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Implementing Combined Process (Mediation-Arbitration) in Industrial Relations Dispute Resolution: A Legal Justice Perspective

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ABSTRACT

Combined Process (Mediation-Arbitration) is an innovative Alternative Dispute Resolution mechanism that unifies mediation's flexibility and party autonomy with arbitration's finality and enforceability. This hybrid offers a potentially more effective means of resolving Industrial Relations disputes. Although successfully applied in countries like China, Singapore, and the United States, Indonesia's legal system lacks explicit provisions for this mechanism, creating uncertainty in its regulation and enforceability. This study aims to examine the use of the Combined Process (Mediation-Arbitration) for resolving industrial relations disputes and analyze it through the principle of legal justice. Using a normative juridical approach, the research reviews relevant laws and regulations to explore how this mechanism is implemented. Indonesia's Law No. 2 of 2004 governs mediation and arbitration separately but does not explicitly acknowledge the Combined Process, leading to procedural ambiguity and unclear jurisdictional boundaries. This regulatory gap hinders the mechanism's effective implementation despite its advantages in promoting efficiency and party satisfaction. The study finds that the Combined Process (Mediation-Arbitration) aligns with legal justice principles by fostering balance, transparency, and participation in dispute resolution. However, it requires formal legislative recognition and clear procedural rules to ensure legal certainty and practical effectiveness within Indonesia's industrial relations framework.

KEYWORDS *Combined Process, Industrial Relations Disputes, Principles of Legal Justice*

INTRODUCTION

Everyone has different needs in their lives. Therefore, to meet these needs, humans are required to work. In striving to fulfill these diverse needs, there are two types of work definitions: first, self-employed work, which means working on one's own effort, capital, and responsibility, with results benefiting oneself (Lestari, 2023). Such work is not bound by others' orders and is not dependent on others. Second, working for others means working under dependence on those who give orders and subject to rules and conditions set by the employer (Foley & Cronin, 2015)

Based on this understanding, labor law relates to the second type, where a worker is under the order of another person; in other words, a worker works under an employer's order (Pappas, 2015) . Thus, having a job or working is a right everyone possesses, as well as receiving rewards or wages for completed work that is treated appropriately and fairly throughout the employment relationship (Nigmatullina, 2016; Nigmatullina, 2018).

In practice, the scope of employment is very complex. The system of relationships involving workers, employers, and the government is called Industrial Relations (Nurhayati et al., 2025). The term Industrial Relations (from industrial relations) evolved from labor relations or labour management relations (Peng et al., 2024). Labor relations create a narrow impression as if they only include the relationship between employers and workers. However, industrial relations include very important aspects: socio-cultural, psychological, economic, political,

legal, and hankamnas (national defense and security). Thus, industrial relations involve not only entrepreneurs and workers but also the government and society broadly.

The socio-economic significance of industrial relations extends beyond individual workplace dynamics to affect broader national development goals. According to data from the Indonesian Ministry of Manpower, industrial relations disputes have increased over the past decade, significantly impacting productivity, economic stability, and social cohesion (Arpangi et al., 2025; Behrens et al., 2020; Putri et al., 2019). Unresolved labor disputes can lead to work stoppages, strikes, and production disruptions costing the Indonesian economy billions of rupiah annually. Additionally, prolonged industrial conflicts damage labor-management trust, reduce foreign investment attractiveness, and compromise worker welfare (Schulhofer et al., 2011; Stipanowich, 2020). The ripple effects extend to families and communities dependent on stable employment, affecting children's education, household economic security, and quality of life. Furthermore, in an era of global supply chain integration, Indonesia's reputation as a stable investment destination partly depends on effectively and efficiently managing industrial relations disputes.

In any social environment, misunderstandings that lead to disputes are inevitable, and industrial relations are no exception. Since the relationship between workers (laborers) and employers is crucial, it risks differences of opinion or disputes. Here, the role of third parties, namely the government, becomes essential. The government can create policies or regulations that serve as guidelines, prevent conflicts, or follow up on parties violating rules, so conflicts are prevented or resolved properly.

