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Beyond Litigation: A Partnership Approach to Industrial Relations Dispute Resolution from the Perspective of Justice and Utility

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Abstract

Industrial relations disputes remain an inherent feature of modern labour systems because the employment relationship is structurally marked by unequal bargaining power between workers and employers. In Indonesia, dispute settlement is formally regulated through a multi-stage mechanism involving bipartite negotiation, mediation, conciliation, arbitration, and litigation before the Industrial Relations Court. However, excessive reliance on litigation tends to produce legal-formal outcomes that do not always realise substantive justice or social utility. This article aims to reconstruct industrial relations dispute resolution through a partnership-based approach grounded in the theories of justice and utility. This study employs normative legal research using statutory, conceptual, and comparative approaches. Primary legal materials consist of labour and industrial dispute regulations, while secondary materials include journal articles, ILO reports, ACAS publications, and comparative literature on industrial relations systems in the United Kingdom, Germany, and Singapore. The findings show that litigation has inherent limitations because it is adversarial, procedural, costly, and insufficiently capable of preserving long-term employment relationships. By contrast, a partnership approach positions workers and employers as relational actors with shared interests in business sustainability, labour protection, and productivity. From the perspective of justice, this approach corrects the imbalance of bargaining power between workers and employers. From the perspective of utility, it reduces conflict costs, accelerates settlement, and promotes industrial stability. The novelty of this article lies in integrating partnership, justice, and utility as a conceptual foundation for reconstructing industrial relations dispute resolution beyond litigation. The article recommends strengthening substantive social dialogue, professional mediation, protection for weaker parties in non-litigation processes, and repositioning the Industrial Relations Court as a last-resort mechanism.

Keywords: industrial relations dispute; partnership; justice; utility; litigation; mediation.

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1. Introduction

Industrial relations disputes are an inseparable part of modern labour systems because the relationship between workers and employers is never entirely equal. Workers generally depend on wages, job security, and social protection for their livelihood, while employers pursue efficiency, productivity, managerial flexibility, and business sustainability. These different interests do not always result in open conflict, yet structurally they contain the potential for disputes in the form of rights disputes, interest disputes, termination disputes, and disputes among trade unions within a single enterprise. In this context, labour law does not merely function as a normative instrument for determining who is legally right or wrong. It also operates as a social mechanism for maintaining balance, harmony, and continuity in industrial relations.[1]

[1]Tonia Novitz, "Regulatory Pluralism and the Resolution of Collective Labour Disputes," Journal of Industrial Relations 65, no. 4 (2023).

In Indonesia, industrial relations dispute settlement is regulated by Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement. The law establishes a gradual mechanism beginning with bipartite negotiation, followed by mediation, conciliation, arbitration, and ultimately litigation before the Industrial Relations Court. Normatively, this structure indicates that the legislature did not intend every dispute to be brought directly before the court. Nevertheless, in practice, litigation is often perceived as the main avenue when preliminary negotiations fail. As a result, dispute settlement tends to move toward the formalisation of conflict rather than the transformation of conflict.[2]

The fundamental problem with litigation in industrial relations lies in its adversarial character. Litigation places workers and employers in opposing positions as parties seeking to defeat each other. This model is certainly important when serious violations of rights require binding judicial enforcement. However, when every dispute is directed toward a win-lose framework, the employment relationship that could have been restored may instead suffer deeper damage. In industrial relations, dispute resolution must not only answer questions of legality; it must also address the sustainability of employment relations, trust, communication, and the socio-economic security of the parties.[3]

At the international level, there has been a growing shift toward resolving labour disputes through social dialogue, mediation, conciliation, and interest-based approaches. The International Labour Organization emphasises that social dialogue and collective bargaining are essential instruments for strengthening labour market resilience, reducing inequality, and maintaining both enterprise sustainability and worker protection.[4] The United Kingdom's ACAS experience also demonstrates that early conciliation plays an important role in preventing employment disputes from immediately proceeding to tribunal litigation. The ACAS Annual Report 2023–2024 records significant settlement outcomes at the early conciliation stage and before hearings.[5] This indicates that modern labour dispute resolution can no longer rely primarily on courts, but must be oriented toward faster, participatory, and relational settlement mechanisms.

