

The Role of Mediators and The Legal Force of Recommendation in the Settlement of Industrial Relations Disputes

Taufik Hidayat*, Darwati

Universitas Borobudur, Indonesia

Email: taufiksalim@gmail.com*, darwati@borobudur.ac.id

ABSTRACT

Industrial relations disputes remain a significant challenge in Indonesia's employment landscape, often arising from disagreements over rights, interests, termination of employment, or conflicts among labor unions. Although the legal framework prioritizes dispute resolution through deliberation and consensus, with bipartite negotiations serving as the primary mechanism, mediation plays a crucial role when such negotiations fail. This study analyzed the role of mediators and the legal implications of mediator recommendations, both normatively and empirically, while evaluating the extent to which existing legal provisions align with the principles of justice and the judicial ideals of simplicity, speed, and low cost. Employing a normative juridical research method with statutory and conceptual approaches, this study examined Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, labor regulations, and Constitutional Court Decision Number 68/PUU-XIII/2015. The findings revealed that although mediators play a significant role in facilitating dispute resolution by providing legal clarification and proposing equitable solutions, their recommendations lack binding legal force, thereby reducing their effectiveness and creating legal uncertainty. This condition may disproportionately disadvantage workers, who are generally in weaker socio-economic positions. The study recommends legal reform to strengthen the enforceability of mediator recommendations, including the establishment of statutory time limits and the potential granting of binding force under certain conditions, to enhance legal certainty, efficiency, and fairness in industrial dispute resolution.

Keywords: Industrial Relations; Mediation; Recommendation; Legal Certainty; Labor Law

INTRODUCTION

Industrial relations constitute an essential component of socio-economic development, as they regulate interactions between employers and workers in achieving productive, harmonious, and sustainable employment relationships (Hanartani, 2019; International Labour Organization [ILO], 2021). In Indonesia, industrial relations are founded on the principles of Pancasila Industrial Relations, which emphasize cooperation, mutual respect, and shared responsibility between employers and employees (Priyatna, 2021; Yustisio et al., 2023). However, differences in interests, rights, and expectations frequently lead to disputes that may disrupt industrial harmony and negatively affect economic stability (ILO, 2021).

The rapid development of industrial activities and increasing labor mobility have contributed to a growing number of industrial relations disputes in Indonesia. Such disputes generally arise from disagreements regarding the fulfillment of workers' rights, determination of employment conditions, termination of employment, and conflicts among labor unions within a company (Pramono, 2020; Tamba et al., 2023). These disputes often involve unequal bargaining positions between employers and workers, with workers typically occupying a weaker socio-economic position (Rahmawati et al., 2025). Consequently, the legal system plays a crucial role in ensuring that industrial disputes are resolved fairly, efficiently, and in accordance with the principles of justice and legal certainty (Dwijayanthi et al., 2022; Arpangi et al., 2025).

To address industrial relations disputes, Indonesia has established a specific legal framework through Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. The law recognizes four categories of disputes, namely disputes over rights, disputes over interests, disputes arising from termination of employment, and disputes among labor unions within the same company (Anggraini & Hoesin, 2023; Pramono, 2020). It further prioritizes dispute resolution through bipartite negotiations between employers and workers as the primary mechanism. Only when bipartite negotiations fail may disputes proceed to tripartite mechanisms, including mediation, conciliation, arbitration, or adjudication before the Industrial Relations Court. This structure reflects the Indonesian legal philosophy that prioritizes deliberation and consensus as the preferred means of dispute resolution (Damayanti & Marwiyah, 2025; Hengki, 2026; Sukriono et al., 2025).

Among the available dispute resolution mechanisms, mediation occupies a particularly important position because it serves as a mandatory stage before litigation. Through mediation, parties are given the opportunity to resolve disputes amicably with the assistance of a neutral mediator appointed by the government through the Manpower Office. The mediator functions not only as a facilitator of communication but also as a neutral advisor who helps parties understand their rights and obligations under applicable laws and employment agreements (Riskin, 2018). Effective mediation can reduce litigation costs, shorten dispute resolution time, preserve employment relationships, and ease the burden on courts. Therefore, the success of industrial relations mediation largely depends on the competence, neutrality, and authority of mediators in facilitating negotiations and proposing equitable solutions (Araujo et al., 2019; Munduate et al., 2022; Uchendu et al., 2024).

Despite its strategic role, mediation in industrial relations disputes faces significant practical challenges. One of the most prominent issues concerns the legal status of mediator recommendations. When mediation fails to produce a mutual agreement, mediators issue written recommendations outlining their assessment of the dispute and proposing a resolution based on legal norms and principles of fairness. However, under the current legal framework, these recommendations do not have binding legal force. Parties remain free to accept or reject them without legal consequence. This situation often undermines the effectiveness of mediation, as recommendations may be disregarded, resulting in prolonged disputes and increased legal uncertainty, particularly for workers whose rights may remain unresolved.

