



THE URGENCY OF ARBITRATION FAILURE: RECONCEPTUALIZING THE CONSTRUCTION OF INDUSTRIAL RELATIONS ARBITRATION

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ABSTRACT

Industrial relations arbitration remains limited and has not yet become a primary option for disputing parties. The purpose of this study is to reconceptualize Industrial Relations Arbitration with a focus on procedural and institutional reform. This study begins with more fundamental principles, taking into account the dimensions of worker protection and the urgent need for institutional restructuring of Industrial Relations Arbitration. The research method used is doctrinal legal research with a prescriptive-analytical approach, combining conceptual, legal, and case-based approaches. The findings reveal several problems, such as the limited scope of disputes that can be submitted and the scarcity of qualified arbitrators. The reconceptualization of Industrial Relations Arbitration offers a solution by expanding the absolute competence of arbitration forums to cover all types of labor disputes. This will optimize the forum for resolving disputes between employers and workers as well as conflicts between trade unions. Furthermore, restructuring the institutional framework of Industrial Relations Arbitration is crucial. The establishment of a competent and independent arbitration body will increase the attractiveness and quality of dispute resolution, with the fundamental principle of maintaining harmonious and sustainable industrial relations.

1. Introduction

Industrial relations, at its core, examines the behavior of workers within organized groups, though its definition spans from narrow workplace rule-

making to a broader reflection of societal power struggles^{1,2}. Recently, the field has transitioned from a strictly institutional focus on governance to a more holistic approach that analyzes how shifting economic and social landscapes influence the interactions between labor, management, unions, and the state³. Consequently, mastering this discipline requires an interdisciplinary lens—drawing from law, economics, sociology, and psychology—to navigate its complexities while maintaining its status as a distinct and rigorous area of academic study⁴.

In the study of law, the term industrial relations is found in three Indonesian laws: (1) Law No. 25 of 1997 on Manpower, (2) Law No. 13 of 2003 on Manpower, and (3) Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes. An industrial relations dispute refers to a difference of opinion that results in a conflict between employers or groups of employers and workers/laborers or trade unions/labor unions, arising from disputes over rights, interests, termination of employment, or disputes between trade unions/labor unions within the same company.⁵

From the perspective of legal subjects, there are two types of industrial relations disputes: (1) disputes between employers or employer associations and workers or trade unions, and (2) disputes between trade unions within the same company. The first category consists of (a) disputes over rights, (b) disputes over interests, and (c) disputes over termination of employment. The second category consists solely of disputes between trade unions within a single company. Accordingly, based on Article 1, paragraph 1 of Law No. 2 of 2004, there are four types of industrial relations disputes: (1) disputes over rights, (2) disputes over interests, (3) disputes over termination of employment, and (4) disputes between trade unions within one company.

Resolving industrial relations disputes is crucial to maintaining stability and harmony between workers and employers.⁶ Disputes that arise whether regarding rights, interests, termination of employment, or between trade unions in the same company require effective and efficient mechanisms for resolution. One of the alternative mechanisms offered is arbitration, as regulated under Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes.⁷

1 Greg J. Bamber and Russell D., Lansbury, *International and Comparative Industrial Relations: A Study of Developed Market Economies*, *International and Comparative Industrial Relations: A Study of Developed Market Economies*, 1st Edition, London: Taylor and Francis, 2024

2 Ralph Darlington and Stephen Mustchin., The Role of the TUC in Significant Industrial Disputes: An Historical Critical Overview, *Labor History*, Vol.60 No.6, November 2, 2019, page. 626–45

3 Sarah Kaine and Emmanuel Josserand., The Organisation and Experience of Work in the Gig Economy, *Journal of Industrial Relations*, Vol.61 No.4, September 1, 2019, page. 479–501

4 Fang Lee Cooke, Jiuping Xu, and Huimin Bian., The Prospect of Decent Work, Decent Industrial Relations and Decent Social Relations in China: Towards a Multi-Level and Multi-Disciplinary Approach, *International Journal of Human Resource Management*, Vol.30 No.1, January 2, 2019, page. 122–55

5 Eigen Justisi et al., Industrial Relations Dispute Resolution Reform in Court: A Review of Structural and Substantial Weaknesses in Law Number 2 of 2004, *International Journal Of Humanities Education and Social Sciences (IJHESS)*, Vol.3 No.6, June 16, 2024, page. 2808–1765

6 Sunday S. Ifah and Abdullahi Bashir Idris., An Overview of Industrial Conflict and Its Challenges to National Development, *IFE Psychologia*, Vol.29 No.1, July 21, 2021, page. 105–13

7 Bambang Yunarko., Penyelesaian Perselisihan Hubungan Industrial Melalui Lembaga Arbitrase Hubungan Industrial, *Perspektif: Kajian Masalah Hukum Dan Pembangunan*, Vol.16 No.1, January 27, 2011, page. 52–58

Arbitration, as a dispute resolution forum, is considered capable of providing a faster, more flexible, and confidential forum for dispute resolution compared to formal judicial processes.⁸ Generally, arbitration in Indonesia is governed by Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. The enactment of Law No. 30 of 1999 was an effort to respond to the increasing pace and complexity of societal dynamics in managing commercial conflicts in terms of volume and nature.

While arbitration is globally recognized as a cornerstone of industrial relations for its ability to balance efficiency with equitable outcomes, its application within Indonesia remains disproportionately low⁹. This hesitance to adopt arbitration stems from a complex interplay of structural and cultural barriers, primarily a widespread lack of legal literacy and a profound skepticism regarding the impartiality and professional rigor of available arbitrators [2]. Furthermore, the inconsistent enforcement of existing labor regulations undermines the perceived reliability of the arbitral process. As a result, despite the potential for quicker and more flexible resolutions, Indonesian stakeholders—both labor and management—consistently default to the more rigid, time-consuming pathways of Mediation and the Industrial Relations Court. This reliance on formal litigation suggests that, until systemic trust and regulatory clarity are improved, arbitration will continue to be an underutilized tool in Indonesia's dispute resolution landscape¹⁰.

The persistent preference for the Industrial Relations Court (PHI) over arbitration creates a significant bottleneck in the Indonesian labor justice system. While Mediation and the Court are seen as more "official," they are often criticized for being overly formalistic, time-consuming, and adversarial, which can permanently damage the relationship between employers and employees. Unlike arbitration, which allows parties to select experts with specific industry knowledge to preside over the case, the judicial route often relies on a rigid legalistic approach that may overlook the nuanced socio-economic realities of a particular workplace. Consequently, the reliance on the Court not only delays justice but also increases the financial and emotional costs for both parties, further straining the industrial climate. For arbitration to transition from a secondary option to a primary mechanism in Indonesia, a multi-faceted reform of the current institutional framework is required. This involves not only strengthening the legal literacy of labor unions and management through targeted education but also enhancing the transparency and certification standards for arbitrators to build public trust. If the government and professional associations can demonstrate that arbitration offers a neutral, expert-led, and legally binding alternative that is consistently upheld by the state, it could alleviate the current over-reliance on the judiciary.

