

Critical Analysis of The Policy of Mediation Time in The Employment Disputes Settlement

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ABSTRACT

Relationship among stakeholders in an industrial environment does not always run well. The conflicts within an industrial relationship are common, and they are known as industrial relation disputes. However, the disputes must be settled such as by mediation. This study aimed to analyze and investigate the 30 (thirty) day mediation period specified by Article 15 of the PPHI Law for the settlement of industrial relation disputes by the mediator. This study is a normative legal study utilizing a statutory approach and a case approach in which legal materials were gained through literature review. It was found that the settlement period must be completed by the mediator was ideally considering two aspects: the number of cases and the number of mediators. The researchers suggested that the provisions of Article 15 of the PPHI Law cannot be implemented equally; due to each region have the different number of cases and the number of mediators. In addition, the non-ideal number of functional mediators was taking into account the aspect of the number of cases received, so currently the service and technical implementation of the settlements do not run optimally. Based on the results of the study, the researcher suggests the stakeholders: first, to revise Article 15 of the PPHI Law, which is related to the period of time for the mediator in completing the duties. Second, to increase the number of functional mediators by considering the number of cases received.

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1. INTRODUCTION

Industrial relations are part of the manpower sector that relates the workers/laborers and entrepreneurs. The relationship is expected to run in harmony so that a good relationship is developed between the parties. With the establishment of a good relationship, it is expected to bring positive implications which will ultimately provide benefits for both parties.¹ Industrial Relations development in Indonesia was an original idea and promoted by the former Indonesian Minister of Manpower,

¹ Heriyanti, 'Analisis Peran Mediator Dalam Menyelesaikan Konflik Industrial Antara Pekerja Dengan Pengusaha Oleh Dinas Sosial, Tenaga Kerja Dan Transmigrasi Kabupaten Gowa', *Kareba*, 8 (2019), 195-203.

Sudomo. He intended to create a peaceful working, as well as a harmonious and pleasant relationship between employers and employees, which are not represented by a "master-servant" relationship that represents a conflict of interest.² In general, the main objective of the industrial relations system is to maintain the balance between workers' rights and economic interests.³ Harmonious, concordant, and non-conflicting relations are expected to take place in an industrial relationship.⁴ However, in practice, industrial relations do not always run harmoniously. Differences of opinion or interests between employers and workers/laborers are the roots of the disharmonious relationship.⁵ If a disharmonious relationship is not immediately resolved by the parties, it will result in a dispute.⁶ This industrial relations dispute must be resolved because if the problem persists it will disrupt the climate of industrial relations.

One of the resolutions on industrial relations dispute known in Indonesia is mediation. Mediation has an important role in resolving industrial relations disputes.⁷ Mediation in industrial relations is carried out by the Industrial Relations Mediator (hereinafter referred to as the Mediator) as a neutral third party. Mediation has been widely employed in the settlement of industrial relations disputes in Indonesia. Various regulatory provisions have been enacted to enable mediation in resolving various disputes in industrial relations. To optimize the mediation, mediators play an important role in the settlement of industrial relations disputes.⁸

One of the advantages of settlement through mediation is more effective and efficient of time.⁹ The provisions of rules as regulated in Article 15 of Regulation Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (hereinafter refers to PPHI regulation) stated that mediator should complete his/ her duties at least no later than 30 (thirty) working days after accepting the delegation of settlement. Practically, mediators are often unable to complete within that timeframe. This is as contained in the case of the decision Number: 7/Pdt.Sus-PHI/2017/PN.Jap, as well as some cases in the practice of settling industrial relations disputes through mediation.

This research in line with the previous research was conducted by Rigea Rima Nur Akni entitled *Industrial Relations Mediation That Exceeds the Time Limit*. Then, the research was conducted by Dhea Dwi Lestari, Rani Aprian entitled *Identifying the Settlement of Industrial Relations Disputes through Mediation*.¹⁰ Besides, there were the research findings by Yetniwati, Hartati and Meriyarni entitled *Legal Reformation for The*

² Hazar Kusmayanti; Agus Mulya Karsona; Efa Laela Fakhriah, 'Penyelesaian Perselisihan Hubungan Industrial Melalui Putusan Perdamaian Di Pengadilan Hubungan Industrial Pengadilan Negeri Padang Kelas I (A)', *ADHAPER*, 6.1 (2020).

