



RESEARCH ARTICLE

The Role of Industrial Relations Mediators in Resolving Termination of Employment (PHK) Disputes between Employers and Workers with Fixed-Term Employment Agreements (PKWT) that are not registered at Manpower Office of Palembang City

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Abstract

Mediators can help both employers and workers understand each other's positions and find a fair compromise in accordance with legal provisions. The issues addressed in this study are: 1) What is the role of Industrial Relations Mediators in resolving disputes related to the termination of employment (PHK) between employers and fixed-term workers (PKWT) not registered with the Manpower Office in Palembang?; and 2) What are the legal consequences of termination of employment (PHK) for PKWT workers who are not registered with the Manpower Office in Palembang? This research is a normative-empirical study based on primary data (field research findings) and secondary data (literature sources). The study results show that: 1) The role of Industrial Relations Mediators in resolving PHK disputes between employers and PKWT workers who are not registered with the Manpower Office in Palembang can be viewed from three perspectives: first, the normative role, where the mediator enforces existing legal norms; second, the ideal role, where the mediator seeks to resolve disputes in a fair and ideal manner; and third, the factual role, where the mediator adapts solutions to the actual conditions in the field. In this context, mediators play a crucial role in ensuring justice for workers and ensuring that employers understand the importance of registering contracts to avoid future issues; 2) The legal consequences of PHK for PKWT workers not registered with the Manpower Office in Palembang include: first, unclear legal status regarding the employment relationship, which can make it difficult to prove workers' rights, potentially rendering the PKWT contract void by law; second, harm to workers, as they do not receive optimal legal protection; third, sanctions for employers, who may face administrative penalties; and fourth, unlawful PHK procedures, where workers are entitled to claim their rights through legal channels.

Keyword: Role of Mediator, Industrial Relations, Employers, Fixed-Termination of Employment Disputes (PHK)

Introduction

In Indonesia, legal problems in employment still often occur, especially related to workers' rights that should be provided by the company, but have not been fully fulfilled. One of the main issues in the field of employment law is Termination of Employment (PHK). Many workers' rights should be guaranteed based on laws and regulations, but in practice are often ignored (Indra & Rina, 2019). In the Indonesian employment system, workers with Fixed-Term Employment Agreements (PKWT) face various challenges in obtaining protection of their rights. Mediation is one alternative dispute resolution that is expected to provide a faster and more efficient solution compared to the litigation process. In this case, the role of Industrial Relations mediators as regulated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes Article 8 is very important. Mediation is carried out by mediators at each employment agency office at the district/city level to bridge the rights and obligations between workers and employers, it is very important to bridge the rights and obligations between workers and employers.

After the enactment of Law Number 6 of 2023 which stipulates Government Regulation in Lieu of Law Number 2 of

2022 concerning Job Creation into law, companies have the authority to carry out unilateral layoffs for reasons of efficiency, whether accompanied by company closure or not. Layoffs for reasons of efficiency aim to reduce the company's operational burden, especially in conditions of global crisis. However, companies are still required to fulfill the rights of workers who are laid off, as regulated in Article 156 paragraph (1) of the Job Creation Law. Since the enactment of this law, the number of layoffs has increased in various industrial sectors, with clearer provisions regarding the reasons for layoffs, prohibitions on layoffs, and workers' rights in the form of severance pay, length of service awards, and other compensation (Sulaiman, 2019).

The Indonesian government under the leadership of President Joko Widodo in 2020 ratified Law Number 6 of 2023 as an effort to create investment facilities, open new jobs, and encourage entrepreneurship. This law regulates the relationship between employers and workers with the aim of providing legal protection for workers. However, in its implementation, there are still many obstacles faced by workers and employers, including differences in interests in providing increasingly complex severance pay or compensation. One of the most noticeable impacts is the increasing number of layoffs. For workers or laborers, layoffs mean losing their livelihood and income, thus becoming a serious threat to the survival of them and their families. Facts on the ground show that finding a new job is not easy due to increasing competition and unstable business conditions. Therefore, concerns about layoffs are natural among workers or laborers.