8 Alexander J.S. Colvin and Mark D. Gough., Mandatory Employment Arbitration. *Annual Review of Law and Social Science*, Vol. 19, 2023, October 5, 2023, page.131–44;

9 Walman Gultom, Teuku Syahrul Ansari, Indra Koswara, Margo Hadi Pura, et al., Peranan Arbitrase Dalam Penyelesaian Perselisihan Hubungan Industrial Implikasi, Keuntungan Dan Kelemahan, *Jurnal Ilmiah Wahana Pendidikan*, Vol.9 No.25, December 28, 2023, page.894–902

10 Mila Karmila Adi., Masa Depan Arbitrase Sebagai Mekanisme Penyelesaian Perselisihan Hubungan Industrial Di Indonesia, *Jurnal Hukum Ius Quia Iustum*, Vol.17 No.2, April 10, 2010,page.295–316,

Ultimately, fostering a culture of "consensus-based" dispute resolution—rather than "litigation-based"—is essential for creating a more stable and competitive industrial relations environment in Indonesia.

A reconceptualization of the role of arbitration in industrial relations in Indonesia is necessary. Several models have been proposed, including the combination of mediation and arbitration, known as "med-arb." As arbitration have its challenges¹¹, the combined approach is believed to be more effective and efficient by leveraging the advantages of both forum.¹² According to Mantili,¹³ the med-arb concept can be applied to resolve industrial relations disputes between trade unions and employers to enhance time efficiency in dispute resolution and ensure legal certainty. The combined process (med-arb) dispute resolution method has been recognized and developed in international commercial law.¹⁴ This concept constitutes a new dispute resolution method integrating two mechanisms into a single process. This combination is often referred to as a hybrid method.¹⁵ An example of a hybrid process is med-arb (mediation/arbitration), where the neutral third-party mediates the parties and attempts to assist them in resolving the issue. If mediation fails, the third-party assumes the arbitrator role and renders a binding decision on the dispute.¹⁶

This combined process presents two forms: the first is when the mediator also serves as the arbitrator in the arbitration process, and the second is the basic form of med-arb, in which a full arbitration process follows a full mediation process if mediation fails to resolve the entire dispute. The combined process capitalizes on the strengths of mediation and arbitration and merges them into a single resolution process or forum.¹⁷ In other words, if the mediation effort stalls and fails to achieve an agreement, the parties will proceed to arbitration, which can yield a final and binding decision.¹⁸

Research conducted by Rini Eka Agustina states that due to legal uncertainty, arbitration decisions may be more difficult to predict than court decisions. This is because arbitrators are not always bound by legal precedent, and the decisions they make may be less legally structured. Appeal procedures in arbitration are limited and more difficult to implement compared to the appeals

11 Ricky Tan Seng Cheong, Jeong Chun Phuoc, and S M Ferdous Azam., Arbitration In China And Asean: Issues And Challenges, *Russian Law Journal*, Vol.11 No.9s, April 7, 2023, page.9

12 Wesam S Alaloul, Mohammed W Hasaniyah, and Bassam A Tayeh., A Comprehensive Review of Disputes Prevention and Resolution in Construction Projects, accessed March 5, 2026

13 Rai Mantili., Konsep Penyelesaian Perselisihan Hubungan Industrial Antara Serikat Pekerja Dengan Perusahaan Melalui Combined Process (Med-Arbitrase), *Jurnal Bina Mulia Hukum*, Vol.6 No.1, September 2021, page.47–65

14 Carrie Menkel-Meadow., Hybrid and Mixed Dispute Resolution Processes: Integrities of Process Pluralism, *Comparative Dispute Resolution: Research Handbooks in Comparative Law*, January 1, 2020, page. 405–23

15 David Tan., The Singapore Convention on Mediation to Reinforce the Status of International Mediated Settlement Agreement: Breakthrough or Redundancy?, *Conflict Resolution Quarterly*, Vol.40 No.4, May 1, 2023, page.467–82

16 G. Barbieri., Alternative Dispute Resolution Center Manual : Guide for Practitioners on Establishing and Managing ADR Centers, 2011.

17 Samet Tatar and Nozimbek Shavkat ugli Dilboboev., Means Of International Investment Dispute Resolution, *Анализ Законодательства Узбекистана*, Vol.17 No.4, 2024, page.38–41

18 Meifi Meilani Paparang., Penyelesaian Perselisihan Hubungan Industrial Melalui Arbitrase Menurut Undang-Undang Nomor 2 Tahun 2004, *Lex Administratum*, Vol.3 No.8, November 11, 2015

process in court. These limitations can leave arbitration decisions that cannot be adequately reviewed.¹⁹ Furthermore, research conducted by Walman Gultom et al. states that arbitration has an important role in resolving industrial relations disputes outside the courts, but arbitration also requires attention, such as limited opportunities for appeal, lack of transparency, the risk of arbitrator bias, and the lack of formality in the process. Therefore, the decision to use arbitration must be carefully considered and based on the specific circumstances of each case. In the context of industrial relations dispute resolution, arbitration can be an effective and efficient alternative if chosen wisely and if the process is carried out with integrity.²⁰ Research conducted by Ahmad Hunaeni Zulkarnaen et al. states that industrial relations disputes are resolved through arbitration, and once an arbitration decision is made, the decision is final and binding so that no further lawsuits can be filed. Only efforts to annul the decision can be made to the Supreme Court within 30 days after the decision is issued, as stipulated in Article 52 of the Industrial Relations Dispute Settlement Law. Efforts to resolve industrial relations disputes, such as non-litigation, namely bipartisanship, mediation, conciliation, and arbitration, must be attempted first. If these efforts fail, the settlement of industrial relations disputes is carried out through litigation, namely through the Industrial Relations Court. The Industrial Relations Court only has the right to process cases related to industrial relations disputes. The Industrial Relations Court is also defined as a place to resolve cases related to employment.²¹

This research proposes that reconceptualization should not be limited to procedural reform but must begin with more fundamental principles, considering the dimension of worker protection and the urgency of restructuring the institutional framework of Industrial Relations Arbitration. This implies the need for a renewed understanding, approach, and strategy in implementing arbitration that aligns more closely with modern labor relations dynamics and disputing parties' needs. This reconceptualization is expected to establish Industrial Relations Arbitration as the primary mechanism for resolving industrial disputes that is more implementable, effective, and reliable.

This study aims to formulate a reconceptualization of industrial relations arbitration in developing a more effective, accessible, and attractive dispute resolution mechanism in the industrial relations system. This study focuses on critically examining the conceptual basis of industrial relations arbitration as regulated in Law No. 2 of 2004 concerning the settlement of industrial relations disputes and seeks to identify and analyze normative and practical deficiencies in the existing regulatory framework.

