

# Principles of Settlement of Industrial Relations Disputes Through Mediation in Law

M.Y Harry Irmanto<sup>1</sup>, Ery Agus Priyono<sup>2</sup>

<sup>1</sup>Master Program in Law, Faculty of Law, Diponegoro University, Semarang

<sup>2</sup>Lecturer in Magister Law Program, Faculty of Law, Diponegoro University, Semarang

## ABSTRACT

The purpose of this study is to analyze: 1 ) What is the authority of the mediation institution and its role as a medium for resolving industrial relations disputes? 2) What are the principles of resolving industrial relations disputes through mediation in Indonesian law?. The research method used is normative juridical with a statutory approach, concept approach, and case studies.

The results showed that: 1) This mediation institution is authorized to resolve disputes, if in bipartite negotiations an agreement is not reached / fails and both parties or one of the parties records the dispute to the local labor agency which then offers the option of settlement through conciliation or arbitration. 2) The principles of industrial relations settlement, among others: (1) the principles of kinship, mutual assistance and deliberation for consensus; (2) the principle of freedom to choose the institution of dispute resolution; and (3) the principle of fast, fair and cheap.

**Keywords:** Principle, Settlement, Dispute, Relationship, Industrial, Mediation, Law

## INTRODUCTION

### Background

Mediation is an effort to resolve disputes peacefully where there is the involvement of a neutral third party (Mediator), who actively helps the disputing parties to reach an agreement that is acceptable to all parties. Settlement of industrial relations disputes through mediation is a mechanism for resolving civil disputes outside the court as stipulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. Industrial relations is not just the management of a company's organization, which places workers as parties that can always be managed. However, industrial relations encompasses phenomena both inside and outside the workplace related to the placement and regulation of labor relations.<sup>1</sup> Basically, industrial relations are binding relationships in law, carried out between employers who have companies and workers.<sup>2</sup>

Disputes or disputes are always possible in every relationship between people, even considering that the subject of law has long known the legal entity, there are more and more parties involved in it. With the increasing complexity of people's life patterns, the scope of events or disputed events covers a wider scope, including industrial relations disputes. Industrial relations disputes usually occur between workers /

<sup>1</sup> Lalu Husni, *Settlement of Industrial Relations Disputes Through the Court and Outside the Court*, Jakarta: PT RajaGrafindo Persada, 2004, p. 16

<sup>2</sup> Asri Wijayanti, *Post-Reformation Labor Law*, Jakarta: Sinar Grafika, 2009, p. 178

workers and employers / employers or between worker organizations / labor organizations and company organizations / employer organizations. Of the many events or events of conflict or dispute, the most important thing is how the solution for its resolution to be truly objective and fair.<sup>3</sup>

The term "Industrial Relations Dispute" was first regulated in the laws and regulations in Indonesia, in Article 1 number 22 of Law No. 13 of 2003 concerning Manpower which defines industrial relations disputes as "differences of opinion that result in conflicts between employers or combinations of employers and workers / workers or trade unions / trade unions due to disputes regarding rights, disputes of interest and disputes over termination of employment and disputes between trade unions / trade unions in only one company".<sup>4</sup>

Industrial Relations Disputes according to Law No. 2 of 2004 see 4 types of disputes, namely: rights disputes, interest disputes, termination disputes (PHK), disputes between trade unions / trade unions within the company. The resolution of these disputes can be done through: negotiation, mediation, conciliation, arbitration, industrial relations disputes court and the Supreme Court. Each resolution body will resolve disputes according to the type of dispute.<sup>5</sup>

The process of peaceful dispute resolution can be achieved if the positions of the parties to the negotiations are equal or balanced, so that a fair agreement can also be reached for the parties. In fact, it is the position of the parties in this 'unbalanced' industrial relations dispute that 'invites' interference from a third party, namely the government. Peaceful dispute resolution in Law No. 2 of 2004 is indicated by settlement between two parties (bipartite) or through third parties, namely mediation, conciliation and arbitration, by reducing direct government interference and providing freedom for the parties to resolve disputes.<sup>6</sup>