The research gap addressed in this article lies in the limited integration of the partnership approach with theories of justice and utility in the context of industrial relations dispute resolution. Existing studies often focus separately on the effectiveness of labour courts, mediation procedures, or the protection of workers' rights. Studies on justice usually emphasise workers as the weaker party, while discussions of utility tend to focus on procedural efficiency. In industrial relations, however, justice and utility cannot be separated. A settlement that is fair but inefficient may impose excessive social and economic costs, while a settlement that is efficient but ignores unequal bargaining power may produce substantive injustice.[6]

The novelty of this article lies in the conceptual construction of partnership as a meeting point between justice and utility. Partnership is not understood narrowly as a harmonious relationship without conflict, but as a dispute resolution paradigm that recognises conflict, manages unequal bargaining power, and directs the parties toward outcomes that are both just and beneficial. This article therefore does not merely criticise litigation; it also develops a normative model of industrial relations dispute resolution that is more compatible with the character of modern employment relations.

The main legal issue examined in this article is whether a litigation-oriented model of industrial relations dispute resolution remains adequate to realise justice and utility in modern labour relations. The second legal issue is how the partnership approach can be constructed as an alternative paradigm with legal

[2]International Labour Organization, Resolving Individual Labour Disputes: A Comparative Overview (Geneva: ILO, 2016).

[3]Carrie Menkel-Meadow, "Toward Another View of Legal Negotiation," UCLA Law Review 31 (1984).

[4]International Labour Organization, Social Dialogue Report 2022: Collective Bargaining for an Inclusive, Sustainable and Resilient Recovery (Geneva: ILO, 2022).

[5]Advisory, Conciliation and Arbitration Service, Annual Report and Accounts 2023–2024 (London: ACAS, 2024).

[6]John Budd and Alexander J. S. Colvin, "Improved Metrics for Workplace Dispute Resolution Procedures," Industrial Relations 47, no. 3 (2008).

legitimacy, rather than merely as a moral or managerial approach. The third legal issue is how theories of justice and utility can be integrated to develop a more substantive, efficient, and sustainable model of industrial relations dispute resolution.

2. Research Method

This research employs normative legal research because its primary objects of analysis are legal norms, legal principles, legal theories, and conceptual constructions concerning industrial relations dispute resolution. Normative legal research is appropriate because this article does not seek to measure the empirical behaviour of disputing parties through surveys or interviews. Instead, it analyses the weaknesses of the litigation paradigm and formulates a partnership-based model of dispute settlement grounded in theories of justice and utility. The focus of the study is therefore prescriptive legal reasoning.

This study uses statutory, conceptual, and comparative approaches. The statutory approach is used to examine the legal norms contained in Law Number 2 of 2004 and other principles of labour law relevant to industrial relations. The conceptual approach is used to analyse the concepts of partnership, justice, utility, social dialogue, mediation, and interest-based dispute resolution. The comparative approach is used to examine practices in jurisdictions that have developed more collaborative labour dispute settlement mechanisms, particularly the United Kingdom through ACAS, Germany through works councils and co-determination, and Singapore through tripartism.[7]

Primary legal materials consist of legislation in the field of labour law and industrial relations dispute settlement. Secondary legal materials include books, journal articles, ILO reports, ACAS reports, and international academic literature discussing industrial relations, mediation, social dialogue, and theories of justice and utility. Tertiary legal materials are used only to clarify conceptual terminology. The analysis is conducted qualitatively by interpreting legal norms, comparing concepts, and developing prescriptive legal arguments concerning a partnership-based model of industrial relations dispute resolution.

3. Theoretical Framework

The theoretical framework of this article is built on three main pillars: the theory of justice, the theory of utility, and the concept of partnership in industrial relations. These three pillars are used integratively because industrial relations dispute resolution cannot be assessed solely from the perspective of procedural legality. It must also be evaluated based on the quality of substantive justice and the socio-economic benefits it produces.

The theory of justice used in this article primarily refers to John Rawls' concept of justice as fairness. Rawls positions justice as the first virtue of social institutions. In his view, the basic structure of society must be arranged in a way that protects the least advantaged members of society. This principle is highly relevant to industrial relations because workers are often in a weaker bargaining position than employers. This inequality is not merely economic, but also institutional, since employers control workplace organisation, access to information, and greater capacity to bear the costs of dispute resolution.[8]

From the perspective of justice, industrial relations dispute resolution is insufficient if it merely provides workers and employers with formally equal opportunities to litigate. Formal equality in legal proceedings may be meaningless when the parties are socially and economically unequal. Therefore, the justice perspective requires dispute resolution mechanisms to take account of this inequality. Mediation or negotiation conducted without protection for the weaker party may become a forum of pressure rather than a forum of justice. Partnership must therefore be distinguished from superficial compromise. A just

[7]Simon Jäger, Benjamin Schoefer, and Jörg Heining, "The German Model of Industrial Relations: Balancing Flexibility and Collective Action," Journal of Economic Perspectives 36, no. 4 (2022): 53–80.