³ Nicole Torka & Stefan Zagelmeyer Jan Kees Looise, 'Industrial Relations Systems, Innovation, and Economic Performance: Uncovering Myth and Reality from a Dutch Point of View', *The INTERNATIONAL JOURNAL OF COMPARATIVE LABOUR LAW and INDUSTRIAL RELATIONS*, 2012.

⁴ Sugeng Santoso PN, 'Karakteristik Penyelesaian Perselisihan Hubungan Industrial', *Mimbar Yustitia*, 2 (2018), 87-111.

⁵ Heriyanti.

⁶ PN.

⁷ Dinda Silviana Putri Haikal Arsalan, 'Reformasi Hukum Dan Hak Asasi Manusia Dalam Penyelesaian Perselisihan Hubungan Industrial (Law And Human Right Reformation On Industrial Dispute Settlement)', *HAM*, 11 (2020), 39-49.

⁸ (Jumiarti, AdiSulistiyono, Hari Purwadi, 2017)

⁹ Dian Maris Rahmah, 'Optimalisasi Penyelesaian Sengketa Melalui Mediasi Di Pengadilan', *Bina Mulia Hukum*, 4.1 (2019) <<https://doi.org/10.23920/jbmh.v4n1.1>>.

¹⁰ Rani Apriani Dhea Dwi Lestari, 'Mengenal Penyelesaian Perselisihan Hubungan Industrial Secara Mediasi', *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora*, 8.6 (2021), 1710-19.

Settlement of Industrial Relations Disputes by Mediation.¹¹ According to these previous studies, some studies investigate mediation in the settlement of industrial relations disputes. However, no research investigates and analyzes the period of mediation in the settlement of industrial relations disputes. Consequently, this research is conducted because of the differences from previous research.

In this study, the researchers intend to analyze and investigate the mediation period conducted by a mediator in the settlement of industrial relation disputes as stated by article 15 of the PPHI regulation; 30 (thirty) days.¹² This research is expected to be useful, especially in optimizing the role of industrial relations mediators in the settlement of industrial relations disputes.

2. METHOD

This research is prescriptive normative legal research. Meanwhile, the approach that is employed in this research covers a statute approach and case approach. This research is the normative legal research to obtain the legal material by using library research. In this legal research, the researcher employed secondary data. The secondary data, in the normative legal research, is known legal material.¹³ The legal entity, in this research, includes primary and secondary legal materials. The primary legal materials that are used in this research contain the statutory regulations related to employment and court decisions that are relevant to the conducted research. The primary legal materials include Regulation Number 13 of 2003 concerning Employment, Regulation Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, and Decision Number: 7/Pdt.Sus-PHI/2017/PN.Jap. The secondary legal materials, in this research, include references from books and journals that are relevant to the research. This research is organized by using the analytical technique with a deductive syllogism. In syllogistic logic, for legal reasoning, is major and minor premise. Major premise is the legal provisions while the minor premise is legal facts. From these two premises, a conclusion is drawn.¹⁴

3. MAIN HEADING OF THE ANALYSIS OR RESULTS AND DISCUSSION

Employees or laborers are one of the resources that have a potential and important role, especially in triggering national economic growth.¹⁵ The industrial sector has a role in the growth of the national economy considering that this sector contributes no small amount to income sources and has a role to create jobs. The industry sector, as one of the economic resources in the implementation of industrialization, will involve the government, entrepreneurs, and employers. Industrial relations occur when the production process runs. The development of industry in Indonesia is currently growing rapidly. Rapid development cannot be separated from the conflicts that occur in an industrial relationship. In these conditions, the employment policies, especially employment legislation carry out their role. The

¹¹ Meriyarni Yetniwati, Hartati, 'Reformasi Hukum Penyelesaian Perselisihan Hubungan Industrial Secara Mediasi', *Dinamika Hukum*, 14.2 (2014), 250–61.

¹² Republik Indonesia, *Undang-Undang Nomor 2 Tahun 2004 Tentang Penyelesaian Perselisihan Hubungan Industrial*, 2004.

¹³ Peter Mahmud Marzuki, *Penulisan Hukum* (Jakarta: Prenada Media Group, 2013).

¹⁴ Marzuki.