Conflicts in this context are called Industrial Relations Disputes. All matters related to these disputes are regulated specifically in Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes (hereinafter UUPPHI). The UUPPHI divides Industrial Relations Disputes into four types: rights disputes, interest disputes, termination of employment disputes, and disputes between trade unions/labor unions.

According to the UUPPHI, Industrial Relations Dispute resolution can proceed through courts (litigation) or out of court (non-litigation). Court settlement is carried out through the Industrial Relations Court, a special institution within the District Court with authority to examine, adjudicate, and rule on disputes. Court resolution is a last resort if bipartite negotiation fails. Meanwhile, non-litigation dispute resolution occurs through bipartite and tripartite mechanisms.

The bipartite mechanism is a negotiation directly between workers and employers to resolve disputes on the principle of deliberation for consensus. If bipartite efforts fail, dispute resolution proceeds to the tripartite stage involving third parties through mediation, conciliation, or arbitration.

Existing scholarship on Alternative Dispute Resolution (ADR) in industrial relations has established foundational understandings of individual mechanisms but shows significant gaps regarding hybrid or combined approaches. International literature demonstrates successful implementation of Combined Process mechanisms in various jurisdictions. Ross (2001) documented Med-Arb adoption in U.S. commercial disputes, highlighting efficiency gains and party satisfaction. Boulle and Nesic (2010) analyzed Australia's Med-Arb experience, noting its particular suitability for employment disputes that require preserving ongoing relationships. In Asia, Poon (2014) examined Singapore's institutionalized Med-Arb framework, showing

how clear procedural rules and institutional support enabled widespread adoption and positive results.

However, research specifically addressing Combined Process implementation in Southeast Asian civil law jurisdictions, especially Indonesia, remains limited. Mantili (2021) initiated exploring Med-Arb concepts in Indonesian industrial relations but focused mainly on theory without examining practical implementation barriers or jurisdictional constraints. Putri (2024) discussed industrial dispute resolution transformations post-reform but did not comprehensively address hybrid mechanisms or their fit within Indonesia's legal framework. Wijayanti (2009) offered historical context for labor law development but preceded recent discussions on innovative ADR approaches.

Critical gaps include: (1) lack of systematic analysis of Combined Process compatibility with Indonesia's legal framework for industrial relations dispute resolution, (2) limited examination of practical challenges specific to Indonesia's legal culture and institutions, (3) insufficient attention to jurisdictional boundaries and authority divisions among forums employing hybrid mechanisms, (4) no comparative analysis with successful international implementations to inform Indonesian adoption, and (5) minimal exploration of how Combined Process mechanisms align with or challenge Indonesia's rechtsstaat legal tradition, especially regarding legal certainty and procedural justice.

This study addresses these gaps by providing the first comprehensive legal analysis of Combined Process (Mediation-Arbitration) implementation in Indonesian industrial relations from a legal justice perspective. The novelty lies in three dimensions: first, systematically examining Indonesia's regulatory vacuum concerning hybrid mechanisms, mapping legislative gaps and implications for enforceability and legal certainty; second, developing a conceptual framework to evaluate Combined Process mechanisms against Indonesia's constitutional principle of legal justice, providing criteria for assessing procedural legitimacy beyond efficiency; third, offering comparative insights from jurisdictions that institutionalized Med-Arb, identifying transferable elements and necessary context-specific adaptations for Indonesia.

Unlike previous studies treating mediation and arbitration separately, this research innovatively analyzes their integration as a unified process, examining how phase transitions affect procedural rights, evidentiary considerations, and decision-making authority. Furthermore, it situates the Combined Process discussion within Indonesia's broader legal reform, linking micro-level dispute resolution mechanics to macro-level constitutional principles and national development goals (Blankley, 2011; Deason, 2013).

Beyond the commonly known dispute resolution mechanisms, there is a lesser-used mechanism called Combined Process, a new dispute resolution method combining two or more methods into a single process. This merger is often called a hybrid method. The Combined Process discussed here combines Mediation and Arbitration. Generally, Industrial Relations Dispute Resolution completes one method and then moves to another separately, but in the Combined Process, resolution occurs simultaneously through Mediation and Arbitration. In other words, Mediation and Arbitration, typically separate methods, become an integrated mechanism.