Cases of termination of employment (PHK) that are rampant in 2020-2024 although there has been a decrease in 2024 both in the number of cases of termination of employment (PHK) submitted and the number of workers who are laid off. This is still a serious threat from the disputes that occur.

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Workers/laborers have the right to receive protection from the possibility of layoffs that occur, the implementation of rights in the form of certainty regarding the types of actions that can result in layoffs or severance pay due to being laid off. The necessities of life require humans to work, with this perspective the shadow of termination of employment (PHK) will disrupt work productivity. A worker will be able to increase his work productivity if he is guaranteed security and protection in his work (Panji, 2018).

Although the number of layoffs decreased in 2024 compared to previous years, layoffs are still a major issue in the world of employment. Workers/laborers have the right to protection from possible layoffs, including certainty regarding actions that can lead to layoffs and the rights that must be received after layoffs. Job stability is very important for worker productivity, because a sense of security in work allows them to work more optimally. From a psychological perspective, layoffs are a threat that has a major impact on workers. On the other hand, employers also see layoffs as a solution to dealing with difficult business conditions. However, layoffs that are not in accordance with procedures can cause social and economic instability. Article 154A paragraph (1) letter b of the Job Creation Law states that layoffs can be carried out if the company experiences losses and needs to carry out efficiency. However, unilateral layoffs are still prohibited, and companies must follow the procedures stipulated in Article 151 paragraphs (1) to (4) of the Job Creation Law. If bipartite negotiations do not produce an agreement, then layoffs must be resolved through the industrial relations dispute mechanism.

If workers experience unilateral layoffs, they can try to maintain their jobs as a legal protection measure. This protection aims to ensure that workers' basic rights are fulfilled without discrimination. The law plays a role in protecting individual rights in order to create better welfare. Mediation is a dispute resolution mechanism that is carried out through dialogue and negotiation with the help of a mediator. The results of mediation are expected to produce a fair agreement that is binding on both parties. In the context of employment law, mediation carried out by an Industrial Relations mediator can have a significant impact on the status of PKWT workers. The agreement resulting from mediation not only resolves the dispute but also determines the rights and obligations of each party. However, there is uncertainty regarding the legal force of the agreement compared to a court decision. This raises questions about the extent to which the results of mediation can be used as a legal basis in resolving employment disputes.

The role of mediators in dispute resolution is increasingly relevant in today's legal and social context. Mediators act as neutral parties who help resolve disputes without taking sides. They also act as facilitators in creating a conducive discussion environment. With good communication and analytical skills, mediators can help parties express their problems and find mutually beneficial solutions. A mediator must have neutrality, empathy, and leadership skills in order to carry out their duties effectively. Neutrality is the main principle because taking sides can damage trust and the effectiveness of mediation. In addition, mediators must be able to analyze problems and offer relevant solutions so that the mediation process runs smoothly and productively. Legal regulations governing the role of mediators emphasize the importance of peaceful dispute resolution through mediation. With mediation, conflicts are expected to be resolved more harmoniously, reducing the burden on the courts, and providing satisfaction for all parties (Dewi, 2022).

Government Regulation Number 35 of 2021 regulates Fixed Term Employment Agreements (PKWT), outsourcing, working hours, rest periods, and layoffs. Article 14 paragraph (2) requires employers to register PKWT in the Ministry of Manpower's online system no later than three working days after signing the contract. If the online recording system is not yet available, then recording must be done in writing at the district/city manpower office within seven working days. In addition, Article 15 regulates the employer's obligation to provide compensation to workers employed under PKWT (Dewi, 2022).

Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Time, and Termination of Employment Article 14 paragraph 2 "PKWT must be registered by the Employer at the Ministry that organizes government affairs in the field of manpower online no later than 3 (three) working days from the signing of the PKWT". Paragraph 2 "In the event that online PKWT registration is not yet available, PKWT registration is carried out by the Employer in writing at the office that organizes government affairs in the field of manpower in the district/city, no later than 7 (seven) working days from the signing of the PKWT. With the regulation of PKWT being registered, it is also explained in Article 15 of PP 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Time, and Termination of Employment paragraph 1 Employers are required to provide compensation money to Workers/laborers whose employment relationship is based on PKWT.