In dispute resolution by mediation contains several elements, and these elements are *first*, is the process of settlement by negotiation; the *second*, is a third party who does not take sides with anyone or is impartial to anyone who can be called a mediator involved and is known to both parties concerned in the negotiations; the third, intermediaries and/or what can be called mediators who are entrusted to help find solutions to problems that are being disputed by both parties; *Fourth*, the mediator has no obligation to make decisions while negotiations are ongoing; and *fifth*, the purpose of this mediation is to reach an agreement received from both parties who have problems in order to resolve the dispute.<sup>7</sup>

In line with the needs of the Indonesian people, at this time the normative settlement of industrial relations has undergone many changes, most recently with the promulgation of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (PPHI Law). Based on this law, there has been a special court that handles the settlement of industrial relations disputes, namely the Industrial Relations Court (PHI). As meant by this PPHI Law, that industrial relations disputes are differences of opinion that result

<sup>3</sup> Destiny Rahmadi, *Mediation, Dispute Resolution Through Consensus Approach* (Jakarta: Rajawali Press, 2010), p. 26.

<sup>4</sup> Abdul Rachmad Budiono, *Labor Law* (Jakarta: index, 2009), p. 4.

<sup>5</sup> Legal Research Team, *Legal Research on Industrial Relations Dispute Resolution* (Jakarta: BPHN Kemenkumham, 2010), p. 23.

<sup>6</sup> Irawan, "Settlement of Industrial Relations Disputes Through Mediators," *IUS Journal I*, no. 2 (2013): 375.

<sup>7</sup> Absori, *Indonesian Economic Law: Some Aspects of Development in the Era of Trade Liberalization*, Surakarta: Muhammadiyah University Press, 2010, pp. 203-204

in conflicts betweenAs meant by this PPHI Law, industrial relations disputes are differences of opinion that result in conflicts between employers or combinations of employers and workers / trade unions due to disputes regarding rights, disputes of interest, disputes over termination of employment, and disputes between unions workers/trade unions in one company.<sup>8</sup>

### Problem Statement

1. What is the authority of the mediation institution and its role as a medium for resolving industrial relations disputes?
2. What are the principles of resolving industrial relations disputes through mediation in Indonesian law?

### Theoretical Framework

#### 1. Legal System Theory

Lawrence W. Friedman proposed the function of the legal system which includes three components or sub-systems, namely the components of *the legal structure (structure of law)*, substance of the law (*substance of the law*) and legal culture (*legal culture*). Simply put, Friedmann's theory is indeed difficult to refute. However, it is less realized that Friedman's theory is actually based on his sociological *jurisprudence*.<sup>9</sup> What he wants to elaborate with the theory of the three sub-systems of legal structure, substance, and culture is none other than that the basis of all aspects of the legal system is legal culture.<sup>10</sup> In Indonesia, the structure of the legal system is the structure of law enforcement institutions, including the police, prosecutor's office and justice.

#### 2. Theory of Legal Objectives

Gustav Radbruch, said that there are three objectives of law, namely expediency, certainty, and justice. In carrying out these three legal objectives, the principle of priority must be used.<sup>11</sup> When related to the function of law as the protection of human interests, law has goals and objectives to be achieved. The basic purpose of law is to create an orderly and balanced society in social life. The achievement of order in society is expected to protect human interests. In achieving its goals, the law has the duty to divide rights and obligations between individuals in society, divide authority, and regulate how to solve legal problems and maintain legal certainty.<sup>12</sup>

### Research Methodology

The approach in this study uses a normative juridical approach. The normative juridical approach is an approach that is carried out based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the literature approach, namely by studying books, laws and regulations and other documents related to this research.<sup>13</sup> Data collection techniques in this study were obtained based on *library research*. The study conducted was a literature study (*library research*) using secondary data. Secondary data in this study were obtained through literature studies, by seeking information as complete and as much as possible with journal

<sup>8</sup> See Law Number 2 of 2004 loc.cit Article 1 paragraph (1)

<sup>9</sup>Sudjana. "Application of the Legal System According to Lawrence Friedman to the Effectiveness of Protection of Integrated Circuit Layout Design Based on Law Number 32 of 2000". *Journal: Al Amwal*. Vol 2 No 1. 2019. p. 82

<sup>10</sup>Lawrence W. Friedman. 1984. *American Law: An Introduction*. New York: W.W. Norton and Co., p. 5.