The author chose to combine Mediation with Arbitration because parties in Industrial Relations must have good synergy; otherwise, discord hampers Industrial Relations harmony.

The advantages of each mechanism applied together can create justice desired by the parties. Mediation allows both parties greater access to find their own satisfactory and fair solution. However, mediation agreements do not have executive power and rely on parties' good faith, meaning violations may occur, preventing perfect dispute resolution. Therefore, the author incorporates Arbitration as a continuation of Mediation in this Combined Process. Arbitration's advantage of a final, binding award can prevent agreement violations, compelling parties to uphold their agreement.

The study's objectives are threefold: first, conducting a comprehensive doctrinal analysis of Indonesia's legal framework for industrial relations dispute resolution, identifying gaps and ambiguities affecting Combined Process legitimacy and enforceability; second, developing a normative legal framework to evaluate Combined Process implementation through legal justice principles, setting criteria for procedural legitimacy, fairness, and constitutional alignment; third, offering evidence-based recommendations for legislative reform and institutional development to enable effective, legally certain implementation in Indonesia.

Practical implications extend to multiple stakeholders: policymakers and legislators gain foundations for drafting specific Combined Process regulations addressing current legal gaps; practitioners such as mediators, arbitrators, and labor relations specialists receive conceptual clarity on procedural boundaries and role transitions within hybrid mechanisms; employers and labor unions learn about alternative dispute pathways potentially yielding better outcomes than traditional sequential approaches; the judiciary, especially the Industrial Relations Court, gains interpretative guidance for cases involving Combined Process attempts despite regulatory ambiguity.

METHOD

The approach method in this study used a normative juridical approach. This approach emphasized research conducted on regulations and laws related to the issues discussed in this study (Hann, 2023; Pablo, 2024). The issue examined was an analysis of the implementation of Alternative Dispute Resolution *Combined Process (Med-Arb)* in resolving industrial relations disputes, reviewed from the principle of legal justice.

This research employed qualitative legal analysis focusing on normative interpretation of statutory provisions, regulatory frameworks, and legal principles. The study did not involve empirical data collection from human subjects or case observations; rather, it analyzed legal texts, statutory provisions, and doctrinal scholarship to assess the legal viability and normative implications of *Combined Process* mechanisms in Indonesian industrial relations law (Stipanowich & Ulrich, 2014).

The data collection technique involved conducting a literature study of several legal sources, namely primary legal sources including Law No. 13 of 2003 concerning Manpower, Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, and Law No. 2 of 2004 concerning Industrial Relations Dispute Resolution. Additionally, relevant constitutional provisions from the 1945 Constitution of the Republic of Indonesia regarding legal certainty and access to justice were examined to establish the constitutional framework within which dispute resolution mechanisms operate. Secondary legal sources included books and journals, particularly scholarly works on ADR theory, comparative labor law studies from jurisdictions with established *Med-Arb* frameworks (China, Singapore, United States,

Australia), and doctrinal analyses of legal justice principles in Indonesian jurisprudence. Tertiary sources comprised websites related to the research, including official government portals of the Ministry of Manpower, Supreme Court databases containing relevant case law, and institutional publications from international labor organizations such as the International Labour Organization (ILO) offering comparative perspectives on industrial relations dispute resolution.

Identification of legal sources followed a systematic process utilizing several research strategies: first, keyword searches in legal databases (HukumOnline, Perpustakaan Nasional Digital, Google Scholar) using terms such as "penyelesaian sengketa hubungan industrial," "mediasi-arbitrase," "combined process," "keadilan hukum," and "alternatif penyelesaian sengketa." Second, forward and backward citation tracking from seminal works identified in the initial search to locate related scholarship and developments. Third, examination of official legislative history and explanatory memoranda (*penjelasan*) accompanying relevant statutes to understand legislative intent. Fourth, consultation of comparative law sources from jurisdictions with established *Combined Process* frameworks to identify best practices and implementation models.

