



# Implementation of Industrial Relations Dispute Settlement Between Workers and Employers Through Mediation at the Gresik Regency Manpower Office in 2021 – 2023

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Article	Abstract
<b>Keywords:</b> Mediation; Legal Effectiveness; Labor Office	<i>In Article 1 paragraph (11) of Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement, Industrial Relations Mediation hereinafter referred to as mediation is the settlement of disputes over rights, interest disputes, employment termination disputes, and disputes between labor unions only within one company through deliberations mediated by one or more neutral mediators. According to this article, mediation at the Labor Office of Gresik Regency is led by one mediator totaling 6 industrial relations mediators. This study was conducted to find out first, how is the implementation of industrial relations dispute settlement between workers and employers through mediation at the Labor Office of Gresik Regency in 2021-2023? Second, what are the obstacles faced by industrial relations mediators in conducting mediation at the Labor Office of Gresik Regency in 2021-2023? This research uses empirical legal research methods with a socio-legal approach which is an approach from the perspective of society with data collection methods through interviews with mediators and workers, observations, and documentation. The research results indicate that: First, the implementation of mediation at the Labor Office of Gresik Regency has been carried out well with a success rate in mediation of over 50%, both through collective agreements and recommendations. Second, the obstacles encountered in the mediation process are due to various factors, namely the employer factor who is often late or absent from mediation sessions, the worker factor of lack of evidence and understanding of applicable regulations, and the mediator factor of insufficient number of mediators and facilities.</i>

## INTRODUCTION

Employment Issues as stated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia "states that the state guarantees every citizen to obtain work and a decent living for humanity". On this basis, we can realize the goals of the state as stated in the fourth paragraph of the opening of the 1945 Constitution in the

fields of economics and employment. The position between workers and employers is basically mutually beneficial where employers need labor or services from workers to produce goods and vice versa, workers also need wages that are useful for the continuation of their economic life, therefore building a good climate from both parties is very necessary (Sibali et al., 2022).

The working relationship between workers and employers must be established harmoniously so that a legal awareness arises where workers and employers understand their rights and obligations, but on the other hand, if the relationship between workers and employers is not harmonious, a conflict will arise which will result in the emergence of an economic problem for both employers and workers and will also have an impact on the economy of the nation and state (Sibali et al., 2022).

Conflicts that occur between workers and employers will give rise to industrial relations as stated in the regulations, namely Law Number 13 of 2003 concerning Manpower related to the Definition of Industrial Relations as follows:

"Industrial relations are a system of relations formed between actors in the production process of goods and/or services consisting of elements of entrepreneurs, workers/laborers, and the government which are based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia."

Therefore, an industrial relations system is formed with 3 elements, namely employers, workers and the government in a production of goods or services, if the 3 elements are not met then it cannot be called industrial relations. Employment problems are very common in this country, because many Indonesian citizens are workers and the difference in position between workers and employers is very different because employers are people who give and make policies, for example in company regulations which according to employers are correct and convey the rights and obligations of workers, but not with workers, workers may misunderstand and have different views. In this case, the government as a policy maker formed "Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes" which regulates how the settlement of industrial relations is carried out to handle several disputes that occur in the field of work and also become definite legal protection in industrial relations in the world of work. Industrial Relations Disputes begin with a difference of opinion and interest in industrial relations between workers or labor unions and employers (Dermawan & Sarnawa, 2021).

Industrial relations disputes themselves are divided into 4 disputes, namely, the first is a dispute over rights, the second is a dispute over interests, the third is a dispute over termination of employment and the last is a dispute between trade unions or workers in one company. From the several types of industrial relations disputes above, the resolution must begin with bipartite negotiations as explained in Article 2 of Ministerial Regulation Number 31 of 2008 concerning Guidelines for Settlement of Industrial Relations Through Bipartite Negotiations "That every time an industrial

relations dispute occurs, bipartite dispute resolution negotiations must be carried out before being resolved through mediation or conciliation or arbitration".

Therefore, the beginning of industrial relations disputes must go through bipartite negotiations, which is a way to resolve industrial relations between employers and workers or trade unions in industrial relations negotiations, these negotiations take place within the company itself. In bipartite negotiations there must be good faith from one of the parties, namely both employers and workers or trade unions to agree or approve a problem. the party who feels aggrieved must initiate communication so that this bipartite negotiation can be established in writing. if one party is unwilling to continue bipartite negotiations, the party may register with the agency responsible for employment even though it has not reached 30 days, even after 30 days the bipartite negotiations can be continued but there must be an agreement between the two parties. Furthermore, if there is no agreement between the two parties, the settlement of industrial relations is carried out through mediation (Law & Singaperbangsa, 2023).