¹⁵ Samsul Ode Hendra Wijayanto, 'Dinamika Permasalahan Ketenagakerjaan Dan Pengangguran Di Indonesia', *Administratio*, 10 (2019).

employment legislation is becoming the foothold in the settlement of employment that occurs between employers and workers.¹⁶

3.1. Meditation Concept

According to the Collins English Dictionary and Thesaurus, mediation is a bridging activity between two disputing parties to generate agreement. This activity is taken place by the mediator as the party who also helps to find the various alternative of dispute resolutions. The mediator position, in this case, encourage the parties to seek and find agreement for resolving the disputes and conflicts. The explanation of mediation from linguistic (etymological) emphasizes the existence of the third party as the bridge between the disputing parties to resolve the conflicts in which it is important to distinguish from other forms such as arbitration, negotiation, adjudication, and others.¹⁷

The mediator has a strategic role in the process of resolving industrial relations disputes, especially in terms of accelerating conflict resolution. The mediator's duty and function in the process of settling disputes through mediation is technically the spearhead. A mediator is also a facilitator who brings the contending parties' interests together.¹⁸ According to Susanti Adi Nugroho, as cited in Rudianto Silalahi, mediation is an effort to resolve the dispute that is carried out by doing the mutual agreement with the mediator who is neutral and does not make decisions or conclusions for the parties but supports the facilitator for conducting the dialogue between parties through an atmosphere of openness, honesty, and exchange of opinions to achieve a consensus.¹⁹

Meanwhile, Laurence Belle as cited in Ahmad Ashari, Novalinda Fajar Astari, emphasize that mediation is a decision-making process carried out by parties and assisted by a third party as a mediator. Belle stated that decision-making authority is entirely in the hands of parties while mediators assist the parties in the decision-making process. The existence of a mediator is important because the mediator helps and strives for a better decision-making process so that the result of the final decision can be accepted by those in the conflict.²⁰

Mediation of employment in Indonesia is the settlement of disputes on rights, disputes of interests, disputes of termination of an employment relationship, the dispute among trade or labor unions within one enterprise through deliberation mediated by one or more neutral mediators. The mediator as intended is the employees of government agencies who are responsible in the area of employment and meets the requirements as the mediator determined by the Minister to carry out meditation and fulfill the obligation to provide the written advice to the disputing parties in solving the disputes over rights, disputes over interests, disputes over the termination of employment, and disputes between trade/ labor unions within one enterprise. Dispute settlement through meditation is conducted by mediators. The

¹⁶ Ani Yumarni Omon Remen, Endeh Suhartini, 'Penyelesaian Perselisihan Hubungan Industrial Pada PT. Haengnam Sejahtera Indonesia Di Tingkat Mediasi Pada Dinas Tenaga Kerja Kabupaten Bogor', *Jurnal Hukum De'rechtsstaat*, 4.1 (2018), 81-92.

¹⁷ Mardalena Hanifah, 'Kajian Yuridis: Mediasi Sebagai Alternatif Penyelesaian Sengketa Perdata Di Pengadilan', *Hukum Acara Perdata*, 2.1 (2016), 2.

¹⁸ Heriyanti.

¹⁹ Rudianto Silalahi, 'Rudianto Silalahi', *Jurnal Hukum: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 6 (2020), 122-37.

²⁰ Uswatun Hasanah Ahmad Ashari, Novalinda Fajar Astari, 'Penyelesaian Perselisihan Karyawan Melalui Mediasi (Studi Kasus Di Toko House Of Celena)', *Kompetensi*, 12 (2018).

mediators are in each office of the agency responsible for district/city manpower affairs.

Within no later than 7 (seven) working days after receiving the delegation of disputes settlement, the mediator should have researched the situation of the case and should have organized a mediation session immediately. The mediator completes his/her duties within no later than 30 (thirty) working days after accepting the delegation of disputes settlement as stated. The mediator is an employee of government agencies who is responsible in the Manpower area and meets the requirements as the mediator determined by the Minister. This mediator has the responsibility to carry out mediation and obligation to provide written advice to the disputing parties in solving the disputes over rights, disputes over interests, disputes over the termination of employment, and disputes between trade/ labor unions within one enterprise. Functional positions of Industrial Relations Mediator is the position that has the scope, duties, responsibilities, authorities, and rights to carry out the industrial relations development activities, industrial relations development, and mediation of industrial relations dispute settlements.