Given that this research addressed potential implementation in specific Indonesian contexts, it was important to note the legal analysis applied to the national jurisdiction of the Republic of Indonesia, with particular attention to regulations governing industrial relations as implemented across provinces. While the study referenced comparative examples from other jurisdictions (Singapore, China, United States, Australia), its primary focus remained on the applicability and compatibility of *Combined Process* mechanisms within Indonesia's legal system.

The author analyzed the data descriptively and analytically, aiming to present an overview of the research object based on research results. Data were analyzed qualitatively, emphasizing legal analysis and interpretation rather than numerical data. The analytical framework employed three primary techniques: first, statutory interpretation using systemic and teleological methods to discern the scope and limitations of existing industrial relations dispute resolution provisions; second, gap analysis comparing Combined Process implementation requirements with current regulatory provisions to identify legislative lacunae; third, normative evaluation assessing the alignment of *Combined Process* mechanisms with constitutional principles of legal justice, including legal certainty (*kepastian hukum*), procedural fairness (*keadilan prosedural*), and access to justice (*akses terhadap keadilan*).

RESULT AND DISCUSSION

Industrial Relations Dispute Settlement in Indonesia, which is generally regulated in the PPHI Law, recognizes several forms of settlement through bipartite, mediation, conciliation, arbitration and the Industrial Relations Court. However, until now, there is no explicit provision that specifically regulates the form of dispute resolution that combines mediation and arbitration dispute resolution methods in a sequential manner or known as the Combined Process (Mediation-Arbitration) (Pal, 2018).

Combined Process is an alternative method of dispute resolution that combines two or more resolution mechanisms, in this case mediation and arbitration, where the process begins with mediation and if no agreement is reached, it is continued with arbitration. The main goal

of this model is to combine the flexibility of mediation with the binding power of arbitration, so that the parties can obtain an efficient and final fair solution. In the context of industrial relations, this combined process can be particularly relevant given the nature of disputes that often demand quick resolution and avoid protracted conflicts in the workplace. In practice, the dispute resolution mechanism through the Combined Process (Mediation-Arbitration) is often used in resolving international business contract disputes, commercial disputes, or conflicts that require a quick resolution but still prioritize peaceful resolution.

Theoretically, the Combined Process can be used by the parties to the dispute as long as it is based on an agreement between the parties to resolve the dispute to a third party who is independent and believed to be able to resolve the dispute between the parties (Kunard & Moe, 2015; LaGratta, 2015). The parties have private autonomy to express their will to resolve their disputes by Combined Process (Mediation-Arbitration) as long as it does not conflict with the UUPPHI which specifically regulates the settlement of industrial relations disputes.

The absence of provisions on dispute resolution through the Combined Process (Mediation-Arbitration) mechanism in Indonesia shows that the Indonesian legal system has not explicitly recognized this form of dispute resolution. The PPHI Law expressly separates the dispute resolution process through mediation as an alternative route before bringing the case to the Industrial Relations Court and the dispute resolution process through arbitration which is carried out based on a written agreement between the parties and its final and binding nature. This can raise questions about the validity and enforceability of dispute resolution results through the Combined Process mechanism, especially from the aspect of enforceability and legal certainty.

Not only the separation of the settlement process through mediation and arbitration, the authority to resolve types of industrial relations disputes is also regulated in the PPHI Law which states that mediation can resolve all types of industrial relations disputes, namely rights disputes, conflicts of interest, termination of employment disputes, disputes between trade unions/labor unions in only one company. Meanwhile, arbitration can only resolve two types of industrial relations disputes, namely conflicts of interest and disputes between trade unions/labor unions in only one company.

The real challenge of the division of authority is to resolve the four types of industrial relations disputes. Mediation can resolve all four types of disputes, but arbitration can only resolve conflicts of interest and disputes between trade unions/trade unions within only one company. If the dispute resolution cannot be carried out properly, the harmonization of relations in the work environment will be disrupted, disrupting productivity and hindering collaboration between workers, making it more difficult to achieve the desired common goals.

