Advocacy Model for Combined Process (Med-Arbitration)-Based Resolution of Industrial Relations Conflicts Between Trade Unions and Businesses

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Abstract
In the process of settling labor-management conflicts, trade unions play a crucial role for employees, employers, and trade unions themselves. According to Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement, disputes about labor relations are settled through Bipartite, Tripartite (labor relations mediation, conciliation, and arbitration), and if non-litigation legal remedies (apart from arbitration) fail, the matter is then brought before the Industrial Relations Court. Due to its proven effectiveness in resolving commercial conflicts, the combined process (med-arb) idea is thought to facilitate dispute resolution in industrial relations problems. Two issues are addressed in this research: the idea of combined process (med-arb) as it applies to the resolution of labor-union disputes with employers and the idea of legal certainty in the process of using combined process (med-arb) to resolve labor-union disputes with employers.

1. Introduction

The freedom of assembly and association for employees in a trade union forum is guaranteed by the government. It is intended that through trade unions, employers would be made aware of workers' goals and that this will help to balance the relationship between employers and employees.1 This represents a potential avenue for enhancing labor relations inside the organization.

1 Asri Wijayanti, Hukum Ketenagakerjaan Pasca Reformasi (Jakarta: Sinar Grafika, 2014).
Employers and companies make up the nation's economic ring. There exist industrial ties between employers and employees in these kinds of businesses. But there are times when the working relationship between employers and employees is not harmonious. Conflicts might arise. Disputes that may arise in the employment connection between employers and employees are referred to as industrial relations disputes. Article 2 of Law No. 2 of 2004 about the Settlement of Industrial Relations problems (PPHI Law) lists the following categories of industrial relations problems: (a) conflicts of interest; (b) disputes about rights; (c) disputes regarding terminations (layoffs); and (d) disagreements between one trade union and another within a single corporation.

When employees and employers have divergent opinions on employment contracts or corporate policies, it can lead to rights disputes. The District / City Minimum Wage (UMK) issue is one instance where this is not by the Collective Labor Agreement (PKB). If the employer behaves contrary to the terms of the employment agreement, disputes of interest may arise. For instance, the employment contract calls for a pay raise after the employee works for six months, but the employer overrides the choice. Conflicts of interest can also arise from failing to provide for employees' basic requirements. For employees, disagreements about layoffs or termination of employment are the most delicate. Disagreements may arise if the layoff is not compliant with applicable regulations.

Upon receipt of records from one or more of the parties, the local labor agency shall offer the parties to agree on a settlement by conciliation or arbitration. If bipartite negotiations are unsuccessful, one or both parties register their dispute with the local agency responsible for labor, attaching evidence that attempts to resolve through bipartite negotiations have been made. The labor agency assigns the mediator to handle dispute resolution for all four categories of disputes if the parties cannot agree upon a settlement through conciliation or arbitration within seven (7) working days.

A formal prerequisite for resolving disputes in industrial relations is mediation. Compared to arbitration and conciliation, which are not able to handle all forms of industrial relations problems, mediation is a simple, quick, and affordable method of settlement that can settle all four types of disputes. Only interest disputes and disagreements between trade unions or trade unions in a single firm are resolved by arbitration in industrial relations, outside of the

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<https://doi.org/https://doi.org/10.33258/birci.v4i3.2463>. 
Industrial Relations Court (PHI), with written consent from the disputing parties.  

One of the procedures offered by PPHI Law and Law Number 22 of 1957 concerning Labor Dispute Settlement (PPP Law) is arbitration. A peaceful process or non-litigation option is offered by arbitration (outside the court). This indicates that the arbitration process employs a win-win approach in which both parties gain or succeed and is conducted by arbitrators or arbitrator teams operating outside of the legal system. Comparing the arbitration process to the judicial process in industrial relations courts, the parties can obtain a straightforward, expeditious, and affordable settlement. Arbitration is therefore a calm process that can maintain the parties' relationship and help them reach a peaceful agreement. Arbitration is a peaceful process that can be used to settle employment issues, but in practice, parties have never used arbitration to settle their differences because it was first governed by the PPP Law, which has since been superseded by the PPHI Law.

