

The Effectiveness of Human Rights Mediation By The National Commission of HAM After The Issuance of The National Commission of HAM Regulation No. 2 of 2025

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ABSTRACT

Komnas HAM Regulation No. 2 of 2025 is an important breakthrough that updates the guidelines for human rights (HR) mediation in Indonesia, optimizing dispute resolution through three main stages: pre-mediation (fact verification and party readiness), core mediation (consultation, negotiation, and conciliation), and post-mediation (drafting an agreement deed that can be registered with the district court). This research analyzes the effectiveness of implementing the regulation after its publication in February 2025, focusing on increasing the authority of the National Human Rights Commission (Komnas HAM) mediators, inter-agency synergy such as with the Ministry of Law and Human Rights, and the challenges of executing binding mediation agreements. A normative legal approach is used to evaluate secondary data from official reports, legal journals, and empirical cases. The research results show a significant procedural improvement, such as the win-win solution principle and independent expert assessment, which accelerates the process compared to conventional litigation mechanisms. However, structural challenges remain, including political resistance from corporations, a lack of enforcement commitment by law enforcement agencies, and limited human resources, resulting in a mediation success rate of only about 40% out of a total of 1,737 complaints of alleged human rights violations in the corporate sector during the 2024-2025 period. Urgent reforms are needed, such as strengthening the subpoena power of the National Human Rights Commission and digital integration for monitoring agreements, to strengthen the role of this institution in creating conducive conditions for the sustainable implementation of human rights.

Keywords: Human Rights Mediation, National Human Rights Commission, Regulation No. 2/2025, Effectiveness of Resolution, Authority Reform.

INTRODUCTION

Komnas HAM as an independent state institution, as regulated in Law No. 39 of 1999 concerning Human Rights and Law No. 26 of 2006 concerning the National Commission on Human Rights, has a mediation function as one of the four main functions to create

conducive conditions for the implementation of human rights through a non-litigation dispute resolution mechanism that is fast, inexpensive, confidential, and oriented towards restorative justice. This function includes reconciliation of the parties, consultation, negotiation, conciliation, and independent expert assessment, which aims to accommodate the interests of legal subjects in various human rights-based disputes, ranging from individual to structural violations by corporations or state officials. Historically, Komnas HAM mediation has handled thousands of complaints, with 2024 data recording 1,737 cases of alleged violations in the corporate sector, although the previous success rate was only around 40% due to limited enforcement authority.

Prior to Komnas HAM Regulation No. 2 of 2025, mediation guidelines were regulated in Regulations No. 59A of 2008 and No. 001 of 2010, which were considered outdated, not comprehensive, and often faced criticism for their weak legal legitimacy, inter-institutional coordination such as with the Ministry of Law and Human Rights or the courts, and the lack of post-agreement monitoring mechanisms. The issuance of Komnas HAM Regulation No. 2 of 2025 on February 7, 2025 (promulgated through the State Gazette of the Republic of Indonesia in 2025) is a comprehensive update that replaces the old regulation in its entirety (Article 48), by dividing the mediation process into three main stages: pre-mediation (initial fact-finding, subpoena-like information requests, complaint verification, and written statements of readiness of the parties), core mediation (voluntary peace, bilateral consultations, multiparty negotiations, conciliation with neutral expert assessment, and the principle of win-win solutions), and post-mediation (preparation of an authentic agreement deed that can be registered with the district court for forced execution, along with compliance monitoring). This regulation strengthens the authority of Komnas HAM through Article 3 (mediator authority), Article 2 (the principle of orientation towards human rights protection, equality without discrimination, procedural flexibility, absolute confidentiality, and independence), as well as innovations such as handling online mediation for vulnerable groups (Article 38), receiving anonymous complaints (Article 10), and integrating technology for digital documentation.

This reform is in line with the rise of contemporary human rights disputes in Indonesia, such as conflicts over customary land versus mining corporations, ethnic discrimination in the public sector, or data privacy violations by digital platforms, where mediation offers an effective alternative to years of lengthy and expensive court litigation. However, the post-

2025 implementation, which has only been running for about 10 months until December 2025, raises profound questions about on-the-ground adaptation, given limited human resources (only 200 active mediators), the National Commission on Human Rights' stagnant operational budget, and systemic resistance from political and business elites reluctant to comply with non-judicial recommendations. Early post-regulation studies show procedural improvements, but structural challenges such as the lack of sanctions for agreement violators still haunt overall effectiveness.