Disputes related to layoffs between employers and PKWT workers are a problem that impacts not only the lives of workers but also the sustainability of the company. Fair and effective dispute resolution through mediation is very important in maintaining harmonious industrial relations. By following the provisions stipulated in Law Number 13 of 2003 concerning Manpower and Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, the disputing parties can reach a fair agreement and reduce the potential for greater conflict. The phenomenon that has occurred since the enactment of the Job Creation Law is unilateral layoffs by the Company, especially for PKWT workers whose Work Contracts are not registered with the Palembang City Manpower Office. The number of cases of layoffs of PKWT workers that are not registered are as follows:

Table 1. Termination Dispute Cases in 2022 s.d. 2024

No	Year	Number of Unrecorded PKWT PHK Dispute Cases That Have Been Mediated	Mediation Results	
			Joint agreement (Completed/Agreed)	Recommendation (not appropriate/not reaching agreement)
1	2022	80	35	45
2	2023	40	31	9
3	2024 (Until August)	32	20	12

Sumber : Manpower Office of Palembang City

Based on Table 1 above, it shows that in 2022: There were 120 cases mediated, which was the highest number in this period. 2023: The number of cases decreased to 67 cases, down around 44% compared to the previous year. 2024 (Until August): The number of cases decreased again to 62 cases, although it only covered eight months. In dealing with this phenomenon, mediation is a very important tool in resolving layoff disputes between employers and unregistered PKWT workers. Along with the increasing number of unregistered PKWT layoff disputes, the role of a neutral and competent industrial relations mediator is needed to facilitate communication between the two parties. Mediators can help employers and workers understand each other's positions and find a fair middle ground in accordance with legal provisions. As regulated in Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, mediation is the first step that must be taken before going to court. The mediator will help unravel the problem, provide an explanation of the rights of both parties, and find a solution that is acceptable to both parties. If mediation is successful, then the termination dispute can be resolved quickly without having to wait a long time and at high costs.

The phenomenon related to the role of mediators in resolving disputes over Termination of Employment (PHK) for workers with Fixed-Term Employment Agreements (PKWT)

who are not registered with the Palembang City Manpower Office shows how important the role of industrial relations mediators is in achieving fair and effective solutions. In Palembang City, the increasing number of PHK disputes against PKWT workers who are not registered with the Manpower Office is a challenge in itself, so mediators must consider various legal and social aspects in resolving conflicts in order to comply with applicable regulations and minimize the potential for future disputes.

In handling PHK disputes involving unregistered PKWT workers, mediators have a big responsibility in finding a fair solution and complying with legal provisions. By understanding the rights and obligations of each party based on Law No. 13 of 2003 concerning Manpower and Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, mediators can bridge communication between workers and employers to reach an agreement that benefits both parties. Therefore, mediation is one of the dispute resolution mechanisms that is faster, more efficient, and able to reduce conflicts that have the potential to grow bigger.

Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, specifically Article 8, stipulates that settlement through mediation must be completed within a certain period of time, namely within 30 days of the submission of the application. In its role, the mediator acts as a neutral party who helps formulate the best solution for both parties in a layoff dispute that may occur due to inconsistencies in applicable procedures or provisions.

As per the relevant articles in Law No. 13 of 2003 concerning Manpower related to the termination of PKWT:

"Article 59: This article regulates fixed-term employment agreements (PKWT). This article states that PKWT is made for temporary work and must be determined in a written agreement. This article also regulates the duration and termination of PKWT which must be in accordance with applicable provisions. Article 61: This article regulates the termination of PKWT. If there is a termination of employment before the end of the contract, the employer is obliged to provide compensation to the worker, unless there is a valid and legally accepted reason. Article 153: This article explains the terms and procedures for termination of employment. In this article, if termination of employment is carried out without a valid reason, the worker is entitled to compensation. In the context of PKWT, termination of employment carried out before the end of the contract without a valid reason also has the potential to cause disputes that must be resolved with the correct procedure."

