

Implementation of Industrial Relations Disputes Settlement Policy through Mediation in Indonesia

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Abstract: *This study aims to find out why the implementation of industrial relations dispute resolution policies through mediation in Indonesia with a case study in Sumedang District conducted by the Sumedang District Manpower and Transmigration Office has not been effective. The method used in this research is descriptive qualitative research methods and tends to use analysis with an inductive approach. Where through qualitative methods, researchers try to find an understanding of an object. From the results of the study note that the implementation of industrial relations dispute resolution policies through mediation carried out by the Department of Manpower and Transmigration of Sumedang Regency has not been effective because of the unfulfilled variable size and policy objectives, resources, characteristics of implementing agencies, attitudes of the implementers, implementation activities and communication between economic, social and political organization and environment.*

Keywords: Policy Implementation, Industrial Relations Dispute Settlement, Mediation, Indonesia

1. Introduction

Employment policy is an important thing to be made and implemented. In Indonesia, employment issues are still very alarming. Lacking harmonious industrial relations, a number of forms of disputes between workers and employers which include issues of wages, work accidents, working hours and which violate labor norms. This situation is known as industrial relations disputes. Regarding industrial relations disputes in the world of labor, the Government of Indonesia issued a policy regarding the Settlement of Industrial Relations Disputes through Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes regulates how to resolve industrial relations disputes.

Sumedang Regency is one of the regencies in the West Java Province which is right in the middle of the Province that connects the City and Regency which will go to the capital of West Java Province, Bandung. In its development, Sumedang Regency grew and underwent significant changes. One of the factors driving these changes is the growth of the industrial sector in Sumedang Regency, which is dominated by small, medium and large scale industrial sectors. Based on 2018 data, there were 913 companies in Sumedang Regency. With the large number of companies in Sumedang Regency, the complexity of industrial relations disputes between employers and workers is increasing. Noted from 2016 to 2018 there was a significant increase in industrial relations disputes in Sumedang District.

Based on the policy of the Minister of Manpower and Transmigration Number 17 of 2004 concerning Appointment and Termination of Mediator Industrial Relations and Mediation Work Article 9 states that the Regency / City Service is an agency responsible for manpower affairs district / city. In carrying out the tasks as referred to in Article 9, here those responsible for resolving industrial relations disputes in Sumedang Regency are the Sumedang Regency Manpower and Transmigration Office.

Based on the results of the initial interviews, the authors found indications of problems in implementing industrial relations dispute resolution policies through mediation at the Sumedang Regency Manpower and Transmigration Office, the first is known that the policy objectives of industrial relations dispute resolution through mediation have not been realized, of the 23 cases of industrial relations disputes only exist 6 joint agreements (PB) that can be resolved through mediation, the remaining 6 advanced industrial relations disputes to the Industrial Relations Court (PHI) and 11 are still suggestive, in other words the results of the industrial relations dispute settlement no agreement reached. The second is the absence of purely functional mediator positions at the Manpower and Transmigration Office of Sumedang Regency and finally the lack of understanding and awareness of the disputing parties both employers and workers / laborers regarding the Industrial Relations Dispute Settlement (PPHI) policy through mediation.

The purpose of writing this article is to find out why the implementation of industrial relations dispute resolution policies through mediation at the Sumedang Regency Manpower and Transmigration Office has not been effective.

2. Literature Review

Policy implementation is a very important stage in the overall policy structure, because this stage can affect the level of success or achievement of the objectives of the overall policy process. Van Meter and Van Horn (in Winarno 2014: 149) define policy implementation as actions taken by individuals (or groups) of government or private that are directed to achieve the goals set in previous policy decisions.