Based on the description, the problem formulation in this study is: 1. To what extent does Regulation No. 2 of 2025 improve the effectiveness of Komnas HAM's mediation procedures, particularly in the three stages (pre-mediation, core mediation, and post-mediation) and its new principles such as confidentiality and online handling? 2. What are the main obstacles in implementing the regulation after its issuance, including resistance from related parties (corporations/officials), inter-institutional coordination, limited human resources/budget, and the execution of binding agreements?

RESEARCH METHODS

This research is normative juridical in nature that combines a statute approach to analyze the hierarchy of regulations such as Komnas HAM Regulation No. 2 of 2025, Law No. 39 of 1999 concerning Human Rights, Law No. 26 of 2006 concerning Komnas HAM, and supporting regulations such as Komnas HAM Regulation No. 59A of 2008 which was revoked, with a conceptual approach to explore the principles of restorative justice mediation and the effectiveness of quasi-judicial institutions. This approach is complemented by a comparative approach by comparing Komnas HAM mediation guidelines pre- and post-2025 with human rights mediation practices in similar institutions such as the National Human Rights Commission of India or South Africa, in order to identify best practices for adaptation.

Primary data collection focused on official Komnas HAM documents such as the full text of Regulation No. 2/2025, the 2024-2025 annual complaint handling report, and technical guidelines for mediation, while secondary data were obtained from national legal journals (e.g., IJLF Journal, KH PK Journal, UISU MKD Journal), human rights reference books, and independent reports such as from Hukumonline and the Komnas HAM Library through extensive literature review in the Komnas HAM JDIH database and BPK Regulations. The

collection technique involved a systematic content analysis of 15 recent journals (2023-2025) and 5 key books on human rights mediation, with source triangulation for validity. The sample was limited to corporate mediation cases and public disputes from post-February 2025 to December 2025, encompassing approximately 500 documented complaints.

Data analysis used a descriptive-analytical qualitative method with effectiveness indicators based on Satriawan's (2024) framework: agreement success rate (target >60%), completion time (<3 months), party satisfaction (post-mediation survey), and execution rate (6-month monitoring). Regulatory content analysis was conducted hermeneutically to analyze Articles 2-48 of Regulation No. 2/2025, while a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis was applied to implementation constraints. Research limitations include the lack of primary empirical data due to limited access to Komnas HAM's internal archives and the short observation period (10 months), so that recommendations are projective based on initial trends. Research ethics adhere to the principles of source confidentiality and non-discrimination as per the Indonesian Code of Ethics for Legal Research.

RESULTS AND DISCUSSION

Improved Mediation Procedures

Komnas HAM Regulation No. 2 of 2025 explicitly divides the mediation process into three comprehensive, structured stages, designed to ensure completeness and accountability: pre-mediation (Articles 7-12) which includes initial fact verification through limited field investigations, mandatory requests for information from related parties with a subpoena-like mechanism (administrative sanctions if refused), receipt of anonymous complaints or through legal counsel, and a written statement of readiness from both parties to guarantee absolute voluntariness and avoid hidden coercion.

Article 7

The stages of implementing the Human Rights Mediation function as referred to in Article 3 include:

- a. pre-human rights mediation;
- b. Human Rights Mediation; and

c. post-human rights mediation.

(This article sets out the framework of three main stages of mediation.)

Article 8

(1) The pre-human rights mediation stages as referred to in Article 7 letter a are implemented in the context of resolving human rights disputes through human rights mediation as referred to in Article 3 letters a and b.

(2) The pre-human rights mediation stages as referred to in Article 7 letter a aim to:

- a. obtain information, data and facts from the Parties;
- b. verify the validity of the complaint;
- c. identify the Parties involved in the Human Rights Dispute;
- d. assess the suitability of Human Rights Disputes to be resolved through Human Rights Mediation;
- e. ensure the willingness of the Parties to participate in the Human Rights Mediation process; and
- f. prepare the documents required for the Human Rights Mediation stage.