<sup>11</sup> Muhammad Erwin, *Philosophy of Law*, Jakarta: Raja Grafindo, 2012, p. 123

<sup>12</sup> Sudikno Mertokusumo, *Knowing the Law An Introduction*, Yogyakarta: Liberty 2003, p. 77

<sup>13</sup>Johnny Ibrahim, *Theory and Methodology of Normative Legal Research* (Malang: Banyumedia Publishing, 2006), p. 299.

literature, newspapers, articles, scientific papers and laws and regulations related to the problem under study.

## RESEARCH RESULTS

### **Authority of Mediation Institutions and Their Role as Media for Resolving Industrial Relations Disputes**

Mediation is the resolution of rights disputes, interest disputes, termination disputes and disputes between trade unions in only one company mediated by one or more neutral mediators. So this mediation is an institution that has the authority to resolve all kinds of disputes. Dispute resolution through mediation is carried out in the field of district / city labor or in other words the mediator is an employee of the Manpower Office. As per Article 8 of the UUPPHI, "*Dispute resolution through mediation is carried out by mediators located in each office of the agency responsible for the field of employment of the District/City*". In the agency responsible for employment, several employees are appointed as mediators who function to mediate to resolve disputes between employers and workers.

Mediation is a formal requirement in the Industrial Relations dispute resolution process. Mediation is one way of settlement that is easy, time and cost-effective, mediation is a complete dispute resolution it can resolve all four types of disputes, in contrast to arbitration and conciliation which cannot resolve all kinds of industrial relations disputes.<sup>14</sup>

This mediation institution is authorized to resolve disputes, if in bipartite negotiations an agreement is not reached / fails and both parties or one of the parties records the dispute to the local labor agency which then offers the option of settlement through conciliation or arbitration. In the event that the parties do not make a choice, the labor agency delegates the settlement to the mediator. A mediator is an employee of an agency responsible for employment determined by the minister to mediate. This means that industrial relations disputes that occur between the parties after failing in bipartite settlement, then before the case is submitted to the industrial relations court, it is first resolved through mediation institutions. This is intended to avoid piling up industrial relations dispute cases in court.<sup>15</sup>

Based on Article 1 number (11) of Law Number 2 of 2004 has determined that mediation is an effort to resolve all types of industrial relations disputes, namely rights disputes, interest disputes, layoff disputes, and disputes between trade unions / workers. Industrial relations dispute resolution mechanisms are resolved through bipartite mechanisms, mediation/conciliation, industrial relations courts, all these types of disputes must first be resolved through bipartite deliberation. If negotiations reach an agreement or agreement, the collective agreement (PB) is recorded in the industrial relations court (PHI). However, if negotiations do not reach an agreement, mediation continues.<sup>16</sup> Basically, bipartite negotiations are negotiations involving neutral third parties. In Law No. 2 of 2004 the third party involved to resolve an

<sup>14</sup> Abd Latip, Lu'luaiy, Ainiyah, "Mediation as a Resolution of Manpower Problems in Bangkalan Regency", Journal of Competence, Vol 12, No 2, October 2018, p. 64

<sup>15</sup> Rai Mantili, The Concept of Resolving Industrial Relations Disputes Between Trade Unions and Companies through Combined Process (Med-Arbitration, Journal of Bina Mulia Hukum Volume 6, Number 1, September 2021, 57.

<sup>16</sup> R. Joni Bambang, Manpower Law, (Bandung: Pustaka Setia, 2013), p. 310.

industrial relations dispute is a mediator, conciliator, or arbitrator.<sup>17</sup> If it turns out that the settlement of industrial relations disputes cannot be resolved or agreement cannot be reached through bipartite negotiations, the next stage is settlement through, namely by mediation.