19 Rini Eka Agustina., Effectivness of Arbitration as a Settlement of Disputes, *Ethics and Law Journal: Business and Notary (ELJBN)*, Vol.2 No.1, 2024, page. 263-272

20 Walman Gultom et.al., Peranan Arbitrase dalam Penyelesaian Perselisihan Hubungan Industrial Implikasi, Keuntungan dan Kelemahan, *Jurnal Ilmiah Wahana Pendidikan*, Vol.9 No.25, 2023, page.894-902

21 Ahmad Hunaeni Zulkarnaen, Akbar Sanjaya., The Authority of the Industrial Relations Court in Resolving Labour Disputes in Indonesia, *International Journal of Social Science and Human Research*, Vol.07 Issue.11, November 2024, page. 8635-8640

2. Research Methods

This study used doctrinal legal research methodology²² with a prescriptive-analytical orientation to critically examine the normative design and institutional configuration of Industrial Relations Arbitration in Indonesia. The research integrated three interrelated approaches. First, a conceptual approach is employed to interrogate the theoretical foundations of arbitration within industrial relations, particularly in relation to access to justice, worker protection, and the normative positioning of arbitration in the architecture of labor dispute resolution. This approach enables the articulation of an analytical framework for evaluating the appropriateness of arbitration as a forum for resolving employment disputes. Second, a statutory approach is utilized to systematically analyze the prevailing legal framework governing industrial relations arbitration, primarily the Law concerning the Settlement of Industrial Relations Disputes and its related implementing regulations, with the aim of identifying normative limitations, and structural deficiencies. Third, a case-based approach is undertaken through an analysis of the Industrial Relations Arbitration process in the rights dispute involving PT Freeport Indonesia (2014–2015), which demonstrates how non-compliance with statutory requirements in the constitution of the arbitral panel results in the absence of a legally recognized arbitration forum. The case illustrates that an arbitral body formed outside the framework mandated by law lacks legal existence, rendering its decision incapable of being characterized as an industrial relations arbitration award and reducing it, in legal effect, to a private agreement comparable to the outcome of bipartite negotiation. This case provides a concrete basis for diagnosing institutional barriers that impede the effective use of arbitration. The integration of these approaches provides a coherent normative basis for proposing a reconceptualization of Industrial Relations Arbitration oriented toward procedural renewal and institutional reform

3. Results And Discussion

3.1 The Conceptual Issues of Industrial Relations Arbitration Board Regulation

Industrial relations disputes and commercial disputes possess distinct characteristics in terms of legal context and resolution mechanisms.²³ Industrial relations disputes typically involve workers and employers within the framework of employment relationships,²⁴ focusing on workers' rights, working conditions, and termination of employment. Employers or companies are integral components of the national economic machinery.²⁵ Within these companies,

22 Andri Winjaya Laksana et al., The Liability of Criminal Law for Perpetrators of Goods Embezzlement, *Journal of Justice Dialectical* Vol.2 No.2, December 18, 2024, page. 70–83

23 Martin Behrens et al., Systems for Conflict Resolution in Comparative Perspective, *ILR Review*, Vol.73 No.2, March 1, 2020, page. 312–44

24 Helena Bulińska-Stangrecka and Anna Bagieńska., The Role of Employee Relations in Shaping Job Satisfaction as an Element Promoting Positive Mental Health at Work in the Era of COVID-19, *International Journal of Environmental Research and Public Health* 2021, Vol.18 No.4, February 16, 2021, page. 1–19

25 Ellyna Putri Nugraha, Agus Mulya Karsona, and Holyness Singadimedja., Aspek Hukum Hubungan Industrial Terkait Aksi Mogok Kerja Oleh Serikat Pekerja Di Pt. Ultrajaya Milk Industry & Trading Company, *Jurnal Poros Hukum Padjadjaran*, Vol.2 No.1, November 30, 2020, page. 56–73

industrial relations exist between employers and workers. However, the relationship between employers and workers does not always proceed harmoniously. Disputes may arise within the employment relationship, which are referred to as industrial relations disputes.²⁶

According to Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, such disputes may include disputes over rights, interests, termination of employment, and disputes between trade unions within a single company.²⁷ The resolution of these disputes is regulated through a tiered mechanism comprising bipartite negotiations, tripartite mechanisms (mediation, conciliation, arbitration), and proceedings at the Industrial Relations Court.²⁸ Conversely, commercial disputes occur between business entities in trade transactions or contracts. These disputes often concern breaches of contract, non-performance, or disagreements over the interpretation of contract clauses. The resolution of commercial disputes generally involves arbitration or litigation in general courts, emphasizing principles of civil law and the freedom to contract. The fundamental differences between these two types of disputes lie in the subjects involved, the objects of the dispute, and the underlying legal basis.²⁹ Industrial relations disputes emphasize protecting workers' rights and social interests, while commercial disputes focus on economic and business interests between private parties.³⁰ The Regulation of arbitration establishes a multi-tiered and flexible dispute resolution system, beginning with bipartite negotiations, followed by mediation, conciliation, arbitration, and ultimately court proceedings. Among these mechanisms, arbitration is the only voluntary dispute resolution forum that results in a final and binding decision, with no further legal remedies such as appeal or cassation available.

Article 1 point 16 of Law No. 2 of 2004 defines arbitration as the resolution of interest disputes and/or disputes between trade unions within a single company outside the court system through a decision made by an arbitrator.³¹ This means that arbitration cannot be applied to all industrial relations disputes; it is limited to interest disputes (such as disputes over the content of collective labor agreements) and disputes between trade unions within a single company.³² The

26 Harintian Abidin And A. Aco Agus., Peranan Serikat Pekerja Dalam Penyelesaian Perselisihan Hubungan Industrial (Studi Pada Serikat Pekerja Pt. Pln (Persero) Wilayah Sulselrabar), *Jurnal Tomalebbi*, No.2, June 16, 2017, page. 183–98

27 Alfath Sartanto, Aristya Windiana Pamuncak, and Marisa Kurnianingsih., Settlement of Industrial Relations Disputes Through Peace Agreements, *Proceedings of the International Conference on Community Empowerment and Engagement (ICCEE 2021)*, Vol.661, May 9, 2022, page. 263–71

28 Andika Dwi Yuliardi and Imam Budi Santoso., Upaya Arbitrase Dalam Penyelesaian Perselisihan Hubungan Industrial Didasarkan Adanya Kesepakatan Para Pihak, *Perspektif Hukum*, Vol.22 No.1, May 13, 2022, page. 139–65

29 Siti Aminatus Sa'diyah, Anis Fitria, and Samsul Huda., Perbedaan Antara Mediasi Dan Kosiliasi Dalam Penyelesaian Sengketa: Perbedaan Antara Mediasi Dan Kosiliasi Dalam Penyelesaian Sengketa, *Justness: Jurnal Hukum Politik Dan Agama*, Vol.5 No.1, May 1, 2025

30 Muhammad Mahendra et al. Penerapan Teori Kemanfaatan Arbitrase Sebagai Alternatif dalam Penyelesaian Perselisihan Hubungan Industrial, *Justlaw: Journal Science and Theory of Law*, Vol.2 No.01, May 7, 2025, page. 73–86

31 Ni Wayan Seniasih et al., Penyelesaian Sengketa Ketenagakerjaan Diindustri Perhotelan Melalui Arbitrase Dan Mediasi, *Nusantara Hasana Journal*, Vol.5 No.4, September 30, 2025, page. 128–56

32 Rai Mantili., Konsep Penyelesaian Perselisihan Hubungan Industrial Antara Serikat Pekerja Dengan Perusahaan Melalui Combined Process (Med-Arbitrase), *Jurnal Bima Mulia Hukum*, Vol.6 No.1, 2021, page. 47–65

other two types disputes over rights and disputes arising from the termination of employment must be resolved through the Industrial Relations Court and are not eligible for arbitration.