The mediation is regulated in Article 1 of Law Number 2 of 2004 concerning the Settlement of Industrial Relations as follows:

"Industrial Relations Mediation, hereinafter referred to as mediation, is the resolution of disputes over rights, disputes over interests, disputes over termination of employment, and disputes between workers' unions/labor unions in only one company through deliberation mediated by one or more neutral mediators."

Within 7 working days of the transfer of industrial relations problems to the industrial relations mediator, the dispute must be studied and immediately scheduled a mediation session between workers or laborers and employers. If the Mediation has reached an agreement in the industrial dispute, a PB (Joint Agreement) is made which is approved by both parties with evidence of signatures between both parties, then this Joint Agreement is registered with the Industrial Relations Court in order to obtain a Joint Agreement deed. If there is no agreement between the two parties or each other with the Joint Agreement, a recommendation will be made by the Industrial Relations Mediator (Yola, Afia & Nurmasari, 2019).

The mediation process itself is led by an industrial relations mediator who has the authority to complete and regulate the mediation process as regulated in the Minister of Manpower Regulation Number 17 of 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures.

"That the Industrial Relations Mediator, hereinafter referred to as the Mediator, is an employee of a government agency responsible for employment affairs who meets the requirements as a Mediator appointed by the Minister to carry out mediation and has the obligation to provide written recommendations to the disputing parties to resolve disputes over rights, disputes over interests, disputes over termination of

employment, and disputes between workers' unions/labor unions in only one company."

The mediator himself is tasked with the Development, Development and Settlement of Industrial Relations as explained in the Law. In this case, the focus of the research is on the settlement of industrial relations outside the court, one of which is mediation (Yola, Afia & Nurmasari, 2019).

The explanation above explains that mediators have an important role in resolving industrial relations and not just anyone can occupy the position of mediator. In resolving industrial relations when deliberation does not find a goal, there must be a recommendation from the mediator. There are 6 mediators in the Gresik Regency Manpower Office who are tasked with handling industrial relations cases. The following is the Dispute Data that occurred at the Gresik Regency Manpower Office from 2021 - 2023:

Table 1  
Mediation Data at the Gresik Regency Manpower Office 2021 – 2023

No	Types of Disputes	Amount	Year
1	"Disputes over Rights and Disputes over Termination of Employment"	64	2021
2	"Disputes over Rights and Disputes over Termination of Employment"	66	2022
3	"Disputes over Rights and Disputes over Termination of Employment"	81	2023

Source: Gresik Regency Manpower Office

Based on the table above, it shows that there has been an increase in the number of industrial relations disputes from 2021 - 2023, especially in 2022 and 2023, there was a significant spike in cases as evidenced by 15 cases that occurred in 2023 in the table above. Regency/City, Gresik Regency is ranked 2nd most in carrying out Mediation at the Manpower Office. In several of these cases, the most common cases in the Gresik Regency Manpower Office are cases of disputes over termination of employment. The Gresik Regency Manpower Office has the following duties in accordance with the Gresik Regent Regulation Number 72 of 2021 concerning the position, organizational structure, duties, functions and work procedures of the Gresik Regency Manpower Office, which contains the duties of the Gresik Regency Manpower Office, namely "carrying out labor affairs including institutional development and industrial relations, wages, work requirements, social security, worker welfare and fostering industrial relations disputes".

Some of these tasks the author only focuses on industrial relations where the Gresik Regency Manpower Office mediates disputes between workers and employers. In the explanation above the author chooses and discusses in more depth the implementation of industrial relations resolution between workers and employers through mediation at the Gresik Regency Manpower Office in 2021 - 2023. because in Gresik Regency is an industrial city Gresik Regency itself has 3 industrial areas namely KIG (Gresik Industrial Area), KIM (Maspion Industrial Area) and KEK (Special Economic Zone). Furthermore, Gresik Regency also has 520 labor unions, 16 Federations based on these data Gresik Regency is vulnerable to Industrial Relations disputes.

## METHOD

This study uses an empirical legal research method with a sociological legal approach which is an approach from a societal perspective with a data collection method through interviews with mediators and workers, observation and documentation.

