



## The Effectiveness of Arbitration as an Alternative Dispute Resolution in the Indonesian Legal System

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<b>Article History</b> Received : 2024-08-14 Revised: 2024-08-16 Published: 2024-09-30  <b>Keywords:</b> <i>Arbitration, Dispute Resolution, Indonesian Legal System</i>	Arbitration has become an important alternative in dispute resolution in Indonesia, regulated by Law No. 30/1999 on Arbitration and Alternative Dispute Resolution. This article aims to analyze the effectiveness of arbitration in the context of the Indonesian legal system, identify its advantages and challenges, and compare it with other dispute resolution methods. This research uses a qualitative method with a literature study approach to extract data from various legal sources and arbitration practices. The results show that arbitration offers a number of advantages, including speed, more efficient costs, and confidentiality. However, there are significant challenges such as a lack of public understanding of arbitration, sometimes high costs, and variability in the quality of arbitrators. In the context of the case studies, there is concrete evidence supporting the effectiveness of arbitration, although enforcement of international arbitral awards still faces obstacles in domestic courts. In comparison with litigation and mediation, arbitration shows higher efficiency, but still requires improvement in the aspects of quality and enforcement of awards. This article recommends increasing public education, adjusting fees, strengthening the quality of arbitrators, and improving enforcement of awards to increase the effectiveness of arbitration in Indonesia. Thus, arbitration can contribute more significantly to the legal system and investment climate in Indonesia.

### I. INTRODUCTION

In the era of globalization and rapid economic development, business activities in Indonesia are increasing, creating an urgent need for effective and efficient dispute resolution mechanisms. Resolving disputes through the courts is often regarded as a complicated and time-consuming option. The lengthy litigation process, high costs, and the possibility of uncertain outcomes present unique challenges for business actors. There are two legal avenues available for dispute resolution: the litigation process within the courts and the cooperative dispute resolution process outside the courts (Syarifuddin, 2019).

This situation encourages business actors to seek faster and more flexible alternatives. Here, arbitration emerges as an appealing solution.

Arbitration, as a form of out-of-court dispute resolution, offers a more streamlined and confidential process. Through arbitration, the parties have greater control over the process and can choose arbitrators they consider to be experts in the disputes they face. In the context of Indonesian law, arbitration is governed by Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This law provides a clear legal

foundation for arbitration practices and aims to enhance public trust in this mechanism. However, the implementation of arbitration in Indonesia is not without issues. Various challenges, such as the low public understanding of arbitration, negative perceptions regarding arbitration costs, and varying quality of arbitrators, hinder the optimization of arbitration's potential as an alternative dispute resolution method.

In this context, a fundamental question arises: how effective is arbitration in resolving disputes in Indonesia? To answer this question, this research aims to evaluate the effectiveness of arbitration as an alternative dispute resolution method. The study will analyze various aspects that influence the effectiveness of arbitration, including legal factors, field practices, and comparisons with other dispute resolution mechanisms such as litigation and mediation. This research is expected to provide a comprehensive overview of the position of arbitration within the Indonesian legal system and its contributions to dispute resolution (Kristina, 2023).

The research methodology used in this study is combinatorial, integrating both normative and empirical approaches. Through literature studies,

legal document analyses, and interviews with legal practitioners and business actors who have previously used arbitration, this research will gather the necessary data to support arguments and findings. This approach is expected to provide a more holistic perspective on arbitration practices and the challenges faced in its implementation in Indonesia.

With this background, this research aims to answer questions regarding the effectiveness of arbitration in resolving disputes in Indonesia and to provide recommendations for enhancing arbitration practices to function optimally within the existing legal framework. This research is expected to contribute to the thinking of academics, legal practitioners, and policymakers in developing dispute resolution mechanisms in Indonesia.