[8]John Rawls, A Theory of Justice (Cambridge, MA: Harvard University Press, 1971).

partnership must guarantee participation, information disclosure, minimum rights protection, and balanced facilitation.[9]

The theory of utility is used to assess the extent to which a dispute resolution model produces practical benefits for the parties and society. In the utilitarian tradition, an action or policy is considered good if it produces the greatest benefit for the greatest number. In industrial relations, utility does not merely mean economic profit for employers. It also includes employment stability, worker welfare, business certainty, productivity, and reduced social costs caused by conflict. A dispute settlement process that is too lengthy and expensive may harm workers, employers, the state, and society. Thus, efficiency is not merely a technical matter, but an important legal value.[10]

The concept of partnership in industrial relations is based on the view that workers and employers are not solely in a conflictual relationship, but also share common interests. Workers need sustainable enterprises to secure employment and income, while employers need protected, productive, and committed workers. Partnership does not deny conflict or ignore structural inequality. Rather, it seeks to manage conflict through dialogue, interest-based negotiation, and reasonable mutually acceptable outcomes. The ILO regards social dialogue as an essential mechanism for managing labour issues through the involvement of governments, employers' organisations, and workers' organisations.[11]

In international practice, partnership can be observed in various institutional forms. In the United Kingdom, ACAS plays a significant role in early conciliation before disputes proceed further to employment tribunals. In 2023–2024, ACAS recorded a high number of early conciliation notifications and showed that its services helped reduce the number of disputes proceeding to tribunal hearings.[12] In Germany, co-determination and works councils reflect worker participation in corporate decision-making, although this model is also facing new challenges due to economic changes and declining coverage in some sectors.[13] These comparisons demonstrate that partnership is not merely an abstract idea; it can be institutionalised through legal mechanisms and industrial relations institutions.

4. Results and Discussion

4.1 Limitations of Litigation in Industrial Relations Dispute Resolution

Litigation plays an important role in industrial relations dispute resolution because it provides legal certainty through binding judicial decisions. In a rule-of-law system, courts are necessary to ensure that the normative rights of both workers and employers can be formally enforced. However, the main problem arises when litigation is placed as the dominant mechanism, or even as the centre of all industrial relations dispute resolution. In the context of employment relations, which are continuous and relational in nature, litigation has fundamental limitations because it operates through the logic of adversarial proof, legal positioning, and final adjudication. Industrial relations, by contrast, require the restoration of communication, reconstruction of trust, and continuity of employment relations. Therefore, the success of industrial dispute resolution cannot be measured merely by the existence of a legal judgment, but also by the capacity of the mechanism to preserve industrial stability after the dispute is resolved.[14]

[9]Jean R. Sternlight, "Mandatory Arbitration Stymies Progress towards Justice in Employment Law," Stanford Law Review 54, no. 6 (2002).

[10]Jeremy Bentham, An Introduction to the Principles of Morals and Legislation (Oxford: Clarendon Press, 1907); John Stuart Mill, Utilitarianism (London: Parker, Son, and Bourn, 1863).

[11]International Labour Organization, Social Dialogue Report 2022.

[12]Advisory, Conciliation and Arbitration Service, "Early Conciliation and Employment Tribunal Cases Data 2023 to 2024," ACAS, 2024.

[13]Thomas Haipeter, "Current Trends of German Codetermination by Works Councils," Industrial Relations Journal (2025).

[14]Novitz, "Regulatory Pluralism."

The first limitation of litigation is its adversarial nature. In court proceedings, workers and employers are positioned as opposing parties defending their respective claims. This model is appropriate for resolving legal violations that require firm affirmation of rights. However, it is less adequate for disputes whose root causes are relational, communicative, and organisational. Many industrial relations disputes arise not only because legal norms are violated, but also because of poor internal communication, unclear company policies, distrust of management, or weak worker participation channels. Courts can determine whether a worker's rights have been violated, but they cannot always restore employment relations, rebuild dialogue, or improve internal corporate governance. Litigation often resolves disputes at the surface level of legal formality, without addressing deeper sources of conflict.[15]