To create a consensus, disputes must be settled through thoughtful, bilateral conversations between the parties. If bipartite settlement, mediation, and consolation are unsuccessful, PHI dispute resolution is the last option. But in actuality, these duties on the side of the parties (employers and employees) are occasionally merely invoked as a formality. The parties decided to use PHI to settle labor conflicts. There are still a lot of issues and complaints with PHI's status as a special court within the main legal system that was established in tandem with the PPHI legislation.

In any interaction involving legal subjects both natural beings and legal entities conflicts or disputes frequently arise. The breadth of events and conflicts is expanding in tandem with the complexity of people's lifestyle patterns. Industrial relations problems are among the most common types of disputes. Conflicts over labor relations typically arise between employers and employees or between labor organizations and business organizations. The author of this essay focuses on the resolution of conflicts between businesses and trade unions.

This study aims to address the following issue: How is the notion of combined Process (Med-arb) utilized in settling labor-union conflicts with employers? And how definite is it legally that conflicts arising from labor-management relations between employers and unions will be settled through the combined procedure (med-arb)?

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2. Research Method

The researchers in this study employed a qualitative research design. Qualitative approaches are described by Bogdan and Taylor as research techniques that yield descriptive data in the form of people's spoken or written words and observable behavior. The study's descriptive verbal data rather than numerical data discusses the Settlement of Industrial Relations Disputes Between Trade Unions and Companies through a Combined Process (Med-Arbitration), which is why qualitative research was used in this investigation. Legal research is classified into two research paradigms, namely normative legal research and empirical legal research, which are important to understand when discussing legal science in general. Empirical legal research is the research model employed in this work. This study uses combined techniques used by multiple enterprises in North Sumatra as primary data to resolve labor relations conflicts between unions and companies, departing from actual behavior observed in field research locations. This is in line with Abdulkadir Muhammad's definition of empirical legal research, which states that real behavior obtained from field study locations serves as main data rather than written positive legislation (laws and regulations), which is used as secondary data. Therefore, legal research that aims to understand the law in its truest sense and investigates how the law functions in society is known as empirical legal research. The primary factor in qualitative research that determines where to find pre-study data is the study's location. The location of the research target is crucial to supporting the ability to deliver reliable information because it aids in determining the data collected. The SUMUT Disnaker Jalan Dormitory No. 143, the Medan City Manpower Office, located at Jalan K.H. Wd Hasyim No. 14, and the Manpower and Transmigration Office, located at Jalan Williem Iskandar No. 331, were the study's focal points. There has never been a study that addresses the Advocacy Model for Resolving Industrial Relations Disputes Between Trade Unions and Companies through Combined Process (Med-Arbitration), which is why the researcher selected this location for the study. Research data can be divided into two categories according to the source: Primary Data To further investigate the information gathered from earlier interviews, researchers also spoke with representatives from the North Sumatra Disnaker's industrial relations dispute resolution section, the Medan City Manpower Office, and the Manpower and Transmigration Office. Secondary data is information that researchers have gathered from a variety of already-existing sources. One can access secondary data from a number of sources, including books, journals, papers, and the Central Bureau of Statistics (BPS). Acceptable data collection procedures are necessary to provide acceptable

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6 Mamik, Metodologi Kualitatif (Surabaya: Zifatama Publisher, 2014).
7 Muhaimin, Metode Penelitian Hukum (Mataram: Mataram University Perss, 2020).
data, as they are a crucial component in the research process. It will be challenging for researchers to gather standard study data if they cannot collect data. To gather data for this study, researchers employ several methods, including interviewing.\(^8\) To make the features of the data easily understood and helpful for solving issues about research activities, data analysis techniques can be understood as a means of turning the data into information. The following are the steps involved in performing data analysis for this study; Data Reduction, Display Data, Conclusion drawing and verification.\(^9\)

3. Results and Discussion

The Concept of Combined Process (Med-Arb) in the Settlement of Industrial Relations Disputes Between Trade Unions and Employers

Workers' freedom to organize is an expression of their fundamental human rights, as stated in Article 28 of the 1945 Constitution's 4th Amendment. The legal ability to organize and establish trade unions is granted to laborers by the right of association. Both nationally and internationally, labor legislation and several international labor treaties control the establishment and operations of trade unions in industrial relations.\(^10\)

The proscription “every worker has the right to form and become a member of a trade union/trade union” found in Article 104 of Law No. 13 of 2003 regulating Manpower, serves as legal justification for the formation of trade unions. Workers express their concerns through trade unions. An organization that always takes into account the needs of its members is a trade union.