Thus, the Mediator is required to try to find a solution that not only benefits workers but also pays attention to the interests of employers. In this case, the mediator must be able to bring together both parties in an agreement that is mutually beneficial and does not burden either party or a win-win solution. Based on the background above, the author tries to write with the title "The Role of Industrial Relations Mediators in Resolving Termination of Employment (PHK) Disputes between Employers and Workers with Fixed-Term Employment Agreements (PKWT) that are not registered at Manpower Office of Palembang City".

Method

This study combines a legal approach (normative) with facts in the field (empirical). The approaches used in this type of research are the Statute Approach, a conceptual approach method involving in-depth analysis of the case approach involves in-depth study of one or The legal sources used to conduct this research are Primary Data and Secondary Data. In this study, the types of data collected are divided into two types of data, namely primary data and secondary data with data collection techniques of observation interviews, Official Documents, Institutional Archives.

Results and Discussion

The Role of Industrial Relations Mediators in Resolving Termination of Employment (PHK) Disputes between Employers and Workers with Fixed-Term Employment Agreements (PKWT) that are not registered at Manpower Office of Palembang City

The role of industrial relations mediators in resolving disputes over Termination of Employment (PHK) between employers and workers with Fixed-Term Employment Agreements (PKWT) that are not registered with the Palembang City Manpower Office is very complex. To analyze the role of this mediator, using the theory of Soejono Soekanto who mentions the theory of roles in three different perspectives, namely normative roles, ideal roles, and factual roles.

Normative Role

The normative role refers to the role that must be played by the mediator in accordance with applicable legal norms. The mediator has the task of ensuring that every process of resolving a layoff dispute is in accordance with existing laws and regulations, such as Law No. 13 of 2003 concerning Manpower, Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, and Government Regulation No. 35 of 2021 concerning PKWT. According to Article 59 of Law No. 13 of 2003, every PKWT must be registered with the Manpower Office, and if it is not registered, the employment relationship is considered invalid in the eyes of the law. In this case, the mediator plays a role in enforcing existing legal norms. The mediator is expected to be able to clearly explain to employers and workers that even though the contract is not registered, workers still have the right to severance pay, long service money, or other compensation in the event of a layoff.

The Role of the Mediator Based on Applicable Law The Mediator as a Facilitator and Upholder of Justice. Based on Law No. 2 of 2004, mediators are responsible for facilitating dialogue between employers and workers to reach a balanced solution. Mediators not only play a role in assisting communication, but also in upholding justice, especially when one party does not comply with administrative provisions such as recording PKWT contracts.

Normatively, the role of the mediator in the context of layoffs of unregistered PKWT workers is first, to educate workers and employers about administrative obligations where the mediator will explain the importance of recording PKWT contracts at the Manpower Office, as regulated in Article 71 of Law No. 13 of 2003. If the contract is not recorded, the employment relationship can be considered invalid in the eyes of the law, which means that workers can lose their legitimate rights, such as severance pay and other rights. The mediator has an obligation to remind employers of these administrative obligations and to help workers so that they are not harmed even though their contracts are not recorded. Second, to uphold workers' rights based on applicable laws where the mediator functions to ensure that the rights of workers affected by layoffs are still respected, even though there are discrepancies in the recording of the contract. Based on Article 156 of Law No. 13 of 2003, if the contract is not recorded, workers are still entitled to severance pay, long service awards, and other rights. In this situation, the mediator plays a role in ensuring that workers' rights are fulfilled in accordance with applicable laws. Third, Suggesting Solutions Based on Legal Provisions where in resolving disputes, the mediator will provide suggestions that are in line with existing legal provisions. The mediator will try to find a solution that can prevent employers from administrative sanctions, and ensure that workers get their rights fairly.