The second limitation lies in procedural formalism. Litigation requires an understanding of procedural law, evidentiary rules, deadlines, legal reasoning, and litigation strategy. Normatively, all parties have equal access to file claims or defend themselves. In reality, however, formal access is not the same as substantive access to justice. Workers, as economically weaker parties, often face limitations in cost, time, legal knowledge, and social courage when confronting employers in court. This is where the justice problem arises: a legal mechanism that appears procedurally neutral may produce injustice when applied to parties with unequal socio-economic capacity. Literature on workplace dispute resolution confirms that institutional design determines whether workers can genuinely access justice or merely possess formal rights that are difficult to realise.[16]

The third limitation concerns the social and economic costs of litigation. Industrial relations disputes that continue for a long period impose losses on workers, employers, and the state. Workers may lose income, psychological stability, and future certainty. Employers may face declining productivity, reputational damage, and managerial burdens in handling conflict. The state also bears institutional costs in the form of case backlogs and judicial resources. From the perspective of utility, a dispute resolution model that is too lengthy and costly does not always produce optimal social benefit. If a dispute can be resolved more quickly through fair dialogue or mediation, directing all disputes toward litigation contradicts the principle of legal utility.[17]

The fourth limitation is the low capacity of litigation to produce flexible solutions. Court judgments are generally limited to specific orders, such as granting or rejecting claims, ordering payment of entitlements, or declaring whether a legal act is valid. Industrial relations disputes, however, often require more varied solutions, such as internal policy reform, new communication mechanisms, staggered payment, retraining, redeployment, restructuring agreements, or joint evaluation mechanisms. Such solutions are more easily achieved through interest-based processes than through rigid judicial decisions. For this reason, in many modern legal systems, mediation and conciliation are no longer viewed merely as procedural supplements, but as substantive mechanisms for finding settlements that better meet the needs of the parties.[18]

The United Kingdom provides an important comparison. Its labour dispute system increasingly places early conciliation as a key instrument for reducing reliance on tribunals. ACAS recorded that from April 2023 to March 2024, 76% of employment tribunal cases did not proceed to a hearing, while its annual report also recorded 39% settlement at the early conciliation stage and 78% resolution before hearing for cases moving toward tribunal proceedings.[19] These figures show that non-litigation settlement can reduce the burden on courts while providing faster resolution for the parties. However, the UK experience also shows that the success of conciliation depends heavily on institutional capacity. When caseloads increase or

[15]Lipsky and Avgar, "Toward a Strategic Theory of Workplace Conflict Management," Ohio State Journal on Dispute Resolution 24, no. 1 (2008).

[16]Colvin, "American Workplace Dispute Resolution in the Individual Rights Era," International Journal of Human Resource Management 23, no. 3 (2012).

[17]Budd and Colvin, "Improved Metrics."

[18]Richard A. Bales and Jason N. W. Plowman, "Compulsory Mediation as a Means of Resolving Employment Disputes," Employee Rights and Employment Policy Journal 14 (2010).

[19]ACAS, "Early Conciliation and Employment Tribunal Cases Data 2023 to 2024."

mediator resources are limited, conciliation may become an administrative step rather than a substantive process. The lesson for Indonesia is that mediation or conciliation cannot merely be mandated by law; it must be supported by professional mediators, realistic procedural timelines, evaluation systems, and a legal culture that encourages dialogue-based resolution.[20]

Germany also illustrates the limits of litigation. The German industrial relations model does not rely entirely on courts, but is built through a combination of collective bargaining, works councils, and co-determination. In this model, workers have institutional channels to participate in company issues affecting their interests. Jäger, Noy, and Schoefer explain that works councils and worker representation at the enterprise level create cooperative dialogue between workers and employers, even though the German model also faces challenges such as declining bargaining coverage and potential increases in inequality.[21] This shows that effective industrial relations dispute resolution does not depend only on courts after conflict emerges, but also on participatory institutions that prevent conflict from becoming legal disputes.

Accordingly, recognising the limitations of litigation does not mean abolishing litigation. Courts remain necessary as a final forum when rights are seriously violated, when dialogue fails, or when legal certainty is required through judicial decisions. However, placing litigation at the centre of industrial relations dispute resolution risks ignoring the relational nature of employment. Therefore, a paradigm is needed that positions litigation as a last resort, while partnership-based settlement becomes the primary mechanism more consistent with substantive justice and social utility.