Due to the strong relationship between the interests of employers and employees, industrial relations frequently give rise to disagreements and even conflicts between the two sides. Layoffs, terminations of employment, and the unfulfilled rights of workers are some of the factors that lead to issues or disputes in labor-employer relations. However, disputes between two unions within a corporation due to members' dual membership can also result in industrial relations issues between workers themselves. Finding the best solution to issues or industrial relations disputes between employees and employers or employees with employees is vital since these conflicts occur frequently in the field of labor relations.\(^11\)

The parties may choose to involve a third party in the settlement, one supplied by the state or the parties themselves, if they are unable to resolve the

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dispute amicably. The judiciary is typically the formal forum offered by the state for the resolution of disputes in contemporary societies that are home to state-shaped public power institutions. The PPHI Law is one of several modifications that have been enacted in response to the Indonesian people's contemporary need for a normative settlement of industrial relations problems.12

The PPHI Law was created with the understanding that the community no longer needed Law Number 22 of 1957 concerning Labor Dispute Settlement and Law Number 12 of 1964 concerning Termination of Employment in Private Companies. However, in the age of industrialization, the problem of industrial relations disputes is growing more complex, necessitating the need for quick, accurate, equitable, and affordable institutions and mechanisms for resolving disputes in these areas. It is envisaged that the PPHI Law will enable the realization of Pancasila principles through harmonious, dynamic, and fair labor relations.

The idea that the PHI system lengthens the dispute resolution process and lacks legal certainty has led to criticism of PHI-based dispute resolution. The productivity of the company is disrupted as a result. Parties who object to PHI dispute resolution seek the repeal of the PHI Law and the establishment of appropriate regulations to govern industrial relations dispute resolution organizations that can implement a dispute resolution system that satisfies the requirements of being quick, easy, affordable, and capable of defending workers' rights to decent work and a living wage. The parties seeking the dissolution of PHI demonstrate that, insofar as there are enhancements or revisions to the determination of ad hoc committees, certainty of time, and certainty of execution, special courts for labor dispute resolution, such as P.4.P / P.4.D as governed by Law Number 22 of 1957, are quite ideal.

Not only must formal factors (procedures) be taken into account in industrial relations problems, but also material aspects (substance). For the PHI Law's procedures for settling PHI to be followed, they are as follows:

1. Bipartite Negotiations: These refer to discussions between two parties, such as employers and employees or trade unions. The parties create a collective agreement, which is then filed with the local PHI if bipartite negotiations result in a settlement agreement. The parties in dispute must follow the steps for resolving the Tripartite Negotiations if an agreement cannot be reached during the negotiating process.

2. Tripartite negotiation is the process of engaging in talks between employers and employees while using third parties to mediate the settlement of

protected health information. Arbitration, conciliation, and mediation are three methods of conducting tripartite talks.

a. A resolution through discussion mediated by one or more Ministry of Manpower mediators involves, among other things, disagreements over rights, interests, layoffs, and conflicts between trade unions within the same enterprise. If all parties agree during mediation, a collective agreement will be created and filed in PHI. If a compromise cannot be reached, the mediator will provide a formal suggestion. The recommendation is registered with PHI by the parties if it is approved. However, if any of the parties or just one of them rejects the suggestion, the party that does so may use PHI to bring a lawsuit against the other party.

b. Conciliation is the process of reaching a settlement through discussion mediated by a conciliator chosen by the parties. According to the PHI Law, the conciliator is a private intermediary employee rather than a Ministry of Agriculture official. Similar to a mediator, the conciliator works to bring the parties together and forge a compromise. The Conciliator also provides a product in the form of recommendations if an agreement cannot be reached.

c. A written agreement stating that the parties agree to submit the matter to the arbitrators can be used to resolve disputes between trade unions within a firm. A. Arbitration is the process of resolving conflicts outside of PHI regarding disputes of interest. The parties to the dispute will choose the arbitrators themselves from a list provided by the Minister of Manpower, and the arbitral ruling will be final and binding on them.