Several previous studies have examined the effectiveness of mediation in resolving industrial relations disputes. Dhulhijjahyani, Sjamsuddin, and Nuh (2020) analyzed conflict management in industrial dispute resolution and found that mediation contributes significantly to reducing conflict escalation and improving communication between disputing parties. Their study emphasized that mediators play an important role in facilitating negotiations and encouraging consensus-based settlements. However, the research also identified institutional limitations that hinder the overall effectiveness of mediation, particularly when parties demonstrate low commitment to implementing outcomes.

Similarly, Rangkuti and Nadhirah (2023) investigated the optimization of mediator roles in the settlement of industrial relations disputes at the Provincial Manpower Office of North Sumatra. Their findings revealed that mediator competence, communication skills, and legal expertise significantly influence mediation success. The study recommended strengthening mediator capacity through continuous training and institutional support. However, it primarily focused on mediator performance and did not extensively analyze the legal implications of the non-binding nature of recommendations.

Earlier, Husni (2009) discussed industrial dispute settlement mechanisms both within and outside judicial institutions. The study highlighted the importance of alternative dispute

resolution methods in reducing litigation and maintaining industrial harmony. However, the analysis predated key constitutional developments and did not fully address contemporary legal challenges regarding the enforceability of mediator recommendations. Furthermore, Constitutional Court Decision Number 68/PUU-XIII/2015 introduced new interpretative considerations regarding mediation documents and procedural requirements that require further scholarly attention.

Although previous studies provide valuable insights into mediation practices and effectiveness, a significant research gap remains concerning the legal force of mediator recommendations and their implications for legal certainty in industrial relations dispute resolution. Most existing studies focus on mediation procedures, conflict management, or mediator performance, while limited attention has been given to the normative consequences of non-binding recommendations. Consequently, there is insufficient understanding of whether the current legal framework adequately supports the principles of justice, efficiency, and legal certainty in industrial dispute settlement.

The novelty of this study lies in its comprehensive examination of both the functional role of mediators and the legal status of mediator recommendations within Indonesian labor law. Unlike prior research focused primarily on mediation effectiveness, this study analyzes the normative limitations of non-binding recommendations and their impact on legal certainty and access to justice. It also incorporates recent constitutional jurisprudence, including Constitutional Court Decision Number 68/PUU-XIII/2015, to assess the consistency of existing regulations with contemporary legal interpretation. By proposing potential legal reforms to strengthen the enforceability of mediator recommendations under specific conditions, this study contributes a renewed perspective on industrial dispute resolution reform in Indonesia.

Based on this discussion, the study aimed to analyze the role of mediators in facilitating the settlement of industrial relations disputes and to examine the legal consequences of mediator recommendations under Indonesian labor law. It also sought to evaluate the effectiveness of existing regulations in ensuring legal certainty, fairness, and procedural efficiency, and to formulate reform-oriented recommendations for improving mediation effectiveness and strengthening worker protection within Indonesia's industrial relations system.

This research offers theoretical and practical contributions to labor law and industrial relations. Theoretically, it enriches discourse on alternative dispute resolution by critically examining the normative limitations of non-binding mediator recommendations and integrating recent constitutional jurisprudence into industrial dispute analysis. Practically, the findings provide recommendations for policymakers, legislators, and judicial institutions to reform mediation regulations, particularly by strengthening the enforceability of mediator recommendations and establishing procedural time limits to enhance legal certainty. For mediators and practitioners, the study clarifies their legal functions and limitations, while for workers and employers it contributes to a more balanced, efficient, and accessible dispute resolution framework. Ultimately, this research supports the development of a more just and harmonious industrial relations system aligned with Pancasila principles and the constitutional ideal of social justice for all Indonesian people.

METHOD

This research used a normative juridical method to analyze legal norms governing the settlement of industrial relations disputes in Indonesia, particularly concerning the role of mediators and the legal force of mediator recommendations. The study adopted statutory and conceptual approaches. The statutory approach examined relevant legal instruments, including Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, labor regulations, and Constitutional Court Decision Number 68/PUU-XIII/2015. The conceptual approach was used to analyze legal doctrines and principles related to legal certainty, justice, efficiency, and alternative dispute resolution within industrial relations.

The study relied on secondary legal materials, including primary legal sources, secondary legal literature, and supporting academic references in the field of labor law and industrial dispute resolution. Data were collected through a comprehensive literature review of legislation, legal journals, textbooks, court decisions, and other relevant legal documents.

The collected materials were analyzed qualitatively using a descriptive-analytical method to identify strengths and weaknesses in the existing legal framework governing mediation in industrial relations disputes. The analysis focused on evaluating the effectiveness of mediator recommendations, their legal consequences, and their conformity with the principles of justice, legal certainty, and procedural efficiency. Based on this analysis, the study formulated recommendations for legal reform to strengthen the role of mediators and enhance the effectiveness of mediation as a mechanism for resolving industrial relations disputes in Indonesia.