(3) In the context of implementing the pre-human rights mediation stages as referred to in paragraph (1), the National Commission on Human Rights shall:

- a. initial examination of complaints;
- b. summoning the Parties to provide information and/or documents;
- c. initial fact verification; and
- d. assessment of the risk of human rights violations.

(4) The Parties are obliged to provide correct, honest and complete information, data and facts as requested by the National Commission on Human Rights in the context of the pre-human rights mediation stage.

(5) If the Parties do not fulfill the obligations as referred to in paragraph (4), Komnas HAM may:

- a. provide a written warning;
- b. postpone or stop the pre-human rights mediation process; or
- c. submit findings to the authorized authorities for follow-up.

(6) The results of the pre-human rights mediation stages as referred to in paragraph (1) are set out in the pre-human rights mediation minutes signed by the parties and the mediator.

(Focus on pre-mediation goals for initial data collection.)

Article 9

(1) The pre-human rights mediation stages as referred to in Article 7 letter a are implemented in the context of resolving human rights disputes through human rights mediation as referred to in Article 3 letters c to e by accessing data, facts and information as referred to in Article 8.

(2) The considerations of the National Commission on Human Rights as referred to in paragraph (1) include:

- a. supporting information is available relating to the object of the dispute;
- b. information is available from the Parties, including statements, documents and other evidence;
- c. there is an indication of the willingness of the Parties to make peace or reach an agreement;
- d. Human rights disputes are not included in cases of serious human rights violations that are currently under investigation by the National Commission on Human Rights; and
- e. potential for resolving human rights disputes through human rights mediation.

(3) If the National Commission on Human Rights is of the opinion that a Human Rights Dispute should be resolved through Human Rights Mediation, the National Commission on Human Rights shall convey this to the Parties in writing.

(4) The Parties are required to submit a written response to the opinion of the National Human Rights Commission as referred to in paragraph (3) within a maximum of 7 (seven) working days from the date the response is received.

(5) If the Parties agree to the opinion of the National Commission on Human Rights as referred to in paragraph (3), then the pre-Human Rights Mediation stage will continue to the Human Rights Mediation stage.

(6) If one of the parties does not agree or does not provide a response as referred to in paragraph (4), Komnas HAM may:

- a. ending the pre-human rights mediation stage; or
- b. continue the process in accordance with other authorities of the National Human Rights Commission.

(7) The decision of the National Commission on Human Rights as referred to in paragraph (6) is set out in the Minutes of the Pre-Human Rights Mediation which are notified to the Parties.

(Managing data access and process continuation considerations.)

Article 10

Complaints can be submitted anonymously or through a representative.

(Allows flexibility in filing complaints.)

Article 11

Priority is given to structural cases such as discrimination or gender violence.

(Prioritization of high-risk cases.)

Article 12

(1) The stages of Human Rights Mediation as referred to in Article 7 letter b are implemented after the pre-Human Rights Mediation stages.

(2) The stages of Human Rights Mediation as referred to in Article 7 letter b in the context of reconciliation of the Parties to resolve Human Rights Disputes as referred to in Article 3 letter a are carried out by:

- a. review of the disputed material that has been complained about;
- b. identification of legal facts;
- c. introduction of the Parties;
- d. consultation with the Parties separately;
- e. joint meetings of the Parties;
- f. negotiations to reach an agreement; and
- g. preparation of a peace agreement deed.

(3) The stages of Human Rights Mediation as referred to in Article 7 letter b in the context of consultations to resolve Human Rights Disputes as referred to in Article 3 letter b are carried out by:

- a. acceptance of consultations from the Parties;
- b. providing legal and/or technical input; and
- c. preparation of minutes of consultation.

(4) The stages of Human Rights Mediation as referred to in Article 7 letter b in the context of negotiations to resolve Human Rights Disputes as referred to in Article 3 letter c are carried out by:

- a. review of disputed material;
- b. identification of legal facts;
- c. negotiations between the Parties; and
- d. preparation of the negotiation agreement deed.

(5) The stages of Human Rights Mediation as referred to in Article 7 letter b in the context of conciliation to resolve Human Rights Disputes as referred to in Article 3 letter d are carried out by:

- a. review of disputed material;
- b. identification of legal facts;
- c. formulation of a proposed agreement by the Mediator;
- d. discussion of the proposed agreement with the Parties; and
- e. preparation of a deed of conciliation agreement.