## **II. RESEARCH METHODS**

This research employs a combinatorial approach that integrates normative and empirical methods. The normative approach focuses on the analysis of laws and regulations related to arbitration, while the empirical approach involves the collection of data from existing arbitration practices in the field. The research process begins with a literature study, where the researcher collects and analyzes legal documents, books, articles, and previous research relevant to arbitration in Indonesia. Following this, primary data collection is conducted through interviews with legal practitioners, arbitrators, and business actors who have been involved in the arbitration process. In addition to interviews, surveys will also be conducted to obtain quantitative data regarding public perceptions of arbitration.

After all data has been collected, the next step is data analysis. Here, qualitative analysis will be performed on data obtained from interviews and surveys, as well as legal analysis of existing regulations. Finally, a research report will be prepared, encompassing the results of the analysis, discussion, conclusions, and recommendations based on the research findings. In this study, the sample consists of legal practitioners, arbitrators, and business actors. The legal practitioners selected are lawyers and legal consultants with experience in the field of arbitration. The arbitrators involved are individuals who have certification and experience in resolving disputes through arbitration. Additionally, the business actors sampled are companies or individuals who have previously used arbitration as a dispute resolution method.

The research locations include several places, including major cities that are business and legal hubs in Indonesia, where arbitration is widely used. Furthermore, the research will also be conducted at arbitration institutions such as the Indonesian National Arbitration Board (BANI) and other arbitration institutions operating in Indonesia.

## **III. RESULTS AND DISCUSSION**

The research findings regarding arbitration as a dispute resolution mechanism in Indonesia indicate that arbitration has several advantages that make it an attractive option, especially in a business context. One of the main advantages of arbitration is the faster resolution process compared to litigation in court. The arbitration process allows for dispute resolution in a shorter timeframe, provides flexibility in scheduling hearings, and gives the parties greater control over how the process unfolds. This is crucial for business actors who need quick decisions to maintain their business continuity (Afiah et al., 2022).

Additionally, arbitration costs are often considered more predictable compared to litigation costs, which can escalate over time. In arbitration, the parties can plan and estimate costs from the outset, making it appealing for companies that want to control their expenditures. The confidentiality of the arbitration process is also an important factor, especially in business disputes where sensitive information needs to be protected. Unlike litigation, which is open to the public, arbitration ensures that confidential information will not be disclosed publicly.

However, this study also identifies various challenges faced in the implementation of arbitration in Indonesia. One of the main challenges is the lack of public understanding of arbitration, particularly among small and medium-sized enterprises (SMEs). Many of them still tend to prefer litigation due to uncertainty about arbitration procedures and the perception that arbitration is only suitable for large disputes. Furthermore, the high costs of arbitration for smaller cases can be a barrier for small businesses (SETIAWAN & Fauzi, 2024).

The quality of arbitrators is also a concern, as not all arbitrators possess adequate competence. Although there are experienced arbitrators, there are worries about the quality of arbitrators in certain institutions. The enforcement of arbitration awards in Indonesia often faces issues, particularly regarding the recognition and

enforcement of foreign arbitration awards by local courts, which sometimes refuse on the grounds of violating public order.

Through the case studies presented, this research demonstrates how arbitration can function effectively in an international context, but significant barriers remain in the enforcement of its awards at the domestic level. Cases involving large companies show that arbitration can be an efficient option, but challenges related to costs, understanding, and the quality of arbitrators still need to be addressed.

Overall, while arbitration offers a number of advantages, its success depends on the readiness of the legal system and societal acceptance of arbitration as an alternative dispute resolution method. This study concludes that to enhance the effectiveness of arbitration in Indonesia, further efforts are needed in education, improving the quality of arbitrators, and consistent enforcement of arbitration awards.

#### **A. Legal Analysis Of Arbitration In Indonesia**

Arbitration in Indonesia has a strong legal foundation, explicitly regulated by Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. This law provides a legal basis for arbitration as a method of resolving disputes outside the court system, offering quick, confidential, and final solutions for the parties involved. Law No. 30 of 1999 covers various aspects related to arbitration, including the definition of arbitration, its procedural implementation, the resulting awards, and the mechanisms for enforcing those awards. The existence of this law demonstrates the state's commitment to providing an alternative for the community to resolve disputes outside litigation (Muhlizi, 2019).