3. The Court of Industrial Relations. Parties have the option to sue the Industrial Relations Court if they reject the counsel of conciliators and mediators. The Industrial Relations Court’s responsibilities include receiving applications, carrying out Collective Agreement violations, and making decisions in PHI cases, including disputes involving layoffs.

The dispute will be settled through a mediation process if the parties cannot agree upon a course of action (conciliation or arbitration) within thirty days. Industrial relations mediation, also known as mediation, is the process of resolving rights disputes, interest disputes, termination disputes, and disputes between trade unions or trade unions within a single company through discussions mediated by one or more neutral mediators. A formal suggestion from the mediator is the end product of the mediation process. A collective agreement is created if the parties are satisfied with the mediation's outcomes. If one or both parties reject the mediation's outcome, the aggrieved party initiates a case with the Industrial Relations Court.

Unlike arbitration and conciliation, which are unable to address all forms of industrial relations conflicts, mediation is a full dispute resolution process that can settle all four categories of disputes quickly, easily, and affordably.
According to Article 8 of the PPHI Law, mediators stationed in each office of the agency in charge of district/city employment handle disputes through mediation. With all these benefits, mediation ought to be an effective method for settling labor conflicts.

In essence, employment arbitration is a form of arbitration used to settle disputes between labor unions and employers. Unlike arbitration and conciliation, which are unable to address all forms of industrial relations conflicts, mediation is a full dispute resolution process that can settle all four categories of disputes quickly, easily, and affordably. According to Article 8 of the PPHI Law, mediators stationed in each office of the agency in charge of district/city employment handle disputes through mediation. With all these benefits, mediation ought to be an effective method for settling labor conflicts.

Something about the working connection. These conflicts fall into two categories: (1) disputes of interest, which are disagreements between workers and trade unions acting as their representatives regarding the terms that should be included in an agreement known as a labor agreement; and (2) rights disputes or complaints, which are disagreements regarding the interpretation or implementation of the terms contained in a collective labor agreement.

Not every disagreement can, in general, be brought before an arbitrator. The arbitrator may only hear arguments about fully controllable subjective rights for the parties. This implies that arbitrators ought to be qualified to settle the range of conflicts covered by the PPHI Law. It raises concerns that the arbitration process's application to the resolution of labor disputes is restricted to conflicts of interest and disputes involving trade unions or trade unions inside a single corporation.¹³

Indonesian society has long had its ways of dealing with problems of dissent or disagreement. Dispute resolution carried out by the Indonesian people has diversity, but in principle, the Indonesian people use a deliberative system to reach a consensus. Combined process (med arbitration) is the settlement of disputes outside the court using more than one settlement mechanism or in other words a combination of two or more settlement mechanisms in one arbitration proceeding. Med-arbitration is a combination of mediation and arbitration. The parties jointly agree on a settlement in this manner, but authorize a neutral third party to decide if mediation is unsuccessful.

The existence of arbitration in Indonesia is very interesting to study its character because although it is often referred to as the adjudication process, it is a merger process between mediation and adjudication. The nature of adjudication is evident from the arbitrator's authority to make binding decisions for both parties to the dispute. The nature of mediation is seen that although the

arbitral award is binding and final, it remains in the hands of the disputing parties based on an agreement made before the arbitration proceedings began.\textsuperscript{14}

Dispute resolution with the concept of combined process (Med-Arbitration) is well known and developed in the field of international trade law. This concept is a new dispute resolution method that combines two dispute resolution methods into one settlement process. This merger concept is often called the Hybrid method. “Hybrid processes combine two different roles for the neutral. An example of a hybrid process is med/arb (mediation/arbitration). Where the third party neutral initially mediates between the parties and attempts to help the parties reach resolution. In the event the parties fail to resolve the dispute, the third party neutral will then assume the role of arbitrator and determine the outcome of the dispute on behalf of the parties”\textsuperscript{15}

The use of the Hybrid Method as a dispute resolution method in Indonesia is still very new, the Indonesian National Arbitration Board (BANI) only used its rules and procedures in 2006 although it developed them in 2003. The hybrid method used by BANI is Arb-Med-Arb. Some forms of hybrid process are combined mediation-arbitration, arbitration-mediation, and arbitration-mediation-arbitration. The author argues that the dispute resolution process using the combined Process (med-arb) method can also be carried out in resolving industrial relations disputes considering that the UU PPHI also regulates dispute resolution through mediation and arbitration. However, what needs to be remembered is that the use of this combined process (med-arb) must be agreed upon by the parties, both before the dispute occurs and when a dispute occurs, as well as in the case of choosing a mediator. Some argue that combined proceedings are better than pure arbitration, as Edna Sussman points out, quoting Dereck Roebuck "Everywhere in the Ancient Greek world, including Ptolemaic Egypt, arbitration was normal and in arbitration the mediation element was primary”.