The mediator has a strategic role in the process of resolving industrial relations disputes, especially in the terms of accelerating the conflict settlement. Technically, the task and function of the mediator is the spearhead in the process of resolving disputes through mediation. Besides, a mediator is also a facilitator who brings the interest between the disputing parties.²¹ Mediation is an amicable process in which the disputing parties hand over their settlement to a mediator-someone who organizes a meeting between two or more disputing parties to accomplish the equitable result without wasting too much cost but it is effective and completely acceptable by both disputing parties voluntarily. Mediation, as one of the dispute-resolution methods, has the main scope in the form of a private or civil jurisdiction.²²

Mediation settlement is one of the best resolution efforts. However, in its implementation, there are encountered many obstacles. One of the obstacles is the view of disputing parties who are stated that litigation is considered as the settlement effort which ensures legal certainty. In the world, some countries are consistent and successful in implementing mediation as an effort to resolve disputes. Prof. Yoshiro Kusano, who is a former judge in Japan and has experience in mediation, stated that the achievement rate of mediation in Japan is very high. The concept of settlement in Japan can be inferred quite successful because in the process of its resolving is begun and based on the traditional values, as an example; the value of *arasoi o mizu ni nagasu*-allowing the problems to run like water, the value of *kenkai ryoo-seibai*- the parties are punished equitable, and the value of *arasoi maruku osameru*- solving the problems inside of the circle.²³ Besides, the settlement of mediation will achieve a decision with a win-win solution because it is based on the creation of its agreement and the willingness of disputing parties as well as it will not cause hostility between them. The disputing parties are considered partners in solving problems together.²⁴

Mediation is a process that is employed to help the dispute and conflict.²⁵ Mediation is one of the Alternative Dispute Resolutions (ADR) that is based on good

²¹ Heriyanti.

²² Hanifah.

²³ Haikal Arsalan.

²⁴ I Gusti Ayu Agung Ari Krisnawati Pratama, Alvyn Chaisar Perwira Nanggala, 'PERSELISIHAN HUBUNGAN INDUSTRIAL PEKERJA', *Kertha Negara*, 8 (2020), 33-47.

²⁵ Christopher W Moore, *The Mediation Process: Practical Strategies For Resolving Conflict*, Fourth Edi (Joosey-Bass, 2014).

faith by setting aside litigation settlement.²⁶ The Alternative Dispute Resolution (ADR), according to regulation number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, is an institution for resolving disputes or different opinions through procedures agreed by the parties, namely out-of-court settlement through consultation, negotiation, mediation, conciliation, or expert judgment. Mediation is a process in which the parties agree to negotiate with the help of a neutral third party.²⁷ Mediation brings the parties into the realization by concerning the dispute settlement through mediation that places both parties in the same position. Neither party is won nor defeated (win-win solution).²⁸ Mediation is conducted to resolve the disputes among parties with the peace.²⁹

Mediation, in the context of industrial relations in Indonesia, includes the settlement of disputes on rights, disputes of interests, disputes of termination of an employment relationship, the dispute among trade or labor unions within one enterprise through deliberation mediated by one or more neutral mediators. In industrial relations, a mediator is a government employee who is accountable for the Manpower area and meets the Minister's mediator standards. This mediator is in charge of conducting mediation and is required to provide written advice to the disputing parties to resolve conflicts over rights, interests, termination of employment, and disagreements between trade/labor unions within a single firm. The settlement of disputes through mediation is conducted by the mediators, who are responsible for the district/ municipality Manpower affair in each agency office within no later than 7 (seven) working days after accepting the delegation of dispute resolution. Mediators should have researched the situation of the case and should have organized a mediation session soon. Mediators complete their duties within no later than 30 (thirty) working days since the receiving of dispute settlement delegation.