## RESULTS AND DISCUSSION

### **Implementation of Settlement of Industrial Relations Disputes Between Workers and Employers through Mediation at the Gresik Regency Manpower Office in 2021 – 2023**

In the results of this study conducted at the Manpower Office of Gresik Regency related to the Settlement of Industrial Relations Disputes through mediation, this is carried out according to the stages of the regulations, namely Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. In discussing this study, the researcher uses a theory related to this study, namely the Theory of Legal Effectiveness.

According to Soerjono Soekanto, the theory of legal effectiveness is that whether a law is effective or not is determined by 5 (five) factors, including:

1. The legal factor itself.

Related to the mediator's obligations in the dispute resolution process that has reached an agreement, the mediator makes a joint agreement and also to issue recommendations in the event that an agreement is not reached in the settlement process. In accordance with Article 13 of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes which reads

"(1) In the event that an agreement is reached to resolve an industrial relations dispute through mediation, a Joint Agreement is made which is signed by the parties and witnessed by the mediator and registered at the Industrial Relations Court at the District Court in the jurisdiction of the parties entering into the Joint Agreement to obtain a deed of proof of registration.

- (2) If no agreement is reached to resolve the industrial relations dispute through mediation, then:
- the mediator issues written recommendations;
  - The written recommendation as referred to in letter a must be submitted to the parties no later than 10 (ten) working days from the first mediation session;
  - the parties must have provided a written response to the mediator, the contents of which agree or reject the written recommendation within no later than 10 (ten) working days after receiving the written recommendation;
  - a party who does not provide an opinion as referred to in letter c is deemed to have rejected the written recommendation;
  - In the event that the parties agree to the written recommendation as referred to in letter a, then within a maximum of 3 (three) working days since the written recommendation was approved, the mediator must have completed helping the parties to make a Joint Agreement to then be registered at the Industrial Relations Court at the District Court in the jurisdiction of the parties entering into the Joint Agreement to obtain a deed of proof of registration."

In this case, the recommendations given by the mediator are usually often late and do not comply with the provisions of the Law above which must be completed and issued no later than 10 working days from the first mediation session, this is due to the many wishes of the disputing parties, sometimes asking for time to consider when making an agreement and there are parties who are not present in the dispute resolution process through mediation.

The results of the interview with the Industrial Relations Mediator, Mr. Setyo Rahardjo, stated:

"the number of cases resolved in successful Mediation at the Gresik Manpower Office in 2021 - 2023 with the formula Number of successful: Number of cases in 2021 46: 64 = 71.87%, in 2022 46: 66 = 69.69%, in 2023 66: 81 = 81.48%". In the mediation process at the Gresik Regency Manpower Office, it has reached above 50%, so the mediation at the Gresik Regency Manpower Office was successful.

## 2. Law enforcement factors.

Based on the facts in the field as proven by data from the Gresik Regency Manpower Office, the number of mediators is indeed very small. This results in ineffectiveness and inefficiency in resolving the mediation process. The number of mediators at the Gresik Regency Manpower Office is only 6 people, this is clearly very lacking, reinforced by the statement obtained through an interview with Mr. Setyo Rahardjo stating that:

**Table 2**  
type and number of disputes



No	Types of research	Amount	Year	Total
1	Rights dispute	32	20	64
	Termination of employment disputes	32	21	
2	Rights dispute	51	20	66
	Termination of employment disputes	16	22	
3	Rights dispute	47	20	81
	Termination of employment disputes	3	23	
	Conflict of Interest	31		

The table above explains that every month the level of industrial relations disputes in Gresik Regency increases, thus increasing the workload of each mediator. While so far the number of cases is not comparable to the number of mediators available. The limited number of mediators is due to the lack of human resources because job vacancies as mediators are very rare, training time is months, and Civil Servants (hereinafter referred to as PNS) must be able to master the Laws and Regulations in the field of employment. Because the government has not provided maximum facilities and appreciation for employees to be interested in becoming mediators and perhaps the function of the mediator as a whole is not fully understood, because in terms of its duties and functions it is indeed quite heavy. The mediator's task is not focused only on resolving disputes through mediation but there are other tasks, namely fostering industrial relations and developing industrial relations that must be carried out by the mediator.