Settlement of industrial relations disputes by mediators must be carried out if the disputing parties are unable to resolve the dispute bipartitely, and the parties do not choose dispute resolution through conciliation or arbitration. Indirect mediation is offered in conjunction with conciliation and arbitration to the disputing parties, but mediation is offered after the disputing parties have not chosen the path of dispute resolution through conciliation and arbitration. Industrial relations mediators are different from mediators in general where in industrial relations mediators only civil servants in agencies responsible for labor can be mediators. Industrial relations mediators are different from mediators in general as regulated in Law Number 8 of 1999, Law Number 30 of 1999, and Perma Number 1 of 2016. Industrial relations mediator is one form of government intervention in the settlement of industrial relations disputes by mediators.<sup>18</sup>

Efforts to resolve industrial relations disputes through this method are mandatory, if the method of settlement through conciliation or arbitration is not agreed upon by the parties. Polarization through mediation is one of the *Alternative Dispute Resolution* (ADR) or dispute resolution outside the court. Basically, settlement through mediation has the following characteristics of excellence:

1. *Voluntary*: The decision to mediate is left to the agreement of the parties so that a decision can be made that is the will of the parties. Because it is desired by the parties, the decision that is resolved is a win-win solution;
2. *Informal and Flexible*: If ordered, the parties themselves with the help of the mediator can design their own procedures, procedures, and mechanisms for mediation. When compared to litigation, both procedures, procedures, and mechanisms are very different between litigation and mediation;
3. *Interested based*: In mediation it is not sought who is wrong or who is right, but what takes precedence is how the mediation produces and achieves the interests of each party;
4. *Future looking*: The nature of mediation because it safeguards the interests of each party so that it emphasizes more on maintaining the relationship between the disputing parties forward and is not oriented to the past;
5. *Parties oriented*: Mediation orientation that is informed so that the parties play a more active role in the mediation process without relying on the role of lawyers;
6. *Parties control*: The mediator cannot impose his will or opinion to reach an agreement because the resolution of disputes through mediation is the decision of the parties themselves. The development of mediation in Indonesia is a way of resolving disputes in accordance with the culture of the Indonesian nation, namely consensus deliberation.<sup>19</sup>

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<sup>17</sup> Muhammad Saleh and Lilik Mulyadi, *Seraut Face of the Indonesian Industrial Relations Court*, (Bandung: PT Citra Aditya Bakti, 2012), p. 63.

<sup>18</sup> Rudianto Silalahi, *Eranan Mediator of Manpower in the Settlement of Industrial Relations Disputes at the Tangerang City Manpower Office based on Law Number 2 of 2004 (Case of Industrial Relations Dispute Settlement at PT. San Ginesio Creations and PT. Matahari Plastindo)*, *Journal of Law: LAWS TO REGULATE AND PROTECT SOCIETY* Faculty of Law Universitas Kristen Indonesia

<sup>19</sup> Agusmidah, *Indonesian Labor Law*, (Bogor: Ghalia Indonesia, 2010), p. 56

The difference with Law Number 22 of 1957 is that if previously every dispute was required to go through an intermediary process (mediation) first, then based on the PPHI Law (other than rights disputes), the manpower office first offers the parties to be able to choose conciliation or arbitration (not directly mediating), if the parties do not make a choice through conciliation or arbitration within 7 (seven) days, Then the settlement of the case will be delegated to the mediator.<sup>20</sup> Based on the provisions of Article 10 of Law Number 2 of 2004, it is stipulated that "within no later than seven (7) working days after receiving the delegation of dispute resolution, the mediator must conduct research on the sitting of the case and immediately hold a mediation hearing".<sup>21</sup>

The mediator, upon receipt of the delegation, requests the parties to negotiate prior to the mediation process. Then, within no later than 7 (seven) working days, the mediator must conduct research on the sitting of the case and immediately hold a mediation hearing. In this case the mediator is obligated to:

1. Summoning the parties to the dispute to be heard as needed;
2. Organize and lead mediation;
3. Assist in making collective agreements, if an agreement is reached;
4. Make written recommendations, if no agreement is reached;
5. Produce minutes of settlement of industrial relations disputes;
6. Make reports on the results of industrial relations dispute resolution to superiors.