Mediation is considered as the effort in resolving the disputes through deliberation based on the mutual agreement provided by the mediator. The statement of "*by mutual agreement*" refers to the entire process revolution from the appointment of a mediator into the determination of mediation procedures and their outcome. Therefore, the role of mediators is not more than as a facilitator who bridges the interest of disputing parties.³⁰ In the process of settling industrial relations conflicts, the mediator plays a critical role, particularly in terms of speeding up the resolution process. In terms of technicality, the mediator's task and function are the forerunners in the process of settling disputes through mediation. A mediator is also a facilitator who brings the contending parties' interests together.³¹

3.2. Industrial Relations Disputes Settlement in Indonesia

Industrial Relation Disputes, based on Industrial Relations Disputes Settlement regulation (PPHI), are the different opinions that cause conflicts between an entrepreneur or the combined entrepreneurs with workers/ labors or trade/ labor unions because of the settlement of disputes on rights, disputes of interests, disputes of

²⁶ Syafrida, 'Alternatif Penyelesaian Sengketa Sebagai Solusi Mewujudkan Asas Pemeriksaan Perkara "Sederhana, Waktu Singkat Dan Biaya Murah"', *Jurnal Sosial & Budaya Syar-I*, 7.4 (2020).

²⁷ Katherine E.Stoner, *Divorce Without Court*, ed. by Emily Duskow, 1st edn (Consolidated Printers, INC, 2006).

²⁸ Rahmi Yuniarti, 'Efisiensi Pemilihan Alternatif Penyelesaian Sengketa Dalam Penyelesaian Sengketa Waralaba', *FIAT JUSTISIA*, 10.3 (2016), 551-68.

²⁹ Dea Prasetyawati Wibowo Fajar Sugianto, Felicia Christina Simeon, 'Idealisme Sifat Alternatif Dalam Penyelesaian Sengketa Melalui Mediasi', *Jurnal Hukum Bisnis Bonum Commune*, 3.28 (2020), 253-65.

³⁰ Mohammad Zamroni, 'Misconceptions on The Concept of Mediation and Conciliation in The Act On Industrial Relations Disputes Settlement', *Yustisia*, 10.2 (2021), 240-51.

³¹ Heriyanti.

termination of an employment relationship, the dispute among trade or labor unions within one enterprise. In resolving the conflict, the disputing parties must conduct negotiations through bipartite. If the bipartite negotiation fails, the disputing parties should register their dispute to the agency that is responsible in the local Manpower sector by attaching the evidence of efforts to resolve through bipartite negotiations that have been conducted. After receiving the entries from one of the other parties, the agency, that responsible for local manpower affairs, must offer the parties an agreement to choose a settlement through conciliation or arbitration.

If the parties do not decide the settlement option through conciliation or arbitration within 7 (seven) working days, the agency that is responsible for Manpower affairs should delegate the dispute settlement to a mediator. Based on the Industrial Relations Disputes Settlement regulation (PPHI), a mediator is an employee of government agencies who is responsible in the area of employment and meets the requirements as the mediator determined by the Minister to carry out mediation and should provide written advice for disputing parties to resolve the settlement of disputes on rights, disputes of interests, disputes of termination of an employment relationship, the dispute among trade or labor unions within one enterprise.

The disputing parties in resolving disagreement are obliged to negotiate bipartitely. If the bipartite negotiations fail, the disputing parties should file a complaint with the local Manpower sector's relevant agency, along with documentation of efforts to resolve the problem through bipartite negotiations. The agency in charge of local manpower matters must provide the parties an agreement to choose a settlement through conciliation or arbitration after receiving the entries from one or both parties.

Disagreement and dispute, both individual and legal entities, commonly occur in the relationship among the legal subjects. With the increasingly complex mode of people's lives, the scope of events or disputes is getting wider.³² The dispute is basically as the conflicts caused by disagreement and inconsistencies of comprehension, the inappropriate of interest or right fulfillment so that they can cause losses in one party. Dispute that is related to work-related problems is known as the Industrial Relation Disputes.³³ Bipartite and Mediation are alternative dispute resolution outside of the court in which in the process of resolving industrial relations disputes is a mandatory prerequisite to be taken or passed by the parties.³⁴

Conducting a win-win solution is the best way to resolve disputes. Regulation number 30 of 1999 is known as Alternative Dispute Resolution. Dispute settlement by using Alternative Dispute Resolution has the highest degree because it is truly resolved. It is not discontinued the dispute as long as the parties are willing to comply with all the results of the agreement ³⁵. It can be stated that Industrial Relation Disputes will continually occur as long as workers, laborers, and entrepreneurs still exist. The entire efforts are conducted to minimize the problems arising and the future problems arising with their impacts. For these reasons, comprehensive, constructive, and fair

³² Rai Mantili, 'Konsep Penyelesaian Perselisihan Hubungan Industrial Antara Serikat Pekerja Dengan Perusahaan Melalui Combined Process (Med-Arbitrase)', *Bina Mulia HHukum*, 6.1 (2021).