RESULTS AND DISCUSSION

The Role of Mediators in Industrial Relations Disputes

Mediators occupy a central position in the resolution of industrial relations disputes. Their primary function is to facilitate communication between disputing parties and assist them in reaching a mutually acceptable agreement. In carrying out this role, mediators must actively provide legal clarification regarding the nature of the dispute and the applicable legal framework. This includes interpreting relevant statutory provisions, employment agreements, and collective labor agreements. A competent mediator is expected to possess not only technical legal knowledge but also negotiation skills, impartiality, and a comprehensive understanding of industrial relations dynamics.

Moreover, mediators are required to propose solutions that balance the interests of both parties while ensuring compliance with prevailing laws and principles of fairness. Their role is therefore not merely passive but involves proactive engagement in guiding the dispute resolution process.

The Legal Function and Limitations of Mediator Recommendations

When mediation fails to produce an agreement, the mediator issues a written recommendation. This recommendation is based on applicable legal norms and represents the mediator's formal assessment of the dispute. From a normative perspective, such recommendations generate legal consequences, as they outline the rights and obligations of the parties. However, under Law Number 2 of 2004, mediator recommendations do not possess binding legal force. There are no enforcement mechanisms compelling parties to comply, particularly when a party rejects the recommendation and does not pursue further legal action before the Industrial Relations Court.

This limitation significantly weakens the effectiveness of mediation. Although mediation is a mandatory procedural step prior to litigation, the resulting recommendation often functions merely as a formal requirement rather than a substantive resolution mechanism. To address this

issue, it is necessary to introduce regulatory reforms. One proposed solution is the establishment of a statutory time limit within which parties must escalate the dispute to the Industrial Relations Court. If no action is taken within this period, the mediator's recommendation should acquire final and binding legal force. Such a reform would enhance legal certainty and encourage compliance.

Furthermore, Article 13 paragraph (2) letter (d) of Law Number 2 of 2004 provides that a party who fails to respond to a recommendation is deemed to have rejected it. This provision raises conceptual concerns, as it contradicts the general legal principle that silence may imply consent. A more appropriate interpretation would consider silence as acceptance, while rejection should require explicit notification within the prescribed timeframe.

Another significant issue arises from the interplay between Article 13 and Article 83 of the same law. In practice, defendants often challenge lawsuits on formal grounds, arguing that they lack mediation minutes. However, the Constitutional Court Decision Number 68/PUU-XIII/2015 clarified that a written recommendation must be interpreted as an integral part of the mediation record.

Judicial practice, particularly at the cassation level, generally supports this interpretation. Courts have consistently held that mediator recommendations inherently contain the substance of mediation proceedings. Therefore, claims of procedural defects based on the absence of separate mediation minutes should be rejected. To ensure consistency in judicial practice, it is recommended that the Supreme Court issue a circular letter providing clear guidance to judges in handling such procedural matters.

From the perspective of legal certainty, the non-binding nature of mediator recommendations creates a significant gap between the objectives of mediation and the practical realization of dispute resolution. Mediation is intended to provide a simple, fast, and low-cost mechanism for resolving industrial relations disputes. However, when recommendations can be disregarded without legal consequences, the mediation process risks becoming merely a procedural formality before litigation. This situation is particularly detrimental to workers who often face financial vulnerability due to prolonged disputes, especially in cases involving termination of employment and unpaid labor rights. Consequently, the absence of enforceability may undermine public confidence in mediation as an effective dispute resolution mechanism and reduce its contribution to industrial harmony.

Furthermore, strengthening the legal position of mediator recommendations would be consistent with the principles of justice and efficiency underlying Indonesia's industrial relations system. Comparative practices in several jurisdictions demonstrate that mediation outcomes can be granted greater legal effect through statutory provisions or judicial confirmation mechanisms. Such an approach encourages compliance while preserving the voluntary nature of mediation. Therefore, legislative reform should consider establishing a framework whereby mediator recommendations may acquire binding force after a specified period if no objections are raised by either party. This mechanism would not only enhance legal certainty but also reduce the number of disputes proceeding to the Industrial Relations Court, thereby improving the overall effectiveness of industrial dispute resolution and promoting a more balanced protection of employers' and workers' rights.

CONCLUSION

Mediators play a crucial role in facilitating the resolution of industrial relations disputes by promoting dialogue and mutual understanding between parties. When mediation fails, mediators issue recommendations that may serve as a basis for further legal action. However, the absence of binding legal force significantly undermines the effectiveness of these recommendations. This condition often prolongs disputes and increases the burden on workers, particularly when their rights are not fulfilled during termination processes. Therefore, legal reform is necessary to strengthen the role of mediator recommendations. Establishing binding force under certain conditions and introducing procedural time limits would enhance legal certainty, efficiency, and fairness in industrial dispute resolution.

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