4.2 The Partnership Approach as an Alternative Paradigm

The partnership approach to industrial relations dispute resolution is based on the idea that workers and employers are not merely opposing parties, but actors within the same productive ecosystem who need each other. Employers need productive, loyal, and protected workers, while workers need sustainable enterprises that respect labour rights. This relationship is not free from conflict, but conflict need not always be managed through a logic of hostility. The partnership approach acknowledges differences of interest but seeks to place them within a framework of dialogue, negotiation, and reasonable mutually acceptable solutions.[22]

Partnership must be distinguished from superficial harmonisation. In industrial relations practice, the term partnership is sometimes used rhetorically to demand that workers accept company decisions without resistance. Such a model is not partnership, but domination wrapped in the language of harmony. Genuine partnership requires recognition of unequal bargaining power and the need to manage it fairly. Therefore, the partnership approach must include information disclosure, good-faith bargaining, protection against intimidation, workers' right to representation, and the role of mediators or facilitators capable of balancing communication. Without these requirements, partnership may become a forum of pressure producing unjust agreements.[23]

Conceptually, the partnership approach shifts the focus of dispute resolution from legal positions to substantive interests. In litigation, the parties tend to defend positions: workers claim, employers deny, and judges determine who is right. In a partnership approach, the parties are encouraged to identify the interests behind those positions. A worker who rejects dismissal may actually need income security, recognition of service, or protection of professional reputation. An employer carrying out restructuring may need efficiency, organisational change, or business continuity. Once these underlying interests are understood, the resulting solutions can be more flexible and humane than a simple win-or-lose judgment.[24]

[20]ACAS, Annual Report and Accounts 2023–2024.

[21]Jäger, Schoefer, and Heining, "The German Model of Industrial Relations."

[22]David B. Lipsky and Ariel C. Avgar, "Toward a Strategic Theory of Workplace Conflict Management."

[23]Sternlight, "Mandatory Arbitration Stymies Progress."

[24]Menkel-Meadow, "Toward Another View of Legal Negotiation."

The partnership approach also has a preventive dimension. Industrial relations dispute resolution should not operate only after conflict escalates into a legal case. A good system must prevent conflict from developing through internal communication forums, grievance mechanisms, collective bargaining, and regular dialogue. The ILO states that social dialogue and collective bargaining are important instruments for inclusive, sustainable, and resilient recovery, particularly amid labour market transformation and economic uncertainty.[25] Thus, partnership is not only a dispute resolution technique, but also a governance model for industrial relations.

The UK's ACAS experience is relevant for Indonesia because Law Number 2 of 2004 already requires bipartite negotiation and provides mediation. The problem is that these stages often become formalities before proceeding to the Industrial Relations Court. The partnership approach requires bipartite negotiation and mediation to be restored as substantive spaces, not merely administrative preconditions. The state does not always have to be present through judges; it can also be present through facilitators who help parties achieve fair settlement.[26]

Germany offers a stronger institutional example. Partnership is embedded through works councils and co-determination. Jäger, Noy, and Schoefer show that the German model seeks to balance economic flexibility and collective action through bargaining, workplace councils, and worker representation.[27] Haipeter also argues that works councils remain central institutions in German industrial relations, although they face contemporary changes and challenges.[28] The important lesson from Germany is that partnership requires institutionalisation. Dialogue cannot depend solely on employer goodwill or union strength; it must be framed within a legal structure that provides meaningful space for worker participation.

Singapore provides another model through tripartism. In this model, the government, employer organisations, and trade unions work through consultation to maintain industrial stability and economic competitiveness. Studies of Singapore's industrial relations system show that disputes between labour and management may be directed toward conciliation and mediation by labour authorities, while tripartism provides the broader foundation for managing industrial relations.[29] This model cannot be copied directly into Indonesia because the political context, union structure, and labour market characteristics differ. However, the value that can be drawn from Singapore is the importance of consistent state efforts to build trust among industrial actors through effective tripartite forums, rather than merely ceremonial consultation.

Based on these comparisons, the partnership approach for Indonesia should be constructed in three layers. The first layer is internal enterprise partnership through grievance mechanisms, bipartite communication forums, collective bargaining, and transparent internal policies. The second layer is institutional partnership through professional, independent, and substantive industrial relations mediation. The third layer is tripartite partnership through the state's role in standard-setting, supervision, and conflict prevention policy. These three layers are essential so that dispute resolution does not begin only after a case reaches the court, but is managed from the beginning within a participatory industrial relations ecosystem.

4.3 Justice in the Partnership Approach

Justice in industrial relations dispute resolution cannot be reduced to formal opportunities to file claims or present defences. In employment relations, justice must be understood substantively because the parties do not start from the same position. Employers possess economic resources, access to information, organisational power, and greater capacity to face legal proceedings. Workers, by contrast, often

[25]ILO, Social Dialogue Report 2022.