³³ I Wayan Agus Vijayantera I Nyoman Jaya Kesuma, 'Mediasi Hubungan Industrial Sebagai Upaya Alternatif Penyelesaian Perselisihan Hubungan Industrial', *Advokasi*, 8.1 (2018), 66-79.

³⁴ Imam Budi Santoso, 'Alternatif Penyelesaian Sengketa Wajib Dalam Penyelesaian Perselisihan Hubungan Industrial', *SELISIK*, 3.1 (2017), 116-26.

³⁵ Dewa Nyoman Rai Asmara Putra; I Putu Rasmadi Arsha Putra, 'JURNAL HUKUM ACARA PERDATA', *ADHAPER*, 6.1 (2020).

labor regulations are needed ³⁶. In its implementation, the settlement outside the court is broadly divided into two major parts, namely the settlement by the parties themselves in a bipartite manner and the settlement with the help of a third party or mediator ³⁷.

Industrial relations disputes must be resolved in advance through bipartite negotiations by deliberation to reach a consensus, which must be resolved within 30 (thirty) days from the date of commencement of negotiations. If during this period, one of the parties refuses to negotiate or an agreement is not reached in the negotiations, then the bipartite negotiations are deemed to have failed. If bipartite negotiations fail, one or both parties shall register their dispute with the local manpower agency responsible for attaching evidence that efforts to resolve them through bipartite negotiations have been carried out. After that, the responsible agency for the local manpower sector is obliged to offer the parties the opportunity to agree on a settlement through conciliation or arbitration. If the parties do not determine the choice of settlement through conciliation or arbitration within 7 (seven) working days, the agency responsible for manpower affairs delegates the settlement of the dispute to the mediator. In the event that the settlement through conciliation or mediation does not reach an agreement, one of the parties may file a lawsuit with the Industrial Relations Court.

3.3. Implementation of Industrial Relations Dispute Resolution through Mediation

In decision No: 7/ Pdt.Sus-PHI/2017/PN.Jap, that based on the claim the Plaintiff has argued that Plaintiff has met and registered his application on September 16, 2016, and the Defendant has also received a summons for mediation on 29 November 2016 while the mediator's recommendation was issued on 10 May 2017. If it is calculated from the registration of the dispute until the issuance of the recommendation by the mediator has reached approximately 9 (nine) months, it is proven that the mediator's recommendation used by the Plaintiff as the basis for filing a lawsuit in the a quo case has been exceeded the time limit as stipulated in Article 15 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, which only regulates no later than 30 (thirty) working days. Therefore, it should be declared invalid and or null and has no force law. Since in a quo case, the basis of the lawsuit is the recommendation of the mediator, while the recommendation is against the law, it is appropriate for the plaintiff's claim to be declared unacceptable, because it is premature and formally disabled. Whereas based on the provisions of Article 15 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, it stipulates: "The mediator completes his duties within 30 (thirty) working days from receiving the delegation of dispute settlement as referred to in Article 4 paragraph (4).

Another problem is related to the number of mediators. As mediators in the city of Semarang are only three (three) people, this is not proportional to the number of cases received in Semarang City Manpower and Transmigration Office, which is hundreds per year ³⁸. Meanwhile, the number of mediators in Langkat Regency in 2017 was two (2) people, with a total of 62 cases (case rights disputes, case interest disputes,

³⁶ Agus Mulya Karsona dan Efa Laela Fakhriah, 'Eksistensi Pengadilan Hubungan Industrial Dalam Penyelesaian Perselisihan Hubungan Kerja Di Indonesia', ADHAPER, 2.2 (2016).

³⁷ Hazar Kusmayanti; Agus Mulya Karsona; Efa Laela Fakhriah.

³⁸ Suhartoyo Andry Sugiantari, Solechan., 'Diponegoro Law Review', *Diponegoro Law Review*, 5.2 (2016), 1-10.

and 58 cases of termination of employment disputes)³⁹. The same thing is also found in Sukoharjo Regency.