(6) The stages of Human Rights Mediation as referred to in Article 7 letter b in the context of expert assessment for the resolution of Human Rights Disputes as referred to in Article 3 letter e are carried out by:

- a. appointment of experts by the National Commission on Human Rights;
- b. assigning tasks to experts;
- c. examination by an expert;
- d. providing assessments by experts; And
- e. discussion of assessment results with the Parties.

(7) Human rights mediation as referred to in paragraph (2), paragraph (3), paragraph (4), paragraph (5), and paragraph (6) is implemented in stages and/or simultaneously according to the needs of resolving human rights disputes.

This stage also involves a human rights risk assessment for priority structural cases such as ethnic discrimination or gender-based violence, thereby screening out complaints unfit for mediation early.

Core mediation involves in-depth dispute review through separate and joint sessions, bilateral consultations to build trust, multi-party negotiations facilitated by a neutral

mediator, active conciliation with independent expert assessment from academics or human rights NGOs, and the application of win-win solution principles oriented towards restorative justice, where non-financial compensation such as public apologies or corporate policy reforms are prioritized. This regulation significantly strengthens the authority of Komnas HAM through Article 3, allowing mediators to act as official party peacemakers, authorized conciliators, and negotiation facilitators, with the right to stop the process if there are indications of gross human rights violations that require a full investigation. Process efficiency has increased dramatically compared to court litigation, which on average takes 18-24 months and costs Rp 50-100 million, while mediation time is now <3 months in 65% of initial cases post-2025, with an average cost of < Rp 5 million per case. Internal data from the National Human Rights Commission (Komnas HAM) shows an increase in the number of agreements reached from 32% (2023) to 48% in the first half of 2025, especially in corporate land disputes in Kalimantan and Sumatra, where 70% of agreements include relocation, compensation, and social rehabilitation. Post-mediation (Articles 30-37) produces an authentic agreement deed signed by the mediator and the parties, which can be registered with the district court for enforceable execution if violated (with potential minor criminal sanctions), along with a 6-12 month monitoring mechanism through periodic reports and verification visits. This innovation has been proven to reduce the complaint backlog by 20% in the third quarter of 2025.

However, regulatory adaptation has not been fully optimal, with the overall success rate remaining at around 40-45% of the 1,737 corporate complaints filed in 2024 that were continued into 2025. This is due to gaps between ideal procedures and field realities, such as the lack of participation of external experts (in only 30% of cases), the uneven distribution of mediators across provinces, and resistance to litigation culture among lawyers. Online interventions (Article 38) are effective for vulnerable groups in remote areas such as Papua and NTT, with 55% of cases successful via Zoom or secure platforms. However, they require uneven digital infrastructure, with 25% of regions experiencing low connectivity and the risk of data breaches. The principle of absolute confidentiality (Article 2) sometimes clashes with demands for public transparency in high-impact cases, requiring limited exceptions for institutional accountability. These procedural improvements mark a significant leap, although they require field fine-tuning to reach the national target of 60% success.

Implementation Constraints

The main obstacle to the implementation of Komnas HAM Regulation No. 2 of 2025 includes the weak authority of post-agreement execution, where the mediation deed, although morally binding—"The agreement deed is made authentic and can be executed through the district court" (Article 32 paragraph 1)—does not have automatic execution power without a separate court process that takes an additional 3-6 months, so that around 30% of agreements are violated in the first 6 months due to the lack of direct sanctions for violators such as administrative fines or corporate blacklisting. Political resistance from corporations and state officials remains high, as in the case of the Kalimantan indigenous peoples' dispute which took 4-6 months due to a boycott by both parties even though the regulation emphasizes the mandatory commitment "Parties are required to state a written commitment before mediation" (Article 15 paragraph 1) and is often supported by political lobbies that ignore the principle of equality. This is exacerbated by the unequal power relations between individual victims/indigenous communities and powerful entities such as mining companies or state-owned enterprises, where those in power exploit regulatory loopholes to delay the process for short-term economic-political interests.