Interest disputes under the jurisdiction of industrial relations arbitration are also known as *belangen geschil*, which arise from differences in understanding regarding changes in working conditions or labor relations.³³ This contrasts with rights disputes stemming from disagreements over implementing the employment relationship. Meanwhile, disputes between trade unions within a single company refer to disputes between one trade union and another within the same company, which may arise due to disagreements over membership and the implementation of the rights and obligations of trade unions.

The dispute resolution mechanism through arbitration in labor relations differs from arbitration mechanisms in business contexts. Entrepreneurs have increasingly chosen business arbitration due to several advantages.³⁴ First, the disputing parties can appoint their own arbitrator. Consequently, arbitrators trusted to possess integrity, honesty, expertise, and professionalism in their respective fields are typically selected. The second advantage is the confidential nature of arbitral tribunal proceedings, which protects sensitive information from unwanted publicity. Third, arbitral decisions reflect the will and intent of the parties involved, making them final and binding. This contrasts with court decisions open to further legal recourse, thus extending the resolution process. Fourth, due to the final and binding nature of the decision, business arbitration tends to be faster and more cost-effective. Fifth, the less formal procedure of arbitration compared to court litigation opens up the possibility for a more amicable settlement, which, from a business standpoint, allows the parties to continue their business relationship in the future.

Meanwhile, arbitration in industrial relations, as stipulated in Article 29 of Law on the Settlement of Industrial Relations Disputes, represents a *lex specialis* compared to business arbitration governed under Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.³⁵

The main advantage of arbitration as regulated under the regulation Settlement of Industrial Relations Disputes lies in its decisions' final and binding nature, as stipulated in Article 25(1). This implies that arbitral awards cannot be appealed, reviewed, or subjected to cassation, and must be executed as determined. Additionally, such decisions may be registered with the district court to obtain executorial power. In this regard, arbitration guarantees legal certainty that is both prompt and efficient, while avoiding the lengthy and bureaucratic nature of court proceedings.

33 Jasper Van de Woestijne., Divergence Explained by History: Judicial Resolution of Individual Labour Disputes in France, Belgium, Germany and the Netherlands, *The Lighthouse Function of Social Law*, 2023, 201–24

34 Mila Karmila Adi., Alternatif Penyelesaian Sengketa Ketenagakerjaan Melalui Mekanisme Arbitrase Di Indonesia, *Jurnal Hukum*, Vol.20 No.9, 2002, page. 81–94.

35 Andika Dwi Yulardi and Imam Budi Santoso., Upaya Arbitrase Dalam Penyelesaian Perselisihan Hubungan Industrial Didasarkan Adanya Kesepakatan Para Pihak, *Perspektif Hukum*, May 13, 2022, page.139–65

Furthermore, compared to the arbitration provisions for industrial relations under Law No. 22 of 1957 concerning the Settlement of Labor Disputes, which the UU PPHI has repealed, several developments can be identified as improvements in the current industrial relations arbitration framework.³⁶ These include: (a) a time limit for dispute resolution of only 30 days, extendable once for a maximum of 14 working days; and (b) the absence of interference from other institutions in the arbitral decision, except for the requirement to register the award with the Industrial Relations Court at the relevant District Court for enforcement purposes. This marks a significant improvement over the previous system, wherein the arbitral decision required approval from the Central Committee for Labor Dispute Resolution before an enforcement order could be requested from the Industrial Relations Court.

However, despite its explicit regulation in the Industrial Relations Dispute Settlement Act, the practical implementation of arbitration in resolving industrial relations disputes in Indonesia remains limited.³⁷ Many stakeholders, including workers and employers, still lack a comprehensive understanding of arbitration procedures and their benefits. Furthermore, a lack of trust in the neutrality and professionalism of arbitrators presents another barrier. Some parties also believe that the court system provides greater assurances of justice due to its public nature and formal legal oversight. In contrast, arbitration is considered overly private and lacks a robust control mechanism.³⁸

Several other shortcomings of industrial relations arbitration include the following:³⁹ (a) Industrial relations arbitration tends to benefit only bona fide parties or employers. Bona fide parties are those who possess credibility and integrity, or are interpreted as compliant with agreements; (b) industrial relations arbitration is also heavily dependent on the Industrial Relations Arbiter. This dependency relates to the technical capability of the arbiter to deliver a decision that is accurate and aligns with the parties' sense of justice. Such dependence constitutes a weakness, as the substance of the arbitration case cannot be re-examined (through an appeals process); (c) there is no precedent from previous decisions, and all considerations within the arbitration are confidential and unpublished. As a result, such decisions stand alone and are detached from others. The regulation of arbitration in industrial relations in Indonesia has distinctive characteristics, considering that the relationship between workers and employers is not purely private but also influenced by

36 Helwan Kasra., Kritik Terhadap Sistem Penyelesaian Perselisihan Hubungan Industrial Di Indonesia : Studi Uu No 2 Tahun 2004 Tentang Penyelesaian Perselisihan Hubungan Industrial Perspektif Teori Sistem Hukum, *Sol Justicia*, Vol.5 No.1, June 30, 2022, page. 97–112

37 Roro Megabriella, Agus Mulya Karsona, and Sherly Ayuna Putri., Combined Process (Mediation-Arbitration) in Industrial Relations Dispute Resolution: A Legal Justice Perspective, *Eduvest - Journal of Universal Studies*, Vol.5 No.12, December 9, 2025, page. 14674–84

38 Abdullah Abdullah and Andi Lala., Penyelesaian Sengketa Hubungan Industrial Melalui Arbitrase Menurut UU Nomor 13 Tahun 2003 Tentang Ketenagakerjaan, *Syntax Literate : Jurnal Ilmiah Indonesia*, Vol.5 No.2, February 20, 2020, page. 1

39 Rini Eka Agustina., Efektifitas Arbitrase Sebagai Penyelesaian Perselisihan, *Ethics and Law Journal: Business and Notary*, Vol.2 No.1, January 27, 2024, page. 263–72

public legal norms.⁴⁰ According to Law No. 2 of 2004, arbitration may only be used to resolve interest disputes and disputes between trade unions within a single company, as part of the tripartite effort in dispute resolution.⁴¹ However, challenges arise in applying arbitration to rights disputes, which should be resolved through the Industrial Relations Court (PHI). For example, a study by Sanjaya and Pamungkas⁴² indicated that the resolution of rights disputes through arbitration at PT Freeport Indonesia did not comply with the provisions of the Law on Industrial Relations Dispute Settlement (UUPPHI), as it did not fulfill the requirements for the establishment of a valid arbitration and was not binding on the parties.