The birth of this combined process began with the development of Alternative Dispute Resolution (ADR) in the United States which led to an increasing trend of international arbitration that became similar to litigation proceedings. This resulted in arbitration shifting into a legal remedy that can be said to be similar to litigation, including in terms of time and cost. The combined process has advantages because of the presence of mediators as well as arbitrators in one process. The implementation of the combined process in the settlement of industrial relations between trade unions and companies can be carried out in Tripartite Negotiations (mediation, conciliation, and arbitration). If


usually the settlement of this dispute is carried out by one method by one, in the combined process this settlement can be done simultaneously between mediation and arbitration. According to Priyatna Abdurrasyid, a non-litigation dispute resolution that can satisfy the parties can be done through a combined process of dispute resolution techniques/mechanisms. The combination of several APS mechanisms aims to save energy, time, and costs and can ensure the sustainability of contract implementation, namely by using preliminary mechanisms, namely mediation or conciliation and determination from experts or expert evaluation. Where either mechanism turns out to be unsuccessful, it may proceed by arbitration limited to a time fixed by law or provision whose final award is final and binding.\textsuperscript{16}

A combined process is usually done in resolving business disputes. However, the authors argue that this combined process can also be carried out in the settlement of disputes between unions and companies because arrangements regarding mediation and arbitration are already mentioned in the UU PPHI. According to Article 8 of the UU PPHI, "Dispute resolution through mediation is carried out by mediators located in each office of the agency responsible for the field of employment of the District/City". And according to Article 30 of the UU PPHI, it is stated that "The arbitrator authorized to resolve industrial relations disputes must be arbitrators who have been determined by the Minister". If the combined process is applied in the dispute resolution of trade unions and companies, the responsible agency in the district/city may also cooperate with arbitrators who have been determined by the Minister to carry out the arbitration process if the mediation process is not carried out. This method of dispute resolution through the combined process (med-arb) 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 "a full mediation process with a full arbitration process if the mediation process fails to resolve the entire dispute". The combined process (med-arb) takes the advantages of mediation and arbitration and combines them into one settlement process or one forum. In other words, if in the mediation process, the business stops and does not reach a stage agreed upon by the parties, then the parties will proceed to arbitration proceedings that can produce a final and binding decision.

A third party who has previously acted as a mediator may become an arbitrator (if qualified) of the arbitration proceedings and promptly render the arbitral award. If the parties agree to proceed with dispute resolution through arbitration, the mediator will then create a memorandum of agreement stating they submit their dispute resolution to be resolved by arbitration. With the note in the memorandum also stated the results that have been achieved in the

\textsuperscript{16} Daniel Ritonga, Achmad Fitrian, and Gatut Hendro, ‘Execution Of Decisions Of The Industrial Relations Court With Permanent Legal Force (INKRACHT)’, \textit{Policy, Law, Notary and Regulatory Issues (POLRI)}, 1.3 (2022), 35–44.
mediation process and will be obeyed by the parties. Unlike the memorandum of agreement in the traditional mediation process which is not binding, the memorandum of agreement that has been prepared by the mediator in the combined process (med-arb) is specifically made based on the agreement of the parties, so that it will bind the parties to the arbitration process.17

The Concept of Legal Certainty for Settlement of Industrial Relations Disputes Between Trade Unions and Employers through a Combined Process

The concept of resolving industrial relations disputes between trade unions and companies through the combined process (med-arbitration) has contributed to the role of dispute resolution in the field of civil procedural law, especially in the legal policy of industrial relations dispute resolution. This dispute resolution concept is expected to provide a new concept in the settlement of industrial relations disputes so that interested parties / disputants get a win-win solution and legal certainty.

