harmonious relationship between employers or a combination of employers and workers or labor unions after an industrial relations dispute occurs. Industrial relations disputes between workers and employers can be resolved by settlement procedures as regulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. The first step that should be taken is by negotiating to reach a consensus agreement between workers and employers. But usually, this step is rarely achieved. Therefore, industrial relations disputes are usually submitted to the competent agency in the field of manpower, namely the Manpower Office to settle any industrial relations disputes that occur between workers and employers.

At the Manpower Office, if a bipartite settlement between the parties at the company level does not produce results, one or both parties can request the assistance of a mediator. The mediator is an employee of a government agency responsible for manpower affairs who meets the requirements as a Mediator determined by the Minister to carry out mediation and must provide written advice to the disputing parties to resolve disputes over rights, disputes over interests, disputes over the termination of employment, and disputes between trade unions/labor unions in only one company. Law No. 13 of 2003 concerning Manpower and Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes have regulated the basic principles that need to be developed in the field of industrial relations. Disputes in the field of industrial relations, which have been known so far, are about the rights stipulated, both in work agreements, company regulations, and laws and regulations. Many factors cause industrial relations problems or disputes between workers and employers, including the Termination of Employment (PHK). Therefore, it takes a mediator who is domiciled to assist the disputing parties. The mediator is obliged to bring together the disputing parties where the mediator must be able to create conducive conditions that can guarantee the creation of a compromise between the disputing parties to obtain a win-win solution.

Industrial Relations Dispute Settlement (PPHI) by mediation is required. It is evident from several cases of Industrial Relations Disputes (PHI) that were entered during the implementation of Field Work Practices (PKL) at the Department of Industry and Manpower, especially in the Field of Industrial Relations, cases can be resolved through mediation, bipartitely, and several other cases are brought to the court of relations disputes industrial. Many parties prefer a mediation settlement to other settlements. Many parties take efforts to resolve disputes through mediation, which is a fast, precise, fair, and inexpensive process. This is what ultimately makes researchers curious about how the actual performance of the mediator as a third party between the disputing parties in resolving disputes without having to go through a court in practice / in the field.

## **IMPLEMENTATION METHOD**

The method chosen to complete this research is a qualitative approach with a descriptive method. As quoted (Sugiyono, 2018), namely "Research that applies qualitative methods is research based on postpositivism or interpretive philosophy, which is generally used to examine natural objects, where the researcher himself is the key instrument, data collection techniques are carried out by triangulation and the data obtained tend to be qualitative, data analysis is inductive/qualitative, and research results are to understand the meaning,

understand the uniqueness, construct phenomena, and find hypotheses”. Where is looking for data and information, the authors apply interview techniques with the Head of the Division and Staff of Placement, Industrial Relations, and Welfare of the Department of Industry and Manpower of Badung Regency.

## **RESULTS AND DISCUSSION**

An industrial relations dispute must be resolved first through bipartite negotiations by deliberation to reach a consensus. If bipartite negotiations fail, one or both parties shall register their dispute with the local manpower agency by attaching minutes of negotiations and other evidence that efforts to resolve through bipartite negotiations have been carried out.

The hope of the disputing parties by registering the dispute to the agency responsible for the local manpower sector is that the dispute can be resolved and resolved. The party who approves or accepts the Recommendation from the Mediator considers that by having been handled and mediated by the Mediator and the Mediator has issued a Written Recommendation as its Final Decision, the industrial relations dispute has been resolved.

Mediation is a way of resolving disputes outside the court through negotiations involving third parties who are neutral (non-interventional) and impartial (impartial) to the disputing parties and their presence is accepted by the disputing parties. - the disputing parties in resolving the problem and do not have the authority to make decisions. So the mediator only acts as a facilitator. The main characteristic of mediation is negotiation which is essentially the same as the process of deliberation or consensus. By the nature of negotiation or deliberation or consensus, there should be no coercion to accept or reject an idea or settlement during the mediation process. Everything must be approved by the parties. The urgency and motivation of mediation are for the litigants to be at peace and not continue their case in court proceedings. If there are things that have been blocking that have been a problem, then they must be resolved amicably by deliberation and consensus. The mediator determines the effectiveness of the dispute resolution process, so a mediator must meet certain qualifications. The following factors affect the effectiveness of mediation in terms of resolving disputes over the termination of employment at the Department of Industry and Manpower of Badung Regency.