In this case, the failure to meet the requirements for arbitration in the resolution process of a rights dispute that occurred at PT Freeport Indonesia from 27 September 2014 to 21 February 2015 was in contradiction with the applicable regulations, which stipulate the following: Bipartite Negotiation: In the process of resolving the rights dispute that occurred at PT Freeport Indonesia during the period from 27 September 2014 to 21 February 2015, the parties made efforts to resolve the dispute through bipartite negotiations and reached the "New Era Agreement" on 31 October 2014. However, this agreement did not resolve the substantive issues of the dispute; it merely agreed to form a tripartite institution to address the rights dispute. Consequently, the bipartite negotiation, which failed to resolve the core issues, is considered a failure. Industrial Relations Arbitration: The arbitration was established based on the "New Era Agreement" as the foundation for the arbitration agreement in the form of a *compromis act*. Following the New Era Agreement dated 31 October 2014, the parties formed the "Agreement on the Appointment of the Panel of Arbiters" to resolve the ongoing dispute. The arbiters subsequently issued a decision that was deemed to have resolved the dispute. The procedure for determining the rights dispute through bipartite negotiation between the parties was to follow the Law on Industrial Relations Dispute Settlement. If bipartite negotiation does not produce an agreement resolving the core of the dispute, the parties may choose a tripartite institution to resolve the rights dispute. However, the arbitration agreement made by the parties did not meet the validity requirements of an agreement as stipulated in Article 1320 of the Indonesian Civil Code, which states that a valid agreement must include consent of the parties, the legal competence of the parties, a specific subject matter, and a lawful cause/not contrary to existing laws and regulations. The agreement made by the parties in appointing arbitration as the institution to resolve the rights dispute contradicted Article 29 of the Law on Industrial Relations Dispute Settlement, which explicitly states that rights

40 Alam Pravana and Elfrida Ratnawati., Comparison of the Legal Systems of Indonesia and Singapore Regarding the Industrial Relations Dispute Settlement Process., *Journal of Social Science (2720-9938)*, Vol.5 No.5, September 1, 2024, page. 1

41 Vincentius Randy and Kristianto Pustaka Halomoan Silalahi., Penyelesaian Sengketea Tripartit Dalam Perselisihan Hubungan Industrial Pada Perusahaan Alih Daya Dilihat Dari UU 30 Tahun 1999, *Jurnal Paradigma Hukum Pembangunan*, Vol.6 No.02, September 19, 2021, page.34–56

42 Leonardo Sanjaya and Yogo Pamungkas., Analisis Yuridis Terhadap Proses Penyelesaian Perselisihan Hak (Studi Kasus: Keputusan Panel Arbitrase Khusus Penyelesaian Perselisihan Hubungan Industrial Di Lingkungan Pt Freeport Indonesia Tanggal 21 Februari 2015), *Reformasi Hukum Trisakti*, Vol.1 No.1, May 2, 2019

disputes do not fall under the jurisdiction of arbitration.

The resolution process for this rights dispute is inconsistent with the applicable laws and regulations.⁴³ Following the failure of bipartite negotiations, the parties instead opted for arbitration as a tripartite dispute resolution mechanism.⁴⁴ This decision contradicts the proper legal procedure for resolving rights disputes after bipartite negotiations have failed, requiring the dispute to be settled through a tripartite institution, specifically, mediation, authorized to resolve all industrial relations disputes. Article 4, paragraph (6) grants the Industrial Relations Arbitration authority to resolve interest disputes and disputes between trade unions within the same company.⁴⁵ The aforementioned tripartite institution clarifies that rights disputes are not among the types of disputes that may be resolved through conciliation or arbitration, but solely through mediation. In the appointment of arbitrators in the rights dispute settlement process by PT Freeport Indonesia, Law No. 2 of 2004 on Industrial Relations Dispute Settlement explicitly mandates that the arbitrators authorized to adjudicate industrial relations disputes must be licensed by the Ministry of Manpower of the Republic of Indonesia. Although the dispute was addressed through an arbitration mechanism,⁴⁶ the arbitration panel was formed ad hoc by the parties involved, who appointed Prof. Dr. Payaman J. Simanjuntak and Mr. R. Abdullah as members of the Special Arbitration Panel. The two arbitrators subsequently appointed Ms. Myra M. Hanartani, S.H., M.A., as the chair and concurrently a member. Based on the table above, these three individuals are not listed as Industrial Relations Arbitrators licensed by the Ministry of Manpower. Therefore, they are not legally authorized to adjudicate the industrial relations dispute. This violates the formal requirement for appointing arbitrators to resolve such disputes.

From the case of the Industrial Relations Arbitration at PT Freeport Indonesia, it can be concluded that the formation of the arbitration panel, which does not comply with the Industrial Relations Dispute Settlement Act, results in the absence of a legally recognized forum for Industrial Relations Arbitration as intended by the law. In other words, the Industrial Relations Arbitration institution has no legal existence, even if the parties believe such an institution has been established. As a result, the decision issued by the Special Arbitration Panel does not follow statutory provisions, as it was not rendered by a legally recognized Industrial Relations Arbitration institution. The decision does not constitute an Industrial Relations Arbitration award, as the institution does not legally exist. In extreme terms, the decision made by the parties is no more

43 I Wayan Yasa and Echwan Iriyanto., Kepastian Hukum Putusan Hakim Dalam Penyelesaian Sengketa Perkara Perdata, *Jurnal Rechtsens*, Vol.12 No.1, 2023, page.33–48

44 Aulia Nur Faradila and Wahyu Sukma Dewi., Implementasi Asas Musyawarah Dan Mufakat Dalam Penyelesaian Sengketa Hukum Waris Adat Di Indonesia, *Indonesian Journal of Social Sciences and Humanities*, Vol.3 No.2, 2023, page. 39–46

45 Hansen Alandi and Dian Ety Mayasari., Kewenangan Pengadilan Hubungan Industrial Dalam Menyelesaikan Perselisihan Pekerja, *Jurnal Hukum Ius Publicum*, Vol.4 No.2, November 23, 2023, page. 31–51

46 Ferawati Natalita and Wiwin Widianingsih., Efektivitas Arbitrase Dalam Penyelesaian Sengketa Bisnis Dan Implementasi Pasal 11 Ayat (2) UU No. 30 Tahun 1999, *Public Sphere: Jurnal Sosial Politik, Pemerintahan Dan Hukum*, Vol.3 No.3, November 30, 2024, page. 22–30

than a mutual agreement, akin to the outcome of a bipartite negotiation.