Therefore, the right regulatory apparatus is needed to ensure the successful settlement of industrial relations disputes and can satisfy the sense of justice of various parties, in this case the regulation of industrial relations dispute resolution through the Combined Process (Mediation-Arbitration) mechanism. If dispute resolution through the Combined Process mechanism is carried out now without any clarity on the governing law, there will also be ambiguity regarding the procedure, the limitations on the role of mediators and arbitrators, and the procedures for the transition from mediation to arbitration. Without a clear legal basis, the implementation of the Combined Process can only be carried out informally or based on the contractual agreement of the parties.

Some countries such as China, Singapore, and the United States have adopted and regulated dispute resolution through the Combined Process mechanism. The presence of such clear rules shows that dispute resolution through the Combined Process mechanism is not only possible to be implemented, but can be institutionalized through the right legal tools.

The settlement of a fair case requires proper arrangement or management during the process. This includes resolving cases through litigation and non-litigation. The settlement will run optimally if all related elements carry out their roles and responsibilities properly. Achieving harmony in law is not entirely easy, but it is also not entirely difficult. There is a challenge in realizing the ideal law where lies in the level of satisfaction of the parties involved in a dispute. On the other hand, the law is also expected to be able to develop along with the progress of the times in order to regulate various actions or behaviors that have the potential to cause conflicts.

Currently, Indonesia does not have a law that regulates the Settlement of Industrial Relations Disputes through the Combined Process (Mediation-Arbitration), but to resolve a dispute through mediation and arbitration separately has been regulated in the PPHI Law. It states that mediation can resolve all types of industrial relations disputes, while arbitration can only resolve these types of conflicts of interest and disputes between trade unions/trade unions in only one company. Therefore, if the current regulations are followed, Industrial Relations Dispute Resolution through the Combined Process (Mediation-Arbitration) mechanism can only be applied to resolve disputes of interest and disputes between trade unions/labor unions in only one company (Tyler & Lind, 2011).

This method of dispute resolution through the Combined Process (Mediation-Arbitration) provides two forms, namely, "the mediator functions as an arbitrator in the arbitration process", and the second form is the basic form of med-arb, which is "the full mediation process with the full arbitration process if the mediation process fails to resolve the entire dispute". The Combined Process takes the advantages of mediation and arbitration and combines them into a single settlement process or into a single forum. In other words, if the mediation process stops and does not reach a stage agreed upon by the parties, then the parties will proceed to the arbitration process which can produce a final and binding decision. The final result of the mediation process is in the form of written recommendations from the mediator. The end product of the two alternative methods of settlement is also different. The mediator issues a written recommendation that is administrative and does not have the power to be enforced, while the arbitrator in industrial relations arbitration has a settlement in the form of a final and binding court decision, in which case it has the force of law that can be submitted for execution.

A third party who previously acted as a mediator may become an arbitrator (if qualified) in the arbitration proceeding and promptly render an arbitral award. If the parties agree to proceed with the resolution of the dispute through arbitration, the mediator will then make a Memorandum of Agreement stating that they submit the resolution of the dispute to be resolved through arbitration. With a note in the memorandum, the results that have been achieved in the mediation process are also contained and will be complied with by the parties. In contrast to the memorandum of agreement in the traditional non-binding mediation process, the memorandum of agreement that has been prepared by the mediator in the Combined Process

(Mediation-Arbitration) is specifically made based on the agreement of the parties, so that it will bind the parties to the arbitration process.

The Industrial Relations Dispute Resolution Mechanism can be carried out through several variations. As previously explained, the variation of Industrial Relations Dispute Resolution through the Combined Process (Mediation-Arbitration) can be in the form of Mediation-Arbitration (pure) where there is one person appointed to carry out his role as a mediator as well as an arbitrator. The process begins with a mediation mechanism. If not all problems are resolved, it will be followed by an arbitration mechanism to decide unresolved problems. In the process, it is carried out by a third party who previously became a mediator and switched roles to an arbitrator. The advanced process of Industrial Relations Dispute Resolution through arbitration is focused on disputes that cannot be resolved in the settlement process through a mediation mechanism to resolve and decide the remaining problems.