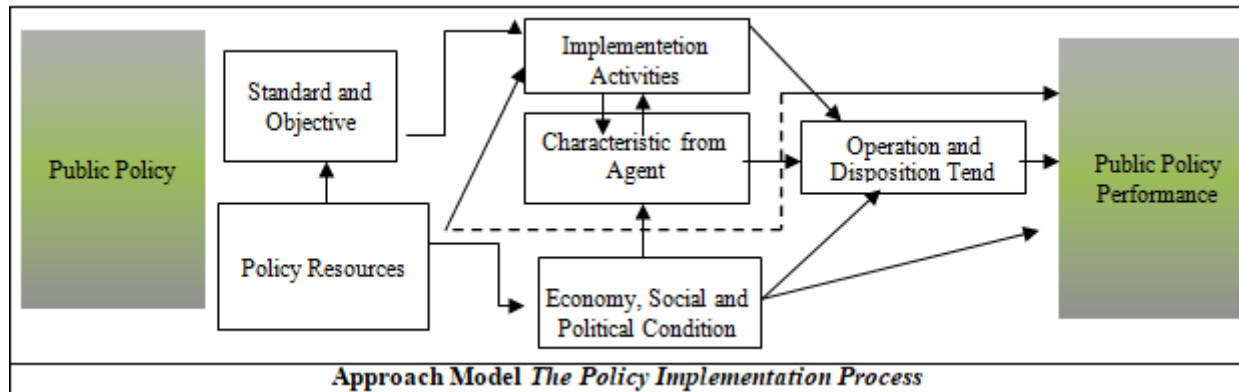
To assess policy implementation, it is necessary to understand what approaches and models are used in measuring public policy implementation. An understanding of these approaches and models for policy implementation was reviewed by several experts. One of them was raised by Van Meter and Van Horn. According to Donald Van Meter

& Carl Van Horn in Leo Agustino's book entitled "Fundamentals of Public Policy (Revised Edition)" (2017: 133), the model of policy implementation is known as "A Model of The Policy Implementation". This model presupposes that policy implementation runs linearly from available political decisions, implementers and public policy performance. There are six variables, according to Van Meter & Van Horn that affect the performance of public policy implementation, including the following:

- a) Size and Objectives of the
- b) Resource Resources

- c) Characteristics of Implementing Agencies
- d) Attitudes or Dispositions of Organizers
- e) Of Inter-Organizational Communication and Implementation Activities
- f) of the Economic, Social and Political Environment

The policy implementation model of Van Meter and Van Horn shows that policy implementation is a very complex model where one variable can affect other variables. For more details, it can be seen in the figure below:



The policy implementation model offered by Van Meter and Van Horn becomes the theoretical foundation in conducting studies on the implementation of industrial relations dispute resolution policies through mediation carried out by the Office of Manpower Work and Transmigration, Sumedang Regency. This is because there is relevance to the phenomenon of problem conditions that exist today.

Research Methodology

In this study the authors used descriptive qualitative research methods and tended to use analysis with an inductive approach. Where through qualitative methods, researchers try to find an understanding of an object. Existing theories will be developed with data collected.

3. Results and Discussion

The mediation dispute settlement policy through mediation as outlined in Law Number 2 of 2004 contains institutional aspects and aspects of settlement procedures. Where in the institutional aspect, it is clearly stipulated that the institution that can implement the policy on industrial relations dispute resolution is the employment agency. Next, the mediator who can implement the industrial relations dispute resolution policy through mediation is the mediator in the labor agency. So in implementing the industrial relations settlement policy it cannot be just any agency and mediator.

Judging from the aspect of the settlement procedure that the settlement of industrial relations disputes was first carried out through bipartite negotiations. If through bipartite negotiations cannot be resolved, it can be through conciliation / arbitration / mediation. But if at this stage there is still no agreement between the disputing parties then proceed to settle it through the Industrial Relations Court (PHI).

The implementation of industrial relations dispute resolution policies through mediation at the Sumedang Regency Manpower and Transmigration Office is regulated in Minister of Manpower and Transmigration Regulation No. 17 of 2014 concerning Appointment and Termination of Industrial Relations Mediators and Mediation Work Procedures, becoming guidelines for the Manpower and Transmigration Office Sumedang Regency in carrying out industrial relations disputes settlement through mediation in Sumedang Regency.