To carry out his duties the mediator may do the following:

1. Request the parties to provide oral and written statements;
2. Request documents and papers relating to the parties' disputes;
3. Call witnesses or expert witnesses to appear at mediation hearings to be questioned and heard. The witness or expert witness in question is entitled to receive reimbursement of travel and accommodation expenses the amount of which is determined by ministerial decree.
4. Request the necessary documents and papers from the Provincial Office and the District/City Office responsible for employment or related institutions.
5. Refuse the power of attorney of the disputing parties if they do not have a special power of attorney.<sup>22</sup>

The mechanism for resolving industrial relations disputes through mediation is implemented with the following conditions:

1. Settlement through mediation shall be carried out no later than 30 working days from receiving the transfer of dispute resolution;
2. The mediator may call witnesses or expert witnesses to appear at the mediation hearing to be requested and heard;
3. If it turns out that an agreement is reached in the mediation session, a collective agreement is made signed by the parties witnessed by the mediator and then registered in PHI at the district court in the jurisdiction of the disputing parties;

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<sup>20</sup> Yudin Yunus, et al, Settlement of Employment Relations Disputes in Industrial Relations Courts, Journal of Citizenship Vol. 7 No. 1 June 2023 , 729

<sup>21</sup> Haiyani Rumondang, et al., New Paradigm of Industrial Relations in Indonesia, Directorate General of Industrial Relations Development and Labor Social Security, Jakarta, 2010

<sup>22</sup> Broto Suwiryo, Manpower Law (Settlement of Industrial Relations Disputes Based on the Principle of Justice), Surabaya: LaksBang PRESSindo, 2017

4. If it turns out that no agreement has been reached in mediation, the mediator makes a written recommendation;
5. The mediator must have issued a written recommendation no later than 10 days after the mediation hearing is held;
6. The disputing parties must have submitted a written response or answer to the mediator's recommendation no later than 10 days after the mediator's recommendation is received;
7. If it turns out that the disputing parties do not provide a written response or answer, it is considered to reject the mediator's advice;
8. In the event that the disputing parties can accept the mediator's recommendation, then no later than 3 days a collective agreement must be made to then be registered in PHI at the district court in the area of legal domicile of the disputing parties to obtain a deed of proof of registration;
9. In the event that no agreement is reached and/or the parties reject the mediator's recommendation, then one of the parties can proceed with the settlement by filing a lawsuit to PHI in the district court in the jurisdiction of workers / workers working.<sup>23</sup>

### **What are the principles of resolving industrial relations disputes through mediation in Indonesian law**

In Indonesia (as a welfare state as mandated in the preamble to the 1945 NRI Constitution), state intervention in labor matters is demonstrated in several important aspects. The first is the determination of the minimum wage determined by the government. This is a form of protection so that workers get a decent wage and equal to the cost of living. Second, the establishment of restrictions on employers and workers, as well as the rights and obligations stipulated in Law Number 13 of 2003 concerning Manpower and Law Number 21 of 2000 concerning Trade Unions. Finally, the intervention is to help resolve industrial disputes, namely through the PPHI Law. In the PPHI Law, the concept of bipartite industrial relations settlement, mediation, conciliation, and arbitration is known as a medium for non-litigation settlement of labor disputes. Failure in non-litigation causes the parties to take the litigation route at the industrial relations court. In short, the government generally regulates that industrial relations disputes can be resolved in two tracks, namely non-litigation and litigation.

The non-litigation path, in the PPHI Law, only seems to be a prerequisite for a settlement through PHI. On the other hand, PHI in the previous discussion has been described as a very ineffective solution. This problem is an urgency for the author to concentrate on resolving industrial relations disputes in non-litigation channels. In this study, the thesis or statement offered by the author is the strengthening of tripartite function through mediation by Disnaker.<sup>24</sup>

Gary Goodpaster states that mediation is a problem-solving negotiation process in which impartial and neutral outsiders work with disputing parties to help them satisfactorily obtain agreements. Unlike judges or arbitrators, mediators do not have the authority to decide disputes between parties, however, in this case

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<sup>23</sup> Imam Budi Santoso, Regulation of Mediation Practices for Industrial Relations Dispute Resolution in Indonesia, De'Jure Legal Scientific Journal: Legal Scientific Review, Volume 1, Number 2, September 2016

<sup>24</sup> Haikal Arsalan; Dinda Silviana Putri, Law and Human Rights Reformation on Industrial Dispute Settlement, JURNAL HAM Volume 11, Number 1, April 2020, 46

the parties authorize the mediator to help them resolve issues between them.<sup>25</sup> Diagnosis of disputes is important to help the parties reach consensus. The important role of the mediator was:

- a. Conduct conflict diagnosis;
- b. Identification of critical problems and interests;
- c. Drawing up an agenda;
- d. Facilitate and control communication;
- e. Teaching the parties in the bargaining process;
- f. Help the parties gather important information;
- g. Problem solving to create choices;
- h. Diagnose disputes to facilitate problem resolution.<sup>26</sup>

In the settlement of industrial relations disputes through mediation must be passed by the parties without going through an agreement. Therefore, in the settlement of industrial relations disputes, the author uses compulsory settlement and voluntary settlement. Mandatory settlements include: Bipartite (negotiation), mediation through mediators, and through courts. Meanwhile, voluntary settlements include: conciliation through conciliation, and arbitration through arbitrators.

Basically, the mediator must strive for an agreement between the disputing parties. In the event that the settlement of the dispute through mediation does not reach an agreement, so the mediator issues a written recommendation. According to the explanation of Article 13 Paragraph (2) of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, written advice is a written opinion or suggestion proposed by the mediator to the parties in an effort to resolve their disputes. The written recommendation must be submitted by the mediator no later than 10 (ten) working days from the first mediation hearing.<sup>27</sup>

Furthermore, with regard to the principles in the settlement of industrial relations disputes, both in Law No. 13/2003 and in Law No. 2/2004 do not explicitly mention the principles of industrial relations dispute resolution. The principles of industrial relations settlement can be observed and found from the history or background of the establishment of Law No. 13/2003 and Law No. 2/2004 and can be observed implicitly accommodated in the provisions of Law No. 2/2004. As previously explained, historically Law No. 2/2004 was promulgated as a replacement for Law No. 22/1957 and Law No. 12/1964 which in its application has not been able to realize a fast, precise, fair and cheap settlement of industrial relations disputes. In addition, from the beginning of the establishment of Law No. 22/1957 and Law No. 12/1964 it has also been regulated that industrial relations disputes must be resolved by deliberation to reach consensus between the disputing parties,<sup>28</sup> only then if deliberation efforts are not achieved, employers and workers / workers can resolve industrial relations disputes through dispute resolution institutions regulated by law based on the agreement of the parties.

<sup>25</sup> Susanti Adi Nugroho, *Mediation as an Alternative to Dispute Resolution*, (Jakarta: PT. Telaga Ilmu Indonesia, 2009), p. 51.

<sup>26</sup> Directorate General of PHI and JSK, *Mediation, Conciliation, Arbitration*, (Jakarta: Industrial Relations Court and JSK, 2007), p. 13

<sup>27</sup> Iwin, *The Position of Mediators in Industrial Relations Dispute Resolution*, *Journal Binawakya*, 14 (11) 2020, 3441

<sup>28</sup> Adrian Sutedi, *Labor Law*, Sinar Grafika Publishers, Jakarta, 2009, p. vi



Based on these matters, it can be seen that the principles of industrial relations settlement, among others: (1) the principles of kinship, mutual assistance and deliberation for consensus; (2) the principle of freedom to choose the institution of dispute resolution; and (3) the principle of fast, fair and cheap. The principles of kinship, mutual assistance and deliberation for consensus can be found in the obligation to take the settlement of industrial relations disputes through deliberation for consensus in bipartite institutions before taking further settlement. This principle also applies to settlements through out-of-court mechanisms.<sup>29</sup>

Normatively, the principle of deliberation for consensus can be observed in Article 136 paragraph (1) of Law No. 13/2003 which stipulates that "*Settlement of industrial relations disputes must be carried out by employers and workers / workers or trade unions / trade unions by deliberation for consensus*". Similar provisions are also stipulated in Article 3 paragraph (1) of Law No. 2/2004 which states that "*Industrial relations disputes must be resolved first through deliberative bipartite negotiations to reach consensus*". The provisions of Article 3 paragraph (1) of Law No. 2/2004 are also affirmed in the General Explanation of Law No. 2/2004 which states that "The best dispute resolution is a settlement by the disputing parties so that a favorable result can be obtained for both parties. This bipartite settlement is carried out through consensus deliberation by the parties without interference by any party".