The existence of the Industrial Relations Court as a special court under the general judicial environment established in conjunction with the existence of the PPHI Law in fact still draws criticism and problems. The issue of dispute resolution of industrial relations disputes is considered to still not facilitate workers’ rights. Workers expect the right rules to regulate industrial relations dispute resolution institutions that can realize a settlement system that meets the criteria of fast, simple, low-cost, so legal policies are needed to resolve them. As explained earlier, since the enactment of the PPHI Law, institutions that handle the settlement of industrial relations disputes consist of: bipartite, mediation, conciliation, arbitration, and the Industrial Relations Court (PHI). In accordance with the provisions of Article 1 Number 1 of the UU PPHI, if there is no agreement between the parties to the dispute, as one of the efforts that can be done by the parties before the case reaches PHI, the Mediation Institution can be used. Cases handled by mediation institutions are rights disputes, interest disputes, Termination of Employment (PHK) disputes, and disputes between trade unions or trade unions in only one company. Mediators in the context of resolving cases mediate or become peacemakers who can mediate in the settlement of industrial relations disputes.18

Based on the UU PPHI, what is meant by Industrial Relations Mediation, hereinafter referred to as mediation, is the settlement of rights disputes, interest disputes, termination disputes, and disputes between trade unions / trade unions in only one company through deliberation mediated by one or more

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neutral mediators, and referred to as Industrial Relations Mediators hereinafter referred to as mediators are employees of government agencies who are responsible in the field of labor that meets the requirements as a mediator determined by the Minister to be in charge of mediating and has the obligation to provide written advice to the disputing parties to resolve rights disputes, interest disputes, termination disputes, and disputes between trade unions / trade unions in only one company. Industrial Relations Arbitration, hereinafter referred to as arbitration according to the UU PPHI, is the settlement of a dispute of interest, and disputes between trade unions / trade unions in only one company, outside the Industrial Relations Court through a written agreement from the disputing parties to submit the dispute resolution to the arbitrator whose decision is binding on the parties and is final. Meanwhile, the Industrial Relations Arbitrator arbitrator, hereinafter referred to as an arbitrator, is one or more selected by the disputing parties from the list of arbitrators determined by the Minister to render an award on disputes of interest, and disputes between trade unions / trade unions in only one company submitted for resolution through arbitration whose decision is binding on the parties and is final.

The application of combined process (med-arb) in the settlement of industrial relations disputes between trade unions and companies is very possible because there is already a legal umbrella as its basis, namely Law No.48 of 2009 concerning Judicial Power, namely Article 38 paragraphs (1), (2), which reads: (1) "In addition to the Supreme Court and its subordinate judicial bodies and the Constitutional Court, there are other bodies whose functions are related to judicial power". (2) "Functions related to judicial power as referred to in paragraph (1) include out-of-court settlements".19

Theoretically, 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 an independent third party and is believed to be able to resolve the dispute between the parties. The parties have private autonomy to express their will to resolve their disputes by combined process (med-arb) as long as it does not conflict with the UUPPHI which specifically regulates the settlement of industrial relations disputes.

The use of combined process (med-arb) in resolving industrial relations disputes is not a necessity can be applied by trade unions and companies, although usually combined process (med-arb) is often used in trade/business disputes. The advantages of combined process (med-arb) include: 1. Provide a final decision: Combined process (med-arb) can promise parties a final and binding outcome on issues that cannot be resolved through mediation. The primary nature of combined proceedings (med-arb) is in the certainty of its final

19 Dian Siska Pertiwi, Ahmad Toni, and April Laksana, ‘The Role Of The Spn Trade Union Leader In Resolvingan Conflict Between Workers And The Leader Of PT. Parkland World Indonesia’, Jurnal Ekonomi, 11.3 (2022), 792–796.
award, which is the very nature of arbitration. 2. Combined process (med-arb) provides a forum to resolve industrial relations disputes so as to achieve time effectiveness. In addition, it is measurable and more cost effective than the settlement method by arbitration alone or through the Industrial Relations Court. Combined Process (MED-ARB) can save time and money because mediation and arbitration are combined in one sequential and separate stage. First, if at the mediation stage is unable to get an agreement, then the parties and their lawyers do not need to look for other parties who are certainly not familiar with the dispute and they can also prepare for the arbitration process. Second, issues in disputes are often limited during the mediation stage and progress from the process can be directly brought over to arbitration proceedings. Arbitral awards only resolve disputes that are not resolved through mediation, so if there is a partial dispute that has been agreed upon by the parties with a memorandum of agreement, it will no longer be resolved by arbitration. 3. Flexibility in the process can help resolve disputes: The flexibility inherent in combined processes (med-arb) allows the process to be made suitable for resolving disputes at hand. Although not necessarily all types of industrial relations disputes will be resolved by combined process (med-arb), the combined process (med-arb), at least can contribute to the settlement of industrial relations disputes between trade unions and companies that contain the principle of legal certainty, the principle of expediency, and the principle of justice for the parties to the dispute.20