[26]ACAS, Annual Report and Accounts 2023–2024.

[27]Jäger, Schoefer, and Heining, "The German Model of Industrial Relations."

[28]Haipeter, "Current Trends of German Codetermination."

[29]Daniel Wan, "Singapore Industrial Relations System in the Globalization Era," SpringerPlus 3 (2014).

experience economic dependence and organisational subordination. Therefore, partnership can only be considered just if it corrects this inequality, rather than merely bringing two formally equal parties into a negotiation forum.[30]

From a Rawlsian perspective, just institutions must be arranged to protect the least advantaged. This principle is relevant to industrial relations because workers are more vulnerable to job loss, economic pressure, and information asymmetry. If this principle of justice is applied to industrial relations dispute resolution, non-litigation processes must not merely pursue quick settlement. A quick agreement produced by pressure, ignorance, or fear of job loss cannot be called just. A partnership model must therefore guarantee adequate information, the opportunity for representation, and a space for workers to express their interests without intimidation.[31]

Justice in the partnership approach has two main dimensions: procedural justice and substantive justice. Procedural justice concerns how the settlement process is conducted. A fair process requires transparency, opportunity to be heard, neutrality of facilitators, good faith, and protection from pressure. Substantive justice concerns the content of the settlement, namely whether the outcome respects minimum workers' rights, provides proper compensation, and does not shift the burden of conflict disproportionately onto the weaker party. These two dimensions must operate together. An agreement reached through participatory procedure but violating minimum rights remains unjust. Conversely, an outcome that nominally satisfies rights but is obtained through intimidation also loses moral legitimacy.[32]

In termination disputes, for example, a just partnership approach does not merely require workers to accept compensation. The process must ensure that the reasons for termination are explained transparently, alternatives to dismissal have been considered, workers are given an opportunity to object, and compensation is calculated according to legal standards and fairness. If a company faces economic hardship, partnership allows discussion of alternatives such as temporary working-hour reduction, redeployment, retraining, phased compensation, or work-transition schemes. Justice therefore does not simply mean "paying according to the rules," but treating workers as dignified subjects in decision-making processes that affect their lives.

The partnership approach may also strengthen restorative justice in industrial relations. In some disputes, workers do not only need material compensation. They may also need recognition that certain treatment was unfair, an apology, or a guarantee that similar practices will not be repeated. Courts often provide insufficient space for this restorative dimension because their focus is on evidence and formal judgments. Partnership-based mediation can open space for acknowledgement of wrongdoing, internal procedural reform, or commitments to policy change. This is important because healthy industrial relations are built not only on formal compliance, but also on the experience of justice among the parties.[33]

The German works council model illustrates how justice can be strengthened through worker participation in decision-making. Grund shows that works councils can act as gatekeepers of workers' interests in the adoption of management practices that monitor performance and provide worker feedback.[34] This means worker participation is important not only when disputes arise, but also in everyday policies that may generate future disputes. The model is relevant for Indonesia because many industrial disputes could be prevented if workers were involved earlier in policies affecting working conditions.

However, the justice perspective also reminds us that partnership can fail if unions are weak or dialogue forums lack bargaining power. In such conditions, partnership may become a mechanism for legitimising unilateral decisions. Therefore, the state must continue to set minimum protection standards, supervise

[30]Rawls, A Theory of Justice.

[31]Rawls, A Theory of Justice.

[32]Budd and Colvin, "Improved Metrics."

[33]Menkel-Meadow, "Toward Another View of Legal Negotiation."

[34]Christian Grund, "Works Councils as Gatekeepers: Codetermination and the Adoption of Performance Monitoring Practices," Labour Economics (2024).

non-litigation processes, and ensure that agreements do not violate the law. Partnership must not be understood as the privatisation of dispute resolution that releases the state from responsibility. On the contrary, the state must strengthen the legal framework so that partnership operates within the boundaries of substantive justice.