Based on the results of research by Rigea Rima Nur Akni, the Industrial Relations Mediator is unable to resolve industrial relations disputes within 30 (thirty) days, which is due to the many cases of industrial relations disputes that must be handled by mediators, as well as the limited number of mediators and the administrative staff of the mediator who is not balanced with the number of cases⁴⁰. The same thing as in the Bali Provincial Manpower Office, the inhibiting factors in mediation include law enforcement factors or mediators. The number of mediators at the Manpower Office is very little in the number of 4 people, because the number of cases that enter is quite large, so that the number of cases and mediators is disproportionate, while the mediation data at the Bali Province Manpower Office was 43 cases⁴¹.

Similar problems also occur in the Department of Industry and Manpower of Badung Regency. There are several factors that hinder the implementation of industrial relations disputes through mediation at the Badung Regency Industry and Manpower Office, including the legal factor, namely UUPPHI, regarding limited time in giving recommendations by mediators. Law Enforcement Factors, namely the number of mediators who are considered inadequate⁴². The facts obtained from the Department of Industry and Manpower in Badung Regency show that the available mediators are inadequate in number. This is certainly very influential on the effectiveness and efficiency of mediation efforts. The availability of four mediators at the Badung Disperinaker is considered lacking. The problem is the high workload of mediators at the Badung Disperinaker because each mediator is not only serving mediation requests but also requests for consultation from many parties in need, which can reach 10 (ten) to twenty (20) consultations per day for each existing mediator, thereby it is increasing the workload of each mediator. Meanwhile, so far, the number of cases is not proportional to the number of available mediators. The limited number of mediators is due to the lack of human resources and limited job vacancies as mediators⁴³.

The same problem is also found in the Social, Manpower, and Transmigration Office of Rokan Hulu Regency. The ineffectiveness and failure of mediation were also due to the lack of mediators which also affected the success of mediation. From the data obtained, there are only 2 (two) mediators at the Office of Social, Manpower, and Transmigration of Rokan Hulu Regency, while there are many dispute cases that come in every day. The addition of junior mediators is also needed, if there are more mediators, dispute cases can be resolved better. Thus, through the addition of mediators at the Social, Manpower, and Transmigration Office of Rokan Hulu Regency as well as conducting training and education, the ability of each mediator will be equal.

³⁹ Hafizha Anisah Lubis, 'Analisis Penyelesaian Perselisihan Hubungan Industrial Di Dinas Ketenagakerjaan Kabupaten Langkat Provinsi Sumatera Utara Tahun 2017' (Universitas Sumatera Utara, 2018).

⁴⁰ Rigea Rima Nur Akni, 'Mediasi Hubungan Industrial Yang Melebihi Batas Waktu', *Lentera Hukum*, 2.3 (2015), 159-78.

⁴¹ I Ketut Tjukup Dewa Gede Sai Pandu Rangga Vitala, Dewa Nyoman Rai Asmara Putra, 'Implementasi Mediasi Dalam Penyelesaian Perselisihan Hubungan Industrial Di Dinas Tenaga Kerja Provinsi Bali', *Kertha Wicara*, 7.4 (2018), 1-15.

⁴² I Gusti Ayu Agung Ari Krisnawati Fridaniswara, Putu Jerry, 'Pelaksanaan Mediasi Dalam Penyelesaian Perselisihan Hubungan Industrial Pada Dinas Perindustrian Dan Tenaga Kerja Kabupaten Badung', *Kertha Desa*, 8.9 (2020).

⁴³ Fridaniswara, Putu Jerry.

Besides, the mediators can share experiences with each other so that there is no imbalance of expertise between the two mediators in resolving disputes.⁴⁴

4. CONCLUSION

Based on the results of the study, it can be concluded that the settlement period that must be completed by the mediator should ideally consider aspects of the number of cases and the number of mediators. The researcher believes that the provisions of Article 15 of the PPHI Law cannot be implemented in general because each region has a different number of cases and a different number of mediators. In addition, there are still non-ideal functional numbers of mediators, taking into account the aspect of the number of cases received, so that, the service and the implementation of the settlement, technically, is not running optimally. Based on the results of the study, the researcher suggests; first, revising Article 15 of the PPHI Law, which is related to the period for the mediator to complete his duties. The settlement period that must be completed by the mediator should ideally consider the aspect of the number of cases and the number of mediators. Second, increasing the number of functional mediators by considering the number of cases received. It is expected that with this suggestion, the service and technical implementation of the settlement will run optimally.

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