Ideal Role

The ideal role of a mediator is the role that a mediator should take in the context of ideal industrial relations, namely where the mediator acts proactively, prioritizing justice, objectivity, and common interests between employers and workers. In the

context of layoffs of PKWT workers who are not registered with the Manpower Office, the mediator should not only focus on finding a quick solution, but also ensure that justice for workers is maintained even though there are administrative problems in the employment relationship.

Thus, the ideal role is the role that should be played by the mediator in the most ideal situation, namely when the mediator acts not only as a facilitator but also as a settlement that prioritizes justice, balance, and benefits for both parties. In its ideal role, the mediator will seek a settlement that not only fulfills legal obligations but also ensures social justice for workers and employers. In the context of the dispute over the termination of unregistered PKWT workers, the role of the ideal mediator includes, first, maintaining social justice where the ideal mediator does not only focus on a settlement that benefits one party, but seeks to maintain balance and justice. Workers who are laid off may feel disadvantaged because they do not have evidence of a valid contract. In this case, the mediator must ensure that workers continue to receive their rights, even though the contract administration is not in accordance with the law.

Second, Encourage Settlement Based on Sustainability of Employment Relationships in addition, the ideal mediator must also facilitate dialogue between workers and employers to reach an agreement that can maintain good employment relationships in the future. For example, the mediator will try to provide a solution that is not only satisfactory at the level of resolving the layoff problem but also maintains the continuity of harmonious industrial relations in the company.

Third, helping to find a comprehensive solution where the ideal mediator not only solves short-term problems, but also helps employers and workers understand the long-term risks that may arise from unrecorded termination disputes. The mediator's role is to provide counseling and guidance on the importance of recording contracts at the Manpower Office and how this can avoid legal problems in the future.

Factual Role

The factual role refers to the role played by the mediator in practice, namely based on the real situation in the field. In this case, the mediator acts based on conditions that occur in society and the world of work, as well as various limitations that may arise in the process of resolving PHK disputes. This factual role is often influenced by various factors such as company culture, limited human resources, and low levels of legal awareness among employers and workers. In fact, mediators at the Palembang City Manpower Office face challenges because not all employers or workers understand employment regulations well, especially regarding the recording of PKWT contracts. In many cases, employers often do not register their employment contracts with the Manpower Office for administrative reasons or ignorance of the obligation.

Thus, the factual role of the mediator is a role carried out by the mediator based on the conditions and realities in the field. This is where the role of the mediator is faced with challenges in facing administrative realities and situations that are not always in accordance with ideal law. The factual mediator acts based on the real conditions that occur between workers and employers in the field, including first, facing the ignorance of employers and workers regarding the law where one of the biggest challenges faced by the mediator is the ignorance of employers and workers regarding the administrative obligations related to the recording of PKWT contracts.

Many employers do not register PKWT contracts at the Manpower Office because they do not understand the legal obligations or because of complicated administrative factors. Workers are often unaware of their rights if their contracts are not registered. The mediator here plays a role in educating both parties about this. Second, Practical Solutions to Face Real Situations where in practical reality, mediators must face an imbalance in position between workers who have less access to legal resources and employers who are more financially powerful. In this case, mediators must find more realistic

solutions, such as providing financial compensation for workers even though the contract administration is not perfect. Third, overcoming administrative non-compliance where many employers tend to ignore recording PKWT contracts, even though on the other hand they still want a fair resolution to layoff disputes. In this situation, factual mediators will focus more on quick and practical resolutions that allow workers to get their rights, while ensuring that employers can avoid more severe sanctions.

Legal Consequences of Termination of Employment (PHK) for PKWT Workers that are not registered at Manpower Office of Palembang City

Fixed Term Employment Agreements (PKWT) that are not registered with the Palembang City Manpower Office can cause various legal consequences that are detrimental to both employers and workers. Failure to comply with this registration obligation has the potential to change the status of employment relationships that are not bound by valid regulations. This can affect the Termination of Employment (PHK) process carried out by employers. The Legal Consequences of Termination of Employment (PHK) for PKWT Workers Who Are Not Registered with the Palembang City Manpower Office are related to the theory of mediation in dispute resolution.