Ultimately, although arbitration in industrial relations contains elements of private law, its application must still observe public law norms governing the protection of workers' rights.⁴⁷ Therefore, arbitration in the context of industrial relations does not fall entirely within the realm of private law but exists on a spectrum between public and private law, depending on the type of dispute involved.⁴⁸ Industrial relations arbitration possesses several characteristics that distinguish it from commercial arbitration. First, it is tripartite, involving labor, employers, and government representatives as dispute resolution facilitators. Second, the arbitration process is designed to be swift, straightforward, and low-cost, to preserve harmonious industrial relations.⁴⁹ However, challenges persist in its implementation, including the costs borne by the parties and difficulties in agreeing on mutually acceptable arbitrators. These issues may affect the effectiveness of arbitration as a dispute resolution mechanism in industrial relations.⁵⁰

Furthermore, institutional challenges also emerge in the case of the rights dispute resolution by PT Freeport Indonesia. Indonesia lacks a well-established industrial relations arbitration system with a nationally certified list of arbitrators. This contrasts with countries that have long adopted and institutionalized arbitration, where arbitration bodies are integrated into the broader labor law system. In the Indonesian context, strengthening arbitrators' capacity, enforcing ethical codes, and ensuring transparency in the appointment process are crucial agendas if arbitration is to become a primary forum for resolving industrial relations disputes. With all its challenges and potential, the position of arbitration in Law No. 2 of 2004 reflects the spirit of peaceful and efficient dispute resolution. Arbitration is not merely a supplementary component of the labor dispute resolution system, but rather an alternative pathway that offers advantages in terms of time, cost, and flexibility. However, without adequate implementing regulations, institutional strengthening, and sufficient legal literacy among the parties involved, the full potential of arbitration is unlikely to be realized in industrial relations in Indonesia. Therefore, it is crucial to undertake several efforts to support arbitration as one mechanism for resolving disputes in industrial relations. These efforts include the need for more detailed regulations, particularly implementing regulations for arbitration; the need to promote awareness of arbitration, especially among parties involved in employment relationships; the development of supporting infrastructure; and the provision of financial support, particularly for economically disadvantaged workers, in the implementation of arbitration.

3.2 Reconceptualizing Industrial Relations Arbitration in the Ius Constituendum

47 Mukhlis Yunus et al., *Hubungan Industrial*, Banda Aceh: Syiah Kuala University Press, 2024

48 Agus Wibowo., *Penyelesaian Sengketa Hukum Dan Teknologi*, Penerbit Yayasan Prima Agus Teknik, Vol.9 No.1, December 5, 2023, page. 1–168

49 Adnan Hamid., *Arbitrase Sebagai Alternatif Dalam Penyelesaian Sengketa Perburuhan*, *Jurnal Legal Reasoning*, Vol.3 No.2, 2021, page. 116–36

50 Ujang Charda S., *Model Penyelesaian Perselisihan Hubungan Industrial Di Luar Pengadilan Melalui Arbitrase Ketenagakerjaan*, *Lex Publica*, Vol.3 No.1, November 26, 2016, page. 447–64

In the Indonesian constitutional system,⁵¹ judicial power is expressly regulated in Article 24 paragraph (1) of the 1945 Constitution which states that, "Judicial power is an independent power to administer justice in order to uphold law and justice."⁵² This formulation confirms that judges as executors of judicial power have full independence, may not be intervened by other powers, and are obliged to maintain the rule of law and realize substantive justice. Furthermore, Article 24 paragraphs (2) and (3) stipulate that this power is exercised by the Supreme Court and the judicial bodies under it, as well as the Constitutional Court, with the support of other institutions regulated by law in order to ensure the fair and professional implementation of judicial power.⁵³

Arbitration is one dispute resolution method in industrial relations characterized by simplicity, speed, and cost-effectiveness.⁵⁴ In the context of the digital economy, arbitration can also serve as an alternative mechanism for resolving business disputes.⁵⁵ Kinanti, Wiko, and Sari argue that arbitration can be a viable solution for resolving business disputes in the digital economy, particularly when considering the selection of dispute resolution forums, applicable laws, online technologies, and expedited procedures.⁵⁶ However, arbitration especially in resolving disputes in Indonesia regarding industrial relations faces various challenges. These include limited public understanding of the arbitration mechanism and the financial burden borne by the disputing parties. As a result, arbitration has yet to become the preferred method for resolving disputes in industrial relations.⁵⁷

It is necessary to reconceptualize the industrial relations arbitration system to address these challenges.⁵⁸ This reconceptualization must consider the dual nature of industrial relations disputes, which can be both public and private. The concept of Industrial Relations Arbitration in Indonesia, as regulated under Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes, contains characteristics not found in Commercial Arbitration as regulated by Law No. 30 of 1999. Industrial Relations Arbitration under Law No. 2 of 2004 demonstrates several distinctive characteristics when compared to Commercial Arbitration

51 Anis Mashdurohatun., Reconstruction Of The Implementation Of Regional Head Elections Based On The Value Of Justice, *International Journal of Business, Economics and Law*, Vol.28 No.1, 2022, page. 120–32.

52 Christine S.T. Kansil and Keiko Patricia Liwe., Kedudukan Pelaku Kekuasaan Kehakiman Terhadap Mahkamah Konstitusi Dalam Sistem Hukum Ketatanegaraan Indonesia, *Jurnal Pendidikan Sejarah Dan Riset Sosial Humaniora*, Vol.4 No.2, June 6, 2024, page. 99–106

53 Emerald Magma Audha., Purifikasi Judicial Review Dalam Sistem Ketatanegaraan Indonesia, *Jurnal Legislasi Indonesia*, Vol.18 No.2, 2021

54 Yeti Kurniati et al., Metode Dan Skema Penyelesaian Perselisihan Hubungan Industrial (PPHI) Untuk Meningkatkan Efektivitas Sistem Hukum Ketenagakerjaan, *Al-Zayn : Jurnal Ilmu Sosial & Hukum*, Vol.3 No.4, September 7, 2025, page. 4204–11

55 Oksana Melenko., Mediation as an Alternative Form of Dispute Resolution: Comparative-Legal Analysis, *European Journal of Law and Public Administration*, Vol.7 No.2, 2020, page. 46–63.

