

ABSTRACT

The legal issues contained in this dissertation are: 1. Status and Functions of Civil Servants who are appointed as a Mediator in the Settlement of Industrial Relations Dispute

2. *Ratio legis* of the appointment of Civil Servants as mediator in the Settlement of Industrial Relations Disputes.

Method of research in this dissertation reflects the *sui generis* character of legal study, which has distinctive character with social sciences or natural sciences, that are legislation, conceptual and case approach.

By using of these method, the research achieved two major conclusion:

(1) There is a shift in the character of industrial relations law that had been characterized by the existence of private law before, but with the government intervention industrial relations then it placed in a group of *sociale rechtsstaat*. Civil servants of related agencies who are responsible for labor affairs and appointed as mediator, in carrying out of their duties and authority are bound to use the authority discretion. That discretionary authority is based on the General principles of Good Governance, i.e., principle of non-arbitrarily, principle of non-abuse of power and principles of proportionality and balance, in which must be met when the appointed civil servants formulate recommendation of the dispute settlement. The recommendation produced by that mediators is not a state of administrative decision, because the mediators carry out of its judicial functions in this matters.

(2) The mediator is selected from government agency whose responsible for labor affairs as a substitute for official intermediary regulated in Law No. 22 Year 1957 on the Settlement of Labor Dispute. Appointment of civil servants responsible for labor affairs in these dispute settlement, is an embodiment of government intervention in industrial relations. The government needs to intervene because there is imbalance position of workers and employers in those industrial relations. Government intervention conducted within the framework of legal protection.

Recommendations resulting from this research are: Abolition the term of "mediator" in Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes. Re-use the term of "Intermediaries employee" as stated in the Law of 1957 to replace the term of "mediator" in Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes.

Keywords: juridical character, civil servants, mediation, the mediator, recommendation, the settlement of industrial disputes.