4.4 Utility in the Partnership Approach

Utility in industrial relations dispute resolution must be understood as broader socio-economic benefit, not merely procedural efficiency. Speed is important, but speed is not the only measure. A settlement is useful when it reduces conflict costs, maintains business sustainability, protects worker welfare, prevents recurring disputes, and strengthens industrial stability. In this sense, the partnership approach has advantages because it is oriented not only toward a final decision, but also toward relational restoration and feasible solutions.[35]

Utilitarian theory holds that an action or policy is good if it produces the greatest benefit for the greatest number. In industrial relations, the greatest benefit must not be interpreted as unilateral corporate gain or quick settlement that pressures workers. Benefit must include the interests of workers, employers, the state, and society. If a settlement saves company costs but ignores workers' rights, it fails to meet just social utility. Conversely, if a settlement is normatively ideal but impossible to implement and triggers bankruptcy or further conflict, its utility is also weak. Utility must therefore always be read together with justice.[36]

The partnership approach is useful because it allows more adaptive solutions than litigation. In court, remedies are limited by judicial orders. In partnership, the parties can formulate solutions that correspond more closely to concrete needs. In wage or rights disputes, settlement may involve staggered payment with certain guarantees. In transfer or organisational-change disputes, settlement may include renewed consultation, alternative placement, or joint evaluation. In termination disputes, settlement may involve compensation packages, transition assistance, training, or employment references. This flexibility increases the possibility of outcomes that are not only legally valid, but also socially acceptable.[37]

Another benefit of partnership is preventing conflict escalation. When workers feel that they have a credible space to be heard, minor disputes are less likely to develop into industrial action or formal litigation. Conversely, when workers' aspirations are ignored, small disagreements can become major conflicts. The ILO emphasises that social dialogue and collective bargaining play an important role in building inclusive and sustainable recovery.[38] In Indonesia, this principle is crucial because many disputes arise not only from legal violations, but also from the absence of trusted communication channels.

ACAS provides a concrete example of the utility of early conciliation. Its 2023–2024 report states that early conciliation significantly reduced the number of claims proceeding to tribunal, while many cases that were already moving toward hearings were resolved before the hearing stage.[39] From the perspective of utility, this means reducing time costs, psychological costs, and institutional costs. However, the lesson is not simply that conciliation is effective, but that effectiveness depends on strong institutional design. ACAS is not merely a procedure; it is an institution with mandate, data, experience, and social legitimacy.

In Germany, the utility of partnership appears in the capacity of co-determination to create cooperative dialogue at enterprise level. Jäger, Noy, and Schoefer emphasise that works councils provide workers with channels to participate in company issues, although their effects on worker and enterprise outcomes are complex and subject to empirical debate.[40] This shows that partnership is not a magic formula that

[35]Bentham, An Introduction to the Principles of Morals and Legislation; Mill, Utilitarianism.

[36]Bentham, An Introduction to the Principles of Morals and Legislation.

[37]Bales and Plowman, "Compulsory Mediation."

[38]ILO, Social Dialogue Report 2022.

[39]ACAS, Annual Report and Accounts 2023–2024.

[40]Jäger, Schoefer, and Heining, "The German Model of Industrial Relations."

automatically resolves all problems. It requires supporting conditions such as dialogue culture, worker institutions, information transparency, and management willingness to share decision-making space.

Singapore illustrates utility through industrial stability. Tripartism in Singapore is often associated with the country's ability to maintain relatively peaceful industrial relations and support labour market adjustment during crises.[41] However, the Singapore model must also be read critically. High stability does not necessarily equal substantive justice if workers' space for criticism is too limited. For Indonesia, the lesson from Singapore is not to imitate a tightly controlled model of social order, but to strengthen tripartite forums so that they genuinely become balanced spaces for policy negotiation among government, employers, and workers.

Accordingly, the utility of the partnership approach must be understood multidimensionally. It includes time and cost efficiency, but also employment stability, productivity, rights protection, and prevention of recurring conflict. This approach is superior to litigation when it produces settlements that are implementable, acceptable, and capable of improving industrial relations. However, utility must not be used as a justification for ignoring justice. The central value of partnership is precisely its ability to bring justice and utility together within one dispute resolution framework.

4.5 Reconstruction Model of Partnership-Based Industrial Relations Dispute Resolution

The reconstruction of industrial relations dispute resolution through a partnership-based model must begin with a paradigmatic shift. Bipartite negotiation, mediation, conciliation, and arbitration are often treated merely as procedural stages that must be passed before a case can proceed to the Industrial Relations Court. This perspective causes non-litigation mechanisms to lose their substantive meaning. The reconstruction proposed in this article is to restore non-litigation mechanisms as the centre of dispute resolution, while positioning the Industrial Relations Court as the final forum when collaborative settlement fails or when rights violations require binding adjudication.[42]

The first principle of this model is strengthening bipartite negotiation as substantive dialogue. Bipartite negotiation must not become an administrative requirement satisfied by producing a record of failure. For bipartite negotiation to function as an instrument of partnership, the parties must exchange relevant information, involve persons with authority to make decisions, and demonstrate good faith in seeking solutions. In disputes involving termination due to efficiency, for example, employers should disclose the basis of the policy, the economic conditions underlying it, alternatives already considered, and protection schemes for affected workers. Without such transparency, workers cannot bargain on equal terms.