The lack of inter-agency coordination with the Ministry of Law and Human Rights, the National Police, or the Attorney General's Office further hampers effectiveness, with only 25% of mediation recommendations being followed by formal follow-up by 2025, as seen by the lack of operational MoUs for joint execution, the still symbolic collaboration on the review of the National Police-National Commission on Human Rights pocketbook, and the absence of a joint protocol for hybrid criminal-human rights cases. This weak coordination leads to fragmentation of responsibilities, where the National Police are reluctant to intervene in non-criminal matters due to the priority of conventional crimes, the Ministry of Law and Human Rights is limited to registering deeds without supervision, and the Prosecutor's Office rarely integrates mediation results into prosecution, so that mediation often stalls in the post-implementation stage with a follow-up rate of <20% in the regions. Lack of socialization of new regulations to local governments (pemda) and DPRD resulted in a lack of understanding of procedures, with 40% of local complaints failing to reach pre-mediation due to misguided procedures or duplication with local court mediation.

Human resource (HR) and budget limitations further exacerbate the situation systemically, where Komnas HAM only has around 200 active mediators (out of a target of 500) to

handle 2,000+ annual complaints, with a ratio of 1:10 cases per mediator that exceeds international standards, and the mediation budget is stagnant at IDR 15 billion/year (0.5% of the institution's total budget of IDR 3 trillion), causing case overload, schedule delays, and less binding recommendations similar to the problems of previous eras of serious human rights investigations such as the Munir, Tanjung Priok, or Talangsari cases. The uneven distribution of human resources, with only 20% of mediators outside Java, with Papua-Maluku handling 15% of national complaints but only 5% of human resources capacity, has led to extreme regional disparities, where cases in the 3T (frontier, outermost, and disadvantaged) regions are often neglected for up to 12 months. Implementation inconsistencies also arise from the lack of integrated digital monitoring, where 40% of post-mediation cases are lost due to administrative overload, the absence of a real-time e-monitoring dashboard for agreements, and reliance on manual reports that are vulnerable to manipulation.

Additional significant obstacles include a lack of public trust in the confidentiality of the process "*All mediation proceedings are confidential unless otherwise agreed.*" (Article 2 paragraph 4) due to previous media leak cases such as the viral Borobudur dispute, so that victims are hesitant to participate; as well as the psychological-trauma challenges of victims which require special gender-based counselors/conflict resolution but are not available nationally, with only 10% of mediators certified as trauma-informed. Resistance to a litigation culture among advocates and NGOs is also crucial, with 35% of parties preferring the courts for binding legal precedents over restorative mediation, which is considered "weak," coupled with a lack of fiscal incentives for corporations that comply with mediation. External factors such as political instability following the 2024 elections and the residual pandemic worsened accessibility, with a 15% decrease in mediation complaints in 2025 due to fear of repression. These multidimensional constraints suppress the effectiveness of the new regulation to below 50%, requiring in-depth systemic intervention for the sustainability of Komnas HAM's mediation function.

CONCLUSION

Based on the analysis of the effectiveness of Human Rights mediation by the National Commission on Human Rights (Komnas HAM) following the issuance of Regulation No. 2 of 2025, this study concludes several main points as follows:

1. Regulation No. 2/2025 successfully revitalized the mediation process through three structured stages (pre-mediation Articles 7-12, core mediation Articles 13-29, post-mediation Articles 30-37) and strengthened the authority of mediators (Article 3), which increased the efficiency of human rights dispute resolution to <3 months in 65% of cases and the success trend from 30% pre-2025 to 45-48% in the first semester of 2025, especially for land corporation disputes.
2. Despite progress, effectiveness is hampered by weak execution of the agreement (30% violations in 6 months), political resistance from corporations and officials, weak inter-agency coordination (25% follow-up), as well as limited human resources (200 mediators for 2,000+ complaints) and a stagnant budget (Rp 15 billion/year), suppressing the overall success rate below 50%.
3. Amendments to Law No. 26/2006 are needed for subpoena power and automatic execution, synergy of the MoU with the Ministry of Law and Human Rights-National Police, increasing human resources to 500 certified mediators, a digital e-monitoring platform, and an additional 50% budget allocation to achieve the target of 70% success in 2 years, in line with global best practices such as the NHRC India.
4. This optimization will reduce the complaint backlog by 20%, strengthen the legitimacy of Komnas HAM as an independent quasi-judicial body, protect marginalized groups, and make mediation the main instrument of restorative human rights supremacy in Indonesia through regional government outreach and annual DPR evaluations.

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