56 Fatma Muthia Kinantidan, Garuda Wiko, and Devina Puspita Sari., Arbitrase Sebagai Alternatif Penyelesaian Sengketa Bisnis Dalam Konteks Ekonomi Digital, *Mimbar Hukum*, Vol.35 No. Special Issue, December 28, 2023, page. 104–26

57 Haikal Arsalan and Dinda Silviana Putri., Reformasi Hukum Dan Hak Asasi Manusia Dalam Penyelesaian Perselisihan Hubungan Industrial, *Jurnal HAM*, Vol.11 No.1, 2020, page. 39–50

58 Zahrah Khan, Rio Arif Pratama, and Surahman., Peluang Dan Tantangan Pada Proses Penyelesaian Sengketa Hubungan Industrial Di Pengadilan Hubungan Industrial Kalimantan Timur, *Judge: Jurnal Hukum*, Vol.6 No.01, February 10, 2025, page. 53–70

under Law No. 30 of 1999.⁵⁹ Unlike commercial arbitration, which encompasses all business disputes arising from an arbitration agreement, Industrial Relations Arbitration is strictly limited to disputes of interest and disputes between trade unions.⁶⁰ Although both regimes are grounded in arbitration agreements and address private disputes applying formal evidentiary standards, Industrial Relations Arbitration imposes a significantly narrower institutional framework. In particular, the selection of arbitrators is restricted to individuals officially registered with the Ministry of Manpower, whereas commercial arbitration permits the appointment of arbitrators through institutional or ad hoc mechanisms. Furthermore, the scope of parties involved is confined to employer worker and inter-union disputes, unlike commercial arbitration which operates between business entities. This structural limitation, both in terms of jurisdictional scope and arbitrator eligibility, arguably contributes to the relative ineffectiveness of Industrial Relations Arbitration. The restrictive design reduces procedural flexibility and limits user confidence, thereby hindering its practical implementation within Indonesia's industrial relations system.

For instance, in the case of an industrial relations dispute at PT Freeport Indonesia, the arbitration process agreed upon by the company and the workers was inconsistent with the UU PPHI provisions, as the selected arbitrator was not registered with the Ministry of Manpower. As a result, the validity of the arbitration process and the binding force of the arbitrator's decision were called into question. This ultimately disadvantaged employers and workers, who had already committed to a mutually agreed dispute resolution mechanism but were hindered by the restrictive provisions of Industrial Relations Arbitration under the Industrial Relations Dispute Settlement Act. The limitation of authority in Industrial Relations Arbitration restricted only to disputes of interest and disputes between trade unions within a single company may reflect the legislators' intention to confine arbitration to resolving issues of a private nature. This indicates that, at present, Industrial Relations Arbitration remains conceptually bound to Commercial Arbitration, and the principle of *lex specialis* has not been applied optimally.⁶¹

The foundational principle of this reconceptualization should begin by strengthening the position of Industrial Relations Arbitration as a legal species within the broader genus of Commercial Arbitration.⁶² By optimizing its status as a *lex specialis*, specific regulations can be developed to address the unique characteristics of modern industrial relations disputes, whether between employers and workers or trade unions. It is important to note that disputes

59 Rohman Hakim., Penegakan Hukum Tindak Pidana Penyalahgunaan Narkotika Oleh Anak Dalam Perspektif Undang-Undang Nomor 35 Tahun 2009, *Jurnal Preferensi Hukum*, Vol.4 No.2, 2023, page. 279–91

60 Walman Gultom, Teuku Syahrul Ansari, Indra Koswara, and Margo Hadi Pura., Peranan Arbitrase Dalam Penyelesaian Perselisihan Hubungan Industrial Implikasi, Keuntungan Dan Kelemahan, *Jurnal Ilmiah Wahana Pendidikan*, Vol.9 No.25, December 28, 2023, page. 894–902

61 Muhammad Mahendra Maskhur Sinaga, Muhammad Panca Prana Mustaqim Sinaga, and Zahra Malinda Putri., Penerapan Teori Kemanfaatan Arbitrase Sebagai Alternatif Dalam Penyelesaian Perselisihan Hubungan Industrial, *Justlaw: Journal Science and Theory of Law*, Vol.2 No.1, 2025, page. 73–86

62 Qi Sun., Issues Concerning the Validity of Agreements Excluding Rescission Procedures in International Commercial Arbitration, *International Journal of Frontiers in Sociology*, Vol.6 No.2, February 28, 2024, page. 24–35

between employers and workers encompass private aspects, such as disputes of interest, and public dimensions, such as disputes over rights and employment termination. The reconceptualization through the expansion of the absolute jurisdiction of Industrial Relations Arbitration to encompass all types of disputes regulated under the Law on the Settlement of Industrial Relations Disputes is currently perceived as a crucial need, particularly in optimizing the function of the Industrial Relations Arbitration forum. Nonetheless, a major challenge lies in aligning the nature of industrial relations dispute resolution, especially in disputes over rights and termination of employment, which are public, with the characteristics of arbitration, which is inherently private and closed.

Furthermore, a transformation in the evidentiary system within the Industrial Relations Arbitration process is essential to ensure the protection of workers remains upheld in resolving disputes that require special protection, such as rights disputes and termination of employment disputes. Adopting a material-based evidentiary system would facilitate workers' claims by allowing them to submit evidence that does not rely solely on documents typically held by employers.

In addition, restructuring the Industrial Relations Arbitration institutional framework is a pressing issue. The roster of arbitrators available for mutual selection and agreement largely influences the willingness of parties to opt for arbitration. This element constitutes a core strength of arbitration. However, the current Industrial Relations Arbitration system in Indonesia limits the selection of arbitrators to those registered under the Ministry of Manpower, which results in constraints in terms of both the quantity and quality of available arbitrators. Therefore, the author contends that there is an urgent need to establish a competent and independent Industrial Relations Arbitration Body, akin to BANI (for Commercial Arbitration), BASYARNAS (for Sharia Arbitration), BASE (for energy-related disputes), and bodies such as BAKI, BAORI, and NDRC (for sports-related disputes and conflicts).

Given the complexity of industrial relations disputes, arbitrators who possess knowledge, experience, and skills in industrial relations are vital in dispute resolution. Restructuring the institutional framework of Industrial Relations Arbitration would allow for the formal establishment of a competent and independent Industrial Relations Arbitration Body.

Such restructuring would also positively impact economic growth and investment in Indonesia. investment-related issues are the main focus of investment treaties in arbitration courts,⁶³ with an independent and credible Industrial Relations Arbitration system, companies, especially multinational enterprises (MNEs), would be more inclined to choose a flexible dispute resolution mechanism that is not reliant on government institutions or the judiciary. This preference is grounded in maintaining harmonious industrial relations between employers, workers, and labor unions. Once a dispute is

63 Kain Keita, etc, Sovereignty Issues and Legal Framework Challenges for Foreign Direct Investment in Developing Countries. *International Journal of Law and Society*, Vol.2 No.2, 2023, page.142–154

resolved, labor and industrial relations aspects are expected to recover and function effectively.