First, Unclear Legal Status of Employment Relationships. Article 14 of Government Regulation (PP) Number 35 of 2021 states that a Fixed-Term Employment Agreement (PKWT) must be registered with the Manpower Office. If the PKWT is not registered, the status of the employment relationship between the employer and the worker becomes legally unclear. This ambiguity has the potential to be detrimental to workers because it will be difficult to prove that the employment relationship is legal in the eyes of the law.

Second, Disadvantages for Workers. Workers who work with unregistered PKWT can experience significant losses, especially related to rights arising from layoffs. One of them is the right to severance pay, long service award money, and replacement of other rights guaranteed in Article 14 of Government Regulation (PP) Number 35 of 2021. Without official registration, workers will have difficulty claiming their rights through legal channels. An unregistered PKWT worker, with a work period of 1 year, was unilaterally laid off by the employer. Without evidence of contract registration, workers cannot prove a valid employment relationship and claim rights related to layoffs, including severance pay and other rights regulated in the Manpower Law. However, industrial relations mediators can play a role in helping workers obtain their proper rights through mediation involving employers.

Third, Sanctions for Employers. Employers who do not register PKWT at the Palembang City Manpower Office may be subject to administrative sanctions in accordance with the provisions of Article 59 of Law No. 13 of 2003. These sanctions may be in the form of reprimands, fines, or even other actions that may harm the company's reputation in the eyes of the public. An employer who terminates the employment relationship with an unregistered PKWT worker may be subject to fines or administrative sanctions for failing to comply with the obligation to register the employment contract at the Manpower Office. These sanctions not only harm employers financially but can also damage the company's reputation, which in turn can affect relations with other employees and reputation in the labor market.

Thus, the legal consequences arising from the termination of employment of PKWT workers who are not registered with the Palembang City Manpower Office have a significant impact on both workers and employers. The unclear legal status of the employment relationship can cause difficulties in proving workers' rights, while employers are at risk of being subject to administrative sanctions. Industrial relations mediators, based on mediation theory, play a very important role in resolving this dispute using normative, ideal, and factual approaches. Through the mediation process, mediators can help achieve a fair

solution for both parties, by ensuring compliance with workers' rights and employers' obligations.

Conclusions and Recommendations

discussion in the previous chapter, it can be concluded that the role of Industrial Relations Mediator in resolving disputes over Termination of Employment (PHK) between Employers and PKWT Workers that are not registered with the Palembang City Manpower Office can be seen from three perspectives, namely the normative role, namely the mediator functions to enforce existing legal norms. Second, ideal, resolving disputes in a fair and ideal manner, and third, the factual role where the mediator adjusts the solution to the factual conditions in the field. In this case, the mediator plays an important role in maintaining justice for workers and ensuring that employers understand the importance of recording contracts to avoid future problems.

The legal consequences arising from the termination of employment for PKWT workers who are not registered with the Palembang City Manpower Office are that the legal consequences are first, the unclear legal status regarding the employment relationship can cause difficulties in proving workers' rights so that the PKWT is void by law. Second, losses for workers so that workers do not get maximum legal protection. Third, sanctions for employers are at risk of being subject to administrative sanctions. Fourth, invalid termination procedures so that workers have the right to demand their rights through legal channels.

The author provides several suggestions related to this research, namely: For the Manpower Office, it is necessary to hold seminars and training on recording PKWT for employers and workers regularly and a more personal approach is needed to employers to ensure they understand the administrative obligations related to PKWT employment contracts. As for the Government and industrial relations mediator institutions, it is necessary to provide special training to mediators on how to handle disputes involving unrecorded PKWT, so that they can be more effective in carrying out their duties and provide faster and more efficient mediation facilitation so that workers and employers do not have to wait too long to reach a fair agreement.

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