Size and Purpose of Policy

The policy on settling industrial relations disputes through mediation has clearly aimed to resolve industrial relations disputes between employers and workers / laborers outside the court. So that the standard measure of industrial relations dispute resolution policies through mediation is the successful resolution of industrial relations disputes through mediation. The realization of the goal of implementing the industrial relations dispute resolution policy through mediation at the Sumedang Regency Manpower and Transmigration Office has not yet been able to be fully implemented. This can be seen in the case of industrial relations disputes in 2018, there were only 6 cases that could be resolved through mediation, the remaining 11 cases were dealt with recommendations in the sense that there was no agreement between the disputing parties both employers and workers / laborers and 6 other further disputes to the Industrial Relations Court (PHI) stage.

Resources

Resources are one of the important factors in the successful implementation of public policies. Van Meter and Van Horn (in Agustino 2017: 134) say that humans are the most important resource in determining a successful implementation process. Viewed from the aspect of human resources in the implementation of industrial relations

dispute resolution policies through mediation mediators as implementing policies in the Sumedang Regency Manpower and Transmigration Office, there are only two people who also double as structural officials. In other words, in the Sumedang Regency Manpower and Transmigration Office there is no pure functional position mediator to implement the policy. This results in an unbalanced workload that has an impact on the mismatch of time determined in the handling of industrial relations disputes through mediation, in Law Number 2 of 2004 Article 10 it has been clearly determined that within no later than 7 (seven) working days after receiving the delegation of dispute resolution the mediator must have conducted research on the sitting of the case and immediately held a mediation hearing. But in reality, the mediator only held a mediation session for more than 7 working days.

Apart from the aspect of human resources, in terms of budgetary resources and equipment resources are also inadequate. The non-optimal resources owned by the Sumedang Regency Manpower and Transmigration Office have resulted in ineffective implementation of industrial relations dispute settlement policies through mediation.

Characteristics Of Implementing Agent

Characteristics possessed by the mediator as implementing the policy in the Sumedang Regency Manpower and Transmigration Office tend to have good and adequate assertiveness and courage, because the two mediators also have the same scientific background, derived from legal science so that both mediators clearly know about the rules in implementing mediation. In addition, the mediator at the Sumedang Regency Manpower and Transmigration Office has implemented an industrial relations dispute resolution policy through mediation in accordance with the existing SOP.

Attitude and (*Tender Disposition*) Policy Implementation

From the results of the research conducted by the author, it was found that there is an impartiality in the mediator's disposition in implementing policies to resolve industrial relations disputes through mediation. The existence of partisanship to one of the parties in dispute (employers and workers / laborers). Based on observations made by the author because of pressure from the workers / laborers with the objectives being the demands of workers / laborers can be fulfilled. With this situation both directly and indirectly will influence the attitude of the mediator both in mediating and in making suggestions.

With the external encouragement that often takes place in demonstrations, the mediator who is also a structural official in the Manpower and Transmigration Office of Sumedang Regency does not want the industrial relations situation in Sumedang Regency to be dismal. To conducive industrial relations in Sumedang Regency often the results of mediation are more pro-workers.

Inter Organization Implementation And Communication Activities

Based on the results of interviews with mediators that the implementation of industrial relations dispute settlement policies through mediation is considered in accordance with

Minister of Manpower and Transmigration Regulation No. 17 of 2014 concerning Appointment of Mediator Industrial Relations and Termination of Work and Mediation Work Procedures. The success of the activities of implementing industrial relations dispute resolution policies through mediation can be seen from the communication established. The intended communication between the policy implementer with the policy target group. Based on findings in the field that communication between the mediator with employers and workers / laborers has not been established effectively. This is indicated by the fact that there are still target groups that do not understand the policy on industrial relations dispute resolution through mediation. This condition is because the mediator of the Sumedang Regency Manpower and Transmigration Office has not been able to disseminate the industrial relations dispute resolution policy through mediation to all companies in Sumedang Regency. All this time, the mediator of the Sumedang Regency Manpower and Transmigration Office only reached a small number of companies in the Sumedang Regency area. Based on the results of interviews that the author did this because of the limitations of human resources and budgetary resources owned by the Sumedang Regency Manpower and Transmigration Office.