The principle of deliberation for consensus is also manifested in the mechanism for resolving industrial relations disputes outside the court, namely in the process of mediation or conciliation. This is as affirmed in the provisions of Article 1 number 11 of Law No. 2/2004 which states that,

*"Industrial Relations Mediation, hereinafter referred to as mediation, is the settlement of rights disputes, interest disputes, termination disputes, and disputes between trade unions / trade unions in only one company through deliberations mediated by one or more neutral mediators"*.

Neither Law No. 13/2003 nor Law No. 2/2004 explicitly regulates and mentions in the provisions of its articles related to the principles that exist in the settlement of industrial relations disputes, but the principles of industrial relations dispute resolution can be observed and found implicitly in the provisions of Law No. 13/2003 and Law No. 2/2004 as well as the history or history of the promulgation of Law No. 13/2003 and Law No. 2/2004. These principles include: the principles of kinship, mutual assistance and deliberation for consensus; the principle of freedom to choose the institution of dispute resolution; and the principle of fast, fair and cheap.<sup>30</sup>

These three principles are basically derivatives or further embodiments of the principle of justice in the protection and recognition of human rights, including the constitutionalization rights of citizens in the field of labor as affirmed in Psal 28D paragraph (2) of the 1945 NRI Constitution which states that "*Everyone has the right to work and to get fair and decent remuneration and treatment in employment relations*". The provisions of Article 28D paragraph (2) of the 1945 Constitution indicate that laws and regulations in Indonesia seek to ensure protection for citizens who are in the position of workers or people

<sup>29</sup> Asri Wijayanti, *Suing the Concept of Employment Relations*, Lubuk Agung Publisher, Bandung, 2011, p. 3 6

<sup>30</sup> Fritje Rumimpunu, *Pancasila Industrial Relations System in Indonesia with Manpower, Companies Seen from Aspects (Manpower Law No. 13 of 2003)*", *Unsrat Journal*, Vol. II, No. 2

who perform work.<sup>31</sup>This is a rational thing considering that in an employment relationship or industrial relations, the position of workers / workers is considered a weak position, so that protection of workers / workers is intended to guarantee the basic rights of workers / workers and guarantee equal opportunities and treatment without discrimination on any basis in order to realize the welfare of workers and their families. This is as confirmed in consideration of letter d of Law No. 13/2003.<sup>32</sup>

## CONCLUSION

The results showed that;

- a. This mediation institution is authorized to resolve disputes, if in bipartite negotiations an agreement is not reached / fails and both parties or one of the parties records the dispute to the local labor agency which then offers the option of settlement through conciliation or arbitration.
- b. The principles of industrial relations settlement, among others: (1) the principles of kinship, mutual assistance and deliberation for consensus; (2) the principle of freedom to choose the institution of dispute resolution; and (3) the principle of fast, fair and cheap.

## BIBLIOGRAPHY

1. Abd Latip, Lu'luaiily, Ainiyah, "Mediation as a Resolution of Manpower Problems in Bangkalan Regency", *Journal of Competence*, Vol 12, No 2, October 2018
2. Abdul Rachmad Budiono, *Labor Law* (Jakarta: index, 2009).
3. Absori, *Indonesian Economic Law: Some Aspects of Development in the Era of Trade Liberalization*, Surakarta: Muhammadiyah University Press, 2010,
4. Adrian Sutedi, *Labor Law*, Sinar Grafika Publishers, Jakarta, 2009
5. Agusmidah, *Indonesian Labor Law*, (Bogor: Ghalia Indonesia, 2010)
6. Asri Wijayanti, *Post-Reformation Labor Law*, Jakarta: Sinar Grafika, 2009
7. Asri Wijayanti, *Suing the Concept of Employment Relations*, Lubuk Agung Publisher, Bandung, 2011
8. Broto Suwiryono, *Manpower Law (Settlement of Industrial Relations Disputes Based on the Principle of Justice)*, Surabaya: LaksBang PRESSindo, 2017
9. Directorate General of PHI and JSK, *Mediation, Conciliation, Arbitration*, (Jakarta: Industrial Relations Court and JSK, 2007)
10. Fritje Rumimpunu, *Pancasila Industrial Relations System in Indonesia with Manpower, Companies Seen from Aspects (Manpower Law No. 13 of 2003)*", *Unsrat Journal*, Vol. II, No. 2
11. Haikal Arsalan; Dinda Silviana Putri, *Law and Human Rights Reformation on Industrial Dispute Settlement*, *JURNAL HAM* Volume 11, Number 1, April 2020
12. Haiyani Rumondang, et al., *New Paradigm of Industrial Relations in Indonesia*, Directorate General of Industrial Relations Development and Labor Social Security, Jakarta, 2010
13. Imam Budi Santoso, *Regulation of Mediation Practices for Industrial Relations Dispute Resolution in Indonesia*, *DeJure Legal Scientific Journal: Legal Scientific Review*, Volume 1, Number 2, September 2016
14. Irawan, "Settlement of Industrial Relations Disputes Through Mediators," *IUS Journal* I, no. 2 (2013).