As described above, the mediation institution functions to mediate in the context of resolving industrial relations dispute cases in the District/City labor agency. Juridically the function of the mediation institution is weak, because the mediator's opinion in the form of advice is not binding on the parties, and the parties can reject it. So mediation is purely administrative. Conditions like this tend to be used by employers to be passive on the advice of mediators, and as a result force workers/workers who are interested in solving cases, so that position of workers/workers as interested parties to file cases. Reality shows that it is rare for claims of PHI to be filed by employers, including layoff lawsuits.

Based on this, the rationale is that ideally the settlement of industrial relations cases is at the tripartite level, not only by mediation but the tripartite level can be done at once in two processes / combined process (med-arb) to press cases to the Industrial Relations Court. In addition, a combined process (med-arb) in the settlement of industrial relations disputes can create legal certainty because the parties (trade unions and employers) have a balance in terms of freedom to choose arbitrators. Therefore, the role of the government to realize the process of resolving industrial relations disputes in a fair, fast, cheap, and legal certainty is very important.

Legal certainty is one of the conditions that must be met in law enforcement. The essence of legal certainty is protection from arbitrary actions, not only from

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20 Shinta Oktafien and others, ‘Systematic Literature Review: Implementation Of Dispute Settlement Methods Between Trade Unions And Companies In Indonesia’, DEVOTION: Journal of Research and Community Service, 4.7 (2023), 1531–44.
the state but also from a group of other parties. In understanding the value of legal certainty, it must be noted that the value has a close relationship with positive legal instruments and the role of the state in actualizing it in positive law. Some requirements to support the needs in resolving labor disputes in the field of labor in Indonesia, among others: 1. Legal protection of the basic rights of parties, workers, and employers; 2. Freedom and equality for the parties throughout the dispute resolution process; 3. More legal protection for the weak, i.e. workers, to achieve freedom and legal equality; 4. Maintain harmony in employment relations; 5. Provide a simple, fast, and inexpensive procedure; 6. Ensure legal certainty in the implementation of dispute decisions; 7. Provide an opportunity for the parties to reach peace during the dispute resolution process.

The UU PPHI has provided the benefit of legal certainty, especially the provision in the law that guarantees the execution of judgments. If the parties have agreed to accept the combined process (med-arb) decision, and have signed a joint agreement against the decision, the parties can apply for execution at the Industrial Relations Court. However, it is difficult when talking about legal certainty because legal certainty describes the compatibility between what is regulated and compensation if there is a violation of the rule. Legal certainty speaks of justice and morals. In addition, talking about legal certainty, definitely talking to law enforcement, and who gives legal certainty itself. Referring to the theory of positivism, the institution that can provide legal certainty is the state as stated by John Austin, Law is a command set, either directly or circuitously, by a sovereign individual or body, to a member of members of some independent political society in which his authority is supreme, namely: emphasizing that the law is the product of a predetermined person, thus making it the source of command or command, which is further assumed later, that the command or order is an expression of the will of several people, who are the ruling group, and further lays the foundation of the sovereignty of lawmaking lies with the state (ruler).

4. Conclusion

The concept of combined process (med-arb) applied in the settlement of industrial relations disputes between trade unions and employers can be done because the UUPPHI also regulates arbitration and mediation. Combined process (med-arb) can provide time effectiveness, and measurable costs and is more effective than the settlement method by arbitration alone or through the

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Industrial Relations Court. Settlement of industrial relations disputes between unions and employers through a combined process (med-arb) can provide legal certainty because the decision can be the parties and can be executed in the Industrial Relations Court.

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