Economic, Social and Political

ENVIRONMENT The policy environment is one of the important factors in the success of a policy implementation. The social, economic, political and public support conditions of a target group will influence policy implementation. Based on the results of research conducted by the author, it was found that there has been no positive support in terms of the economic environment, social environment and political environment towards the successful implementation of industrial relations dispute resolution policies through mediation carried out by the Sumedang Regency Manpower and Transmigration Office.

Viewed from the economic environment, the disputing parties, both employers and workers, each have different interests, making it difficult to reach agreement in the mediation session. Where there are employers who want to lay off workers / laborers because they are considered to have violated the provisions of the company without giving severance due to the economic conditions of the company, and there are also workers / laborers regardless of making mistakes or not he may be dismissed but must be given severance as already regulated in Act Number 13 of 2003 concerning Manpower.

Seen from the social environment, as explained earlier that there were demonstrations conducted by workers / laborers so as to put pressure on the disposition of mediators in implementing policies to resolve industrial relations disputes through mediation.

And from the political environment, in the implementation of industrial relations dispute resolution policies through mediation it is clear that contained in the Minister of Manpower and Transmigration Regulation No. 17 of 2014 explained that the mediator is specifically governed by the decision of the minister of manpower and transmigration but in its implementation the Minister of Manpower Regulation

Work and Transmigration No. 17 of 2014 is in conflict with local regulations where employee transfers are a decision of the local district head. This is inseparable from the existing political interests.

4. Conclusion

The implementation of industrial relations dispute resolution policies through mediation carried out by the Sumedang Regency Manpower and Transmigration Office has not been effective because the size and policy variables, resources, characteristics of implementing agencies, implementing attitudes, implementation activities and communication between organizations and the economic environment have not yet been fulfilled, social and political policy implementation.

5. Suggestions

- 1) For the successful implementation of the Industrial Relations Dispute Resolution Policy through mediation carried out by the mediator, the mediator at the Sumedang Regency Manpower and Transmigration Office held a socialization / understanding of procedures and procedures, especially policies on industrial relations dispute resolution through mediation that can reach / be followed by all companies and or labor unions in Sumedang Regency.
- 2) After the Sumedang Regency Manpower and Transmigration Office receives the registration / recording of industrial relations disputes the mediator may be able to go to the disputing parties before making / sending a summons to be mediated.
- 3) The Sumedang Regency Manpower and Transmigration Office avoids a mediator in a dual position by filling the mediator's position in collaboration with the Sumedang Regency SKPD to be able to place the ASN that has fulfilled the mediator's competency requirements in settling industrial relations disputes.
- 4) The Ministry of Manpower and Transmigration of the Republic of Indonesia must pay attention to the amount of the budget, especially for the operational policy of industrial relations dispute resolution.
- 5) The mediator of the Sumedang Regency Manpower and Transmigration Office must be able to maintain neutrality both in the implementation of mediation and issuing recommendations even in the face of stressful conditions, especially on the part of workers / laborers.