### 3. Facilities or infrastructure factors.

In this case, one of the inhibiting factors in the mediation process is facilities such as computers and printers, photocopiers themselves are only one in the industrial relations sector, so when collecting data, mediators take turns using the computer and when they need to print, they also have to take turns. In terms of infrastructure, such as courtrooms, there are only 2 courtrooms at the Gresik Regency Manpower Office, if there are more than 2 courtrooms on that day at the same time, the mediators must take turns and wait for the previous mediation to finish first. which is strengthened by the results of an interview with Mr. Setyo Rahardjo

"The tight trial schedule and the lack of budget related to infrastructure and the lack of Human Resources have resulted in the mediation process being slow and less than optimal in its handling because the number of incoming cases and the number of industrial relations mediators are not balanced."

In the interview, it will clearly affect the speed or slowness of the mediation process, if the number of mediators is not proportional to the number of mediators and there are still many mediators who do not understand the rules that apply in employment matters.

#### 4. Community factors.

Usually when the mediation process is carried out at the Gresik Regency Manpower Office, it is very difficult to bring employers in the process, even though they have been invited by the mediator. Employers only appoint representatives from their companies to attend the mediation, for example HRD (Human Resources Development) staff, other staff in the company and legal counsel. This is one of the obstacles in the mediation process because the relevant party, namely the employer, cannot attend, its representatives clearly will not be able to make direct decisions in the mediation so that the mediation process can reach an agreement between workers and employers. Furthermore, the parties themselves impose their opinions, this often happens in mediation, from the employer insisting that they have never violated workers' rights by submitting evidence that is not certain to be true. The workers usually ask for demands that are so burdensome for the employer that the employer also sticks to the initial demands, thus the mediation will definitely fail to reach an agreement.

In addition to the above, the parties do not want to be open, often covering up the reality that occurs, so that in the mediation process, it is very difficult for the mediator to find the real facts that occur. Furthermore, there is no data or information to be used as a source of information for the mediation process. What often happens is when there is a dispute over rights or interests, no work agreement or company regulations are made, making it difficult for the mediator to negotiate and find solutions to resolve the dispute. The last thing is that workers usually do not understand and do not understand what evidence must be brought when a dispute resolution through mediation is underway, such as in an interview with workers, namely Ahmad Fauzan (Former Employee of PT. Indo Eva) "Not yet, usually if the requirements are lacking, the mediator will ask you to bring the evidence." And reinforced during the interview with Waras workers (Former employees of PT. Indo Eva) "Not yet, usually come to the Manpower Office first, then be given instructions by the mediator."

#### 5. Cultural factors.

Lack of discipline from both parties, both workers and employers, in implementing the rules. The parties often ignore the rules that have been determined. Before the mediation process begins, the mediator often reminds and informs both parties to obey all existing rules in the mediation process, but in fact, the parties violate the rules that have been made, for example, all parties should have good ethics in the dispute resolution process through ongoing mediation, but when the trial the parties strengthen their arguments by mentioning the weaknesses and shortcomings of the other party with the intention of wanting to bring each other down, in addition to all of the above, there are still many parties who do not attend according to the specified time, some even do not attend even 1 week before they were given an invitation letter by the mediator, this often happens and will clearly hinder the mediation process.



The five factors are clearly interrelated because they have the essence of law enforcement and as a benchmark in the effectiveness of law enforcement. The determination of the functioning of a written law is the law itself.

## CONCLUSION

The results of the research on the application of mediation in resolving industrial relations, the author can conclude that:

1. The implementation of Mediation at the Gresik Regency Manpower Office is in accordance with Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes and has been running well with a success rate of more than 50% which is in accordance with the data taken by the author.
2. The obstacles that occur in the mediation process at the Gresik Regency Manpower Office are influenced by several factors, namely mediator factors, employer factors and worker factors, the mediator factor is the lack of mediators and only 2 mediation courtrooms are available, then the worker factor is the lack of knowledge related to bipartite negotiations and lack of evidence during the mediation process, and the employer factor is not committed to the mediation process, for example being late or not coming to the mediation process.

## Suggestion

Based on the results of research conducted by the author regarding the implementation of industrial relations dispute resolution between workers and employers through mediation at the Gresik Regency Manpower Office in 2021 - 2023, the author provides the following suggestions:

1. For the Manpower Office, especially for industrial relations mediators, namely improving competence in employment, both laws and regulations and applicable policies by participating in upgrading and carrying out teamwork between industrial relations mediators by dividing several teams in resolving industrial relations disputes through mediation at the Gresik Regency Manpower Office.
2. For the parties, namely employers and workers, understand the mediation process and prepare all the needs in the mediation process and are committed to resolving the dispute. through mediation to achieve a joint agreement between workers and employers.

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