### **1. For those who refuse the recommendation**

Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes stipulates that parties who reject the Recommendation may proceed with the settlement of disputes to the Industrial Relations Court at the local District Court. Dispute settlement is carried out by filing a lawsuit by one of the parties who reject the Recommendation, at the Industrial Relations Court at the local District Court. On the other hand, Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes also does not stipulate sanctions for parties who reject the Recommendation, if they do not file a lawsuit with the Industrial Relations Court. Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes does not stipulate a time limit for parties who reject the Recommendation to be able to proceed with the settlement of disputes to the Industrial Relations Court.

Law Number 2 of 2004 only stipulates that lawsuits by workers/laborers for termination of employment as referred to in Article 159 and Article 171 of Law Number 13 of 2003

concerning Manpower, can be filed only within a grace period of 1 (one) year from the date of receipt or notification of the decision of the entrepreneur, as referred to in article 82.

## 2. For those who accept or agree to the Recommendation

If the party rejecting the Recommendation does not proceed with the settlement of the dispute to the Industrial Relations Court, then the dispute becomes suspended and the settlement is unclear. It is unreasonable and illogical if the party receiving the Recommendation continues the dispute settlement by filing a lawsuit to the Industrial Relations Court (PHI). By filing a lawsuit, it means that the dispute is still going on, even though the party receiving the recommendation considers the dispute to be over. The party receiving the Recommendation considers the contents of the Recommendation to be by a sense of justice, however, if the party receiving the Recommendation files a lawsuit to the Industrial Relations Court, there is a possibility that the Court will give a different decision from the Mediator's Recommendation, meaning that the sense of justice of the party receiving the Recommendation may be disturbed.

## 3. Suggestions

The recommendation is a written decision issued by the Industrial Relations Mediator as a result of not reaching an agreement to settle industrial relations disputes through mediation. Mediators in issuing Recommendations sourced or based on the provisions of applicable laws and regulations. The suggestion creates rights and obligations for the parties and creates legal consequences for the other party. However, the Recommendation of the Mediator is rendered powerless by Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, because the Mediator does not have any coercive measures against the party who rejects the Recommendation and also does not proceed with the settlement of the dispute to the Industrial Relations Court to comply with and implement the contents of the Recommendation. The Mediator can issue a Final Decision in the form of a Written Recommendation, but the Mediator cannot enforce its Recommendation. The mediator who issues a decision in the form of a written recommendation does not have the authority to force the party who rejects the recommendation to comply with and implement the recommendation if the party rejecting the recommendation does not proceed with the settlement of the dispute to the Industrial Relations Court. Therefore, to prevent this kind of condition, the Law should set a time limit to be able to proceed with the settlement of disputes to the Industrial Relations Court. If the stipulated time limit is not used by the refusing party or if the stipulated time limit has passed, then the recommendation of the Mediator has permanent legal force.

This is a legal anomaly in the settlement of industrial relations disputes that should have been prevented if there were special rules regarding the legal force of the Mediator's Recommendation. Thus, it is hoped that there will be binding rules for parties who do not implement the Mediator's Recommendation, industrial relations disputes that are currently occurring can be resolved by minimizing time, cost, and energy, so that harmonious industrial relations are maintained.

## CONCLUSION

The performance and effectiveness of mediators in industrial relations disputes at the Department of Industry and Manpower in Badung Regency are by Law no. 2 of 2004 concerning Settlement of Industrial Relations Disputes and Ministerial Decree No. 92 of 2004, namely to mediate with disputing parties to resolve disputes over rights, disputes over interests, disputes over the termination of employment, and disputes between trade unions/labor unions in only one company. To maximize the role of the mediator, the Disperinaker of Badung Regency facilitates the disputing parties to carry out biparpital negotiations that have not been carried out by the disputing parties where this is not contained in the law. The mediator in his role also plays a role in carrying out the functions of counseling, supervision, and prevention in his function as a mediator to minimize industrial relations disputes that occur in Badung Regency, as well as to protect workers and employers from the intervention of irresponsible parties.

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