References

Book

- [1] Agustino, Leo. 2006. *Fundamentals of Public Policy*. Bandung: CV. Alfabeta.
- [2] _____. 2017. *Public Policy Basics*. Bandung: CV. Alfabeta.
- [3] Anggara, Sahya. 2018. *Public Policy*. Bandung: CV. Faithful Reader.
- [4] Arikunto 2006. *Research Procedure A Practical Approach*. Jakarta: PT. Rineka Cipta
- [5] Bambang, R Joni. 2013. *Labor Law*. Bandung: CV. Faithful Reader.
- [6] Hoogerwarf, H. 1983. *Government Science*. Jakarta: Erlangga.
- [7] Hood, C. Christopher. 1978. *The Limit Of Administration*. John Willey & Son.
- [8] Husni, Then. 2016. *Introduction to Labor Law*. Jakarta: PT. RajaGrafindo Persada.
- [9] Khakim, Abdul. 2014. *Indonesian Labor Law Basics*. Bandung: PT. Citra
- [10] Aditya Bakti.
- [11] Margono, Suyud. 2004. *Alternative Dispute Resolution and Arbitration Process of Institutionalization and Legal Aspects*. Bogor: Ghalia Indonesia Publisher.
- [12] Moleong, Lexy. 2004. *Qualitative Research Methods*. Bandung: PT. Teens Rosda Karya.
- [13] Purwanto, E. A and Dyah Ratih Sulistyastuti. *Public Policy Implementation Concept and Its*
- [14] *Application in Indonesia*. Yogyakarta: Gava Media Publisher.
- [15] Rusli, Budiman. 2013. *Public Policy Building Responsive Public Services*.
- [16] Bandung: Hakim Publishing.
- [17] Sediawati, Diani. 2011. *Effectiveness of Settlement of Environmental Disputes in Indonesia*.
- [18] Jakarta: Bappenas.
- [19] Subarsono 2015. *Public Policy Analysis*. Yogyakarta: Student Library.
- [20] Sugiyono 2009. *Quantitative, Qualitative, and R&D Research Methods*. Bandung: Alfabeta.
- [21] _____. 2013. *Quantitative, Qualitative, and R&D Research Methods*. Bandung: Alfabeta.
- [22] Tachyan. 2006. *Implementation of Public Policy*. Bandung: AIPI.
- [23] Uwiyono, Aloysius et al. 2014. *Principles of Labor Law*. Jakarta: PT. RajaGrafindo Persada.
- [24] Widodo, Joko. 2018. *Public Policy Analysis*. Malang: Nusa Creative Media.
- [25] Wijoyo, Suparto. 2003. *Environmental Dispute Resolution (Environmental Disputes*.
- [26] *Resolution)*. Surabaya: Airlangga University Press Publisher.
- [27] Winarno, Budi. 2014. *Public Policy*. Jakarta: PT. Exciting Book.

Legislation

- [28] on the 1945 Constitution of the Republic of Indonesia
- [29] Law Number 16 of 1951 concerning Settlement of Labor Disputes
- [30] Law Number 22 of 1957 Concerning Settlement of Labor Disputes
- [31] of Law Number 13 of 2003 concerning Employment
- [32] of Law Number 2 of 2004 Regarding Settlement of Industrial Relations Disputes
- [33] Minister of Labor Instruction No. PBU.1022-45 / U.4191 Concerning Settlement of Labor Disputes
- [34] Regulation of Military Powers Regarding Settlement of Labor Disputes
- [35] Regulation of the Minister of Manpower and Transmigration Number 17 of 2014 Concerning Appointment and Termination of Industrial Relations Mediators As well as Mediation Procedures for
- [36] Sumedang Regency Regulation Number 9 of 2014 concerning Establishment of the Regional Organization

of the Sumedang Regency Social and Manpower and Transmigration Office of the Sumedang Regency

- [37] Regulation of the Regent of Sumedang Number 11 of 2017 Concerning Structural Position Descriptions in the Manpower and Transmigration Office and

Dissertation Journal

- [38] Amirizal. 2016. *The Principle of Mediation as a Basis for Alternative Methods and Conceptualization of Legal Principles for the Settlement of Fisheries Disputes in Indonesia in the Context of National Law Development*. Bandung: Padjadjaran University.
- [39] Curran, Deidre. 2014. *The Role of Mediation in the Resolution of Two Industrial Disputes in Ireland: Toward a Theoretical Understanding*. Employee Relations. Vol. 36, No.05.
- [40] Hernawan, Ari. 2011. *Law and Power in Industrial Relations*. Pulpit law. Special edition.
- [41] Lipsky, David B, Ariel C Avgar. 2016. *Resolving Workplace Conflicts Through Litigation: Evidence, Analysis and Implications*. Advances in Industrial and Labor Relations. Vol. 22.
- [42] Roche, William K, Colman Higgins. 2016. *Networked Dispute Resolution: The National Implementation Body in Irish Industrial Relations*. Advances in Industrial and Labor Relations. Vol. 22.
- [43] Yetniwati, Hartati, Meriyarni. 2014. *Legal Reform on Mediation of Industrial Relations Disputes*. Journal of Legal Dynamics. Vol.14, No.02.