In addition, variations of the Industrial Relations Dispute Resolution process through the Combined Process (Mediation-Arbitration) can also be carried out in the form of Mediation – Diff Arbitration. Like the form of Mediation – Arbitration (pure), if there are still problems that have not been reached by an agreement, then the remaining problems are continued in the arbitration process with the arbitrator. In contrast to the Mediation-Arbitration (pure) variation, in this variation the mediator and arbitrator authorized to carry out the Industrial Relations Dispute Resolution process are two different persons, who carry out their respective functions. One person as a mediator in the mediation process and the other is an arbitrator in the arbitration process. In this variation there is a complete separation of proceedings between mediation and arbitration.

The next variation is the Combined Process Mediation-Arbitration Difff Recommendation. In this variation, it is carried out by two people who carry out their respective duties as mediators and arbitrators. The Industrial Relations Dispute Resolution process begins with a mediation process with the mediator and if there are unresolved problems, the mediator submits recommendations to the arbitrator so that the case that is already known in the mediation process can be properly channeled.

Then there is also a variation of Industrial Relations Dispute Resolution through Combined Process Co-Mediation-Arbitration. It is still the same as the previous variation which was carried out by two people, namely the mediator and the arbitrator who carry out their respective duties, only in the early stages of Industrial Relations Dispute Resolution, the mediator and arbitrator jointly conduct a fact-finding hearing. After that, the settlement process enters and begins with mediation without an arbitrator, then continues with arbitration.

The next variation of Industrial Relations Dispute Resolution through Combined Procedure is Mediation-Opt-Out Arbitration. This variation was developed in Australia and in the process of implementation it began with mediation and arbitration as normal. However, if in its implementation there is one party who objects on the grounds that the third party who has been appointed does not resolve the dispute objectively, then there is an opportunity to appoint a new arbitrator.

The principle of legal justice is a basic principle in the state of law which also contains values to ensure that the law applies consistently and can provide protection for individual rights. The scale of justice varies greatly from place to place, each scale is defined and fully determined by the society according to the public order of that society.

In the context of Industrial Relations Dispute Resolution, this principle requires that the settlement process and results have a clear legal basis, fixed procedures, and legally enforceable decisions. Since in Indonesia itself there is no regulation on the procedure for Industrial Relations Dispute Resolution through Alternative Dispute Resolution Combined Process (Mediation-Arbitration), it will be difficult for the disputing parties to achieve legal justice if they want to resolve the case through the Combined Process (Mediation-Arbitration) mechanism. Legal justice is very crucial in industrial relations because it concerns the rights of workers and entrepreneurs, both of which are parties who have a strategic role in economic activities. A harmonious relationship between the two parties is very important to maintain. Therefore, every dispute resolution method must meet the requirements of legal justice so as not to cause new conflicts that can damage the order in industrial relations life.

The relevance between Industrial Relations Dispute Resolution through the Combined Process mechanism and this principle of legal justice is because this principle of legal justice is a fundamental principle in the Indonesian legal system, although the implementation of this Combined Process mechanism has several advantages and benefits and supports Industrial Relations Dispute Resolution to be more effective and efficient, but without clear legal rules governing the dispute resolution mechanism through this Combined Process, it will be vulnerable to causing legal uncertainty that ultimately prevents the achievement of legal justice. If there is no special regulation that regulates, then the parties have no guarantee of the enforceability of the results of the process. Therefore, the results of the implementation of the Combined Process dispute resolution (Mediation-Arbitration) can be said to ensure the achievement of legal justice or not depends on the extent to which this process can be carried out within a positive legal framework.

CONCLUSION

Indonesia's positive law lacks specific regulation on resolving disputes through the Combined Process (Mediation-Arbitration), meaning its use in industrial relations dispute resolution is not formally recognized and currently applies only informally or by party agreement. Despite this, the Combined Process offers an innovative approach that enhances dispute resolution efficiency while embodying legal justice principles through balanced, transparent mediation and fair arbitration. This mechanism promotes parties' satisfaction and strengthens harmonious industrial relations. Future research should explore legislative pathways and practical frameworks to formally integrate the Combined Process into Indonesia's legal system, including empirical studies on its effectiveness and challenges in real-world applications.

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