<sup>31</sup> Philipus M. Hadjon and Tatiek Sri Djatmiati, *Legal Argumentation*, UGM Press, Yogyakarta, 2005, p. 41,

<sup>32</sup> Sugeng Santoso PN, *Characteristics of Industrial Relations Dispute Resolution*, *MIMBAR YUSTITIA* Vol. 2 No.1 June 2018, 102

15. Iwin, The Position of Mediators in Industrial Relations Dispute Resolution, *Journal Binawakya*, 14 (11) 2020
16. Johnny Ibrahim, *Theory and Methodology of Normative Legal Research* (Malang: Banyumedia Publishing, 2006).
17. Lalu Husni, *Settlement of Industrial Relations Disputes Through Court and Outside Court*, Jakarta: PT RajaGrafindo Persada, 2004
18. Lawrence W. Friedman. 1984. *American Law: An Introduction*. New York: W.W. Norton and Co.,
19. Muhammad Erwin, *Philosophy of Law*, Jakarta: Raja Grafindo, 2012
20. Muhammad Saleh and Lilik Mulyadi, *Seraut Face of the Indonesian Industrial Relations Court*, (Bandung: PT Citra Aditya Bakti, 2012)
21. Philipus M. Hadjon and Tatiek Sri Djatmiati, *Legal Argumentation*, UGM Press, Yogyakarta, 2005
22. R. Joni Bambang, *Manpower Law*, (Bandung: Pustaka Setia, 2013)
23. Rai Mantili, The Concept of Resolving Industrial Relations Disputes Between Trade Unions and Companies through Combined Process (Med-Arbitration, *Journal of Bina Mulia Hukum* Volume 6, Number 1, September 2021
24. Rudianto Silalahi, Eranan Mediator of Manpower in the Settlement of Industrial Relations Disputes at the Tangerang City Manpower Office based on Law Number 2 of 2004 (Case of Industrial Relations Dispute Settlement at PT. San Ginesio Creations and PT. Matahari Plastindo), *Journal of Law: LAWS TO REGULATE AND PROTECT SOCIETY* Faculty of Law Universitas Kristen Indonesia
25. Sudikno Mertokusumo, *Knowing the Law An Introduction*, Yogyakarta: Liberty 2003
26. Sudjana. "Application of the Legal System According to Lawrence Friedman to the Effectiveness of Protection of Integrated Circuit Layout Design Based on Law Number 32 of 2000". *Journal: Al Amwal*. Vol 2 No 1. 2019.
27. Sugeng Santoso PN, Characteristics of Industrial Relations Dispute Resolution, *MIMBAR YUSTITIA* Vol. 2 No.1 June 2018
28. Susanti Adi Nugroho, *Mediation as an Alternative to Dispute Resolution*, (Jakarta: PT. Telaga Ilmu Indonesia, 2009)
29. Destiny Rahmadi, *Mediation, Dispute Resolution Through Consensus Approach* (Jakarta: Rajawali Press, 2010).
30. Legal Research Team, *Legal Research on Industrial Relations Dispute Resolution* (Jakarta: BPHN Kemenkumham, 2010).
31. Yudin Yunus, et al, Settlement of Employment Relations Disputes in the Industrial Relations Court, *Journal of Citizenship* Vol. 7 No. 1 June 2023