The second principle is the professionalisation of industrial relations mediation. Mediators should not only understand labour norms, but also possess skills in negotiation, conflict communication, interest analysis, and management of bargaining-power imbalance. In the partnership model, mediators must not be passive recorders of party positions. They must help parties map issues, distinguish positions from interests, test the feasibility of settlement options, and ensure that agreements do not violate minimum rights. ACAS shows that successful conciliation depends heavily on institutional capacity and conciliators' ability to encourage settlement before disputes develop into tribunal proceedings.[43]

The third principle is protection for weaker parties in non-litigation processes. In many cases, workers may accept settlements not because they consider them fair, but because they are economically pressured or afraid of longer proceedings. Therefore, mediated agreements must be reviewable from the perspective of legality, fairness, and minimum protection. Strengthening partnership must not mean weakening labour protection standards. The state must ensure that non-litigation settlement does not become a space for reducing normative rights through subtle pressure.

[41]Wan, "Singapore Industrial Relations System."

[42]ILO, Resolving Individual Labour Disputes.

[43]ACAS, Annual Report and Accounts 2023–2024.

The fourth principle is institutionalising dialogue forums at enterprise level. Many disputes can be prevented if companies have trusted grievance mechanisms, worker-employer communication forums, and transparent internal policies. The German experience shows that works councils can become channels for worker participation in company-level issues. However, this model cannot be adopted mechanically. Indonesia must formulate a model appropriate to its union structure, enterprise characteristics, and national institutional capacity. What matters is the existence of permanent mechanisms enabling workers to participate before conflict occurs, rather than only speaking after a dispute has escalated.

The fifth principle is the revitalisation of tripartite dialogue. The government should not only act as regulator and provider of dispute settlement forums, but also as facilitator of industrial partnership. Tripartite forums should be used to anticipate strategic issues such as technological change, labour flexibility, decent wages, occupational safety, platform work, and industrial restructuring. If such issues are not discussed tripartitely, conflicts will emerge in fragmented forms at enterprise level and eventually burden the dispute resolution system. In this respect, the partnership approach has a public policy function, not merely an individual dispute settlement function.[44]

The sixth principle is repositioning the Industrial Relations Court as a strong and credible last resort. A partnership approach is not anti-court. Strong courts are necessary to prevent partnership processes from being abused. If employers bargain in bad faith, refuse to implement agreements, or seriously violate normative rights, workers must still have effective access to the court. However, if bipartite and mediation mechanisms are substantively strengthened, cases reaching the court will be more selective, and the court can focus on disputes that genuinely require adjudication.

Through this model, industrial relations dispute resolution is no longer understood as a procedural sequence from bipartite negotiation to court litigation, but as a layered and mutually reinforcing ecosystem. At the first level, enterprises build prevention and dialogue mechanisms. At the second level, mediators assist in resolving conflicts that cannot be settled internally. At the third level, the Industrial Relations Court provides adjudication for cases that fail settlement or require legal determination. This model is more consistent with justice because it protects weaker parties, and more consistent with utility because it reduces conflict costs and preserves industrial relations.

5. Conclusion

A litigation-oriented model of industrial relations dispute resolution is insufficient to realise justice and utility optimally. Litigation remains important as a state adjudicatory mechanism, but its adversarial, formalistic, socially costly, and relationally limited character makes it unsuitable as the dominant paradigm for resolving industrial disputes. The partnership approach offers a more appropriate alternative because it positions workers and employers as parties with different interests who nevertheless operate within a mutually dependent employment ecosystem. From the perspective of justice, partnership is necessary to correct unequal bargaining power and ensure substantive protection for workers. From the perspective of utility, partnership is more effective in reducing conflict costs, accelerating settlement, maintaining productivity, and creating industrial stability. Therefore, the reconstruction of industrial relations dispute resolution should be directed toward strengthening substantive dialogue, professional mediation, protection for weaker parties in non-litigation processes, institutionalised social dialogue, and the repositioning of the Industrial Relations Court as a last-resort mechanism. By integrating partnership, justice, and utility, industrial relations dispute resolution can move beyond litigation toward a more humane, efficient, and sustainable model.

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