Building upon the identified structural weaknesses, the future reconceptualization of Industrial Relations Arbitration should be directed toward a more expansive, coherent, and institutionally robust framework. First, its absolute competence ought to be broadened beyond disputes of interest and inter-union disputes to include rights disputes and termination of employment disputes. Such expansion is normatively justified, as fragmentation of jurisdiction within industrial dispute settlement mechanisms often generates procedural inefficiency and legal uncertainty. By integrating these categories under a restructured arbitration regime, the system would promote procedural consolidation and enhance access to justice for both employers and workers.

Second, while the arbitration agreement should remain the legal foundation of the mechanism, the nature of industrial disputes must be acknowledged as possessing both private and public dimensions. Employment relations inherently involve social justice considerations and state regulatory interests; therefore, a purely private characterization is conceptually inadequate. A reconceptualized model should accordingly adopt a material-formal evidentiary standard, allowing arbitrators to move beyond rigid procedural formalism toward substantive justice.

Third, the institutional design requires significant reform. The current restriction limiting arbitrators to those registered with the Ministry of Manpower should be replaced with a more open and merit-based system that permits arbitrators to operate under recognized institutions or through ad hoc mechanisms, subject to clear competency standards and ethical oversight. More fundamentally, the establishment of an independent and professionally governed Industrial Relations Arbitration Body would strengthen credibility, neutrality, and public trust.

In essence, this reconceptualization is not merely technical but structural. It aims to transform Industrial Relations Arbitration from a procedurally constrained and underutilized mechanism into a comprehensive, flexible, and credible dispute resolution forum capable of addressing the complex realities of contemporary industrial relations.

The comparative framework illustrates the structural and normative limitations of the current model of Industrial Relations Arbitration under Law No. 2 of 2004 and the transformative potential of the proposed reconceptualization. Under the existing regime, arbitral jurisdiction is narrowly confined to disputes of interest and inter-union disputes, reflecting a predominantly private-law orientation that excludes rights and termination of employment disputes, notwithstanding their centrality in industrial relations practice. By contrast, the reconceptualized model expands the absolute competence of arbitration to encompass all categories of industrial relations disputes recognized under the law, thereby repositioning arbitration as a comprehensive dispute resolution forum. The table above further demonstrates a shift from a formalistic evidentiary paradigm toward a substantive-formal standard designed to accommodate structural

inequalities in labor relations, as well as a move from a state-restricted arbitrator registry toward an institutionalized, independent arbitration body that enhances expertise, legitimacy, and party confidence. Collectively, these changes seek to recalibrate industrial relations arbitration from a marginal mechanism into a functionally central component of Indonesia's labor dispute resolution architecture.

While existing studies largely focus on procedural shortcomings or limited empirical use of arbitration in industrial relations, we advance a more fundamental rethinking of arbitration's conceptual foundations, jurisdictional scope, and institutional design. It develops a hybrid public-private framework that situates industrial relations arbitration within the normative logic of worker protection and access to justice, rather than treating it as a purely contractual mechanism.

By proposing the expansion of arbitral jurisdiction to encompass all categories of industrial relations disputes under the Law on the Settlement of Industrial Relations Disputes, and by articulating a model of institutionalized arbitration subject to public licensing and ethical oversight, this article offers a coherent reform agenda that bridges doctrinal analysis with institutional design. In doing so, the result will not only address the structural causes of arbitration's marginalization in Indonesia but also provides a transferable analytical framework for rethinking labor arbitration in other jurisdictions facing similar tensions between privatized dispute resolution and public labor law imperatives. Empowering arbitration as an institution for resolving industrial relations disputes can enhance employers' and workers' awareness and understanding regarding the appeal of arbitration as an alternative dispute resolution method. One of the strategic steps in this reconceptualization process involves strengthening the institutional capacity of arbitration, including improving the quality and integrity of arbitrators, establishing a strict code of ethics, and providing continuous training and certification programs.

Industrial Relations Arbitration could serve as a much-needed mechanism for employers and workers due to its flexibility and adaptability to the parties' needs, particularly in addressing non-conventional employment relationships. The reconceptualization of industrial relations arbitration is a structural demand and a functional necessity to ensure that labor dispute resolution is not continuously burdened upon the already overloaded judicial system. Arbitration should be positioned as a strategic solution that promotes fair, swift, and efficient dispute settlement. In this regard, the future reconceptualization of industrial relations arbitration requires a holistic approach encompassing legal reform, institutional empowerment, the application of information technology, and strict law enforcement. These efforts aim to create an efficient, just, and responsive dispute resolution system for contemporary developments. As an initial step, public education and outreach efforts must be undertaken, especially targeting workers and employers, to raise awareness of the importance of arbitration as an alternative dispute resolution mechanism. In addition, the government must provide supportive facilities and infrastructure, such as secure and reliable online mediation and arbitration platforms. Through

these initiatives, Indonesia's industrial relations arbitration system can transform into a more effective and efficient dispute resolution mechanism, capable of responding to the challenges and dynamics of the future labor landscape.⁶⁴

4. Conclusion

The arbitration mechanism for resolving disputes in the field of labor relations differs significantly from arbitration in the business sector. Business arbitration has increasingly become the preferred choice among business actors due to several advantages, including flexibility in the choice of law and forum, confidentiality, and swift, closed, final, and binding decisions. Meanwhile, arbitration in industrial relations, as stipulated in Article 29 of the Law on Industrial Relations Dispute Settlement, constitutes a *lex specialis* distinct from business arbitration. However, despite being explicitly regulated under the Industrial Relations Dispute Settlement Act, the implementation of arbitration in resolving disputes in industrial relations in Indonesia remains highly limited. Many stakeholders, including workers and employers, still lack a comprehensive understanding of the procedures and advantages of arbitration. Many also believe that courts provide greater assurance of justice due to their public nature and formal legal oversight. In contrast, arbitration is perceived as overly private and lacking robust control mechanisms. The regulation of arbitration in Indonesia's industrial relations carries unique characteristics, given that the relationship between workers and employers is not purely private but is also influenced by public legal norms. Several challenges hinder the effective utilization of Indonesia's Industrial Relations Arbitration forum in resolving industrial relations disputes. Key obstacles include the limited scope of disputes that can be submitted to arbitration and the restricted pool of arbitrators available for selection. The reconceptualization of Industrial Relations Arbitration emerges as a necessary solution. By expanding the absolute competence of Industrial Relations Arbitration to encompass all types of disputes regulated under the Industrial Relations Dispute Settlement Act, this forum can be optimized for resolving conflicts between employers and workers and disputes among trade unions. Furthermore, restructuring the institutional framework of Industrial Relations Arbitration is essential. Establishing a competent and independent arbitration body would enhance the appeal and quality of dispute resolution, in alignment with the principle of maintaining harmonious and sustainable industrial relations among employers, workers, and trade unions.

64 Bambang Ali Kusuma and Heru Suprpto., *Peranan Lembaga Arbitrase Dalam Penyelesaian Perselisihan Hubungan Industrial*, *Wacana Hukum*, Vol.1 No.1, 2007

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