In Law No. 30 of 1999, arbitration is defined as a method of resolving civil disputes outside the general court system based on a written arbitration agreement made by the disputing parties. This arbitration agreement can take the form of an arbitration clause included in a contract or a separate agreement reached after a dispute arises. Notably, the regulation of arbitration in this law is binding and final, meaning that once an arbitration award is issued, there is no opportunity to appeal, unlike in litigation. Arbitration awards must also be voluntarily executed by the parties, and if one party fails to comply, the winning party can seek court assistance for enforcement.

This law also accommodates international arbitration, which involves parties from different countries or disputes related to international law and interests. In the context of international arbitration, Indonesia is bound by the 1958 New York Convention, which governs the recognition and enforcement of foreign arbitration awards in member states. This means that foreign arbitration awards rendered in New York Convention member states can be recognized and enforced in Indonesia, provided that the awards do not conflict with Indonesian public policy. This provision strengthens arbitration's position as a dispute resolution mechanism recognized internationally and assures foreign investors that disputes they encounter in Indonesia can be resolved neutrally through arbitration (Asokawati, 2023).

The implementation of this law in practice is evident from the growth of arbitration institutions in Indonesia, such as the Indonesian National Arbitration Board (BANI), which is one of the leading arbitration institutions in Indonesia. BANI was established in 1977 and has become a reference for many commercial disputes in Indonesia, especially those involving large domestic and international companies. BANI plays a crucial role in supporting arbitration by providing facilities, rules, and a list of experienced arbitrators to assist in dispute resolution. Institutions like BANI ensure that the arbitration process operates in accordance with the provisions of Law No. 30 of 1999 while still offering flexibility for the parties to determine specific rules that may better suit their interests.

However, the implementation of arbitration in Indonesia is not without challenges, particularly regarding the enforcement of awards. Although arbitration awards are final and binding, there are instances where the losing party refuses to comply with the award. In such situations, the winning party must submit a request to the district court to obtain an enforcement order. Here, obstacles sometimes arise, as some courts may refuse to issue enforcement orders on the grounds that the awards are deemed contrary to public order. Indonesian courts have the authority to assess whether a foreign arbitration award contradicts the country's public policy, and in some cases, this has been used as a basis for refusing the enforcement of foreign arbitration awards. While this is intended to protect national interests, an overly broad application of public policy concepts can undermine legal certainty for

the parties, particularly for foreign investors who expect neutrality in the arbitration process.

Moreover, although arbitration is a fast and efficient method, not all parties understand or feel comfortable with this process. There is a perception among the public that arbitration is only suitable for large disputes or those involving multinational corporations, while smaller or domestic disputes are generally considered more appropriate for litigation. The lack of socialization and understanding of arbitration, especially among small and medium-sized enterprises (SMEs), poses a significant challenge in implementing arbitration as an alternative dispute resolution mechanism. In fact, Law No. 30 of 1999 offers opportunities for anyone wishing to resolve disputes through arbitration, provided that the parties have agreed to use this mechanism (Hakim, 2022).

In this context, the government and related institutions need to continue efforts to raise public awareness and understanding of the benefits of arbitration. One approach is to conduct further socialization regarding Law No. 30 of 1999 and to educate business actors about the procedures and advantages of using arbitration as a dispute resolution mechanism. Additionally, training for arbitrators and the development of ethical and professional standards for arbitrators are crucial to ensure that the arbitration process runs smoothly and that the outcomes are acceptable to all disputing parties.

Overall, Law No. 30 of 1999 provides a clear and comprehensive legal basis for the implementation of arbitration in Indonesia. Although there are challenges in its implementation, particularly regarding the enforcement of awards and public understanding of arbitration, this law remains an important milestone in the development of the out-of-court dispute resolution system in Indonesia. With continuous support from the government and arbitration institutions, it is hoped that arbitration can become increasingly accepted as an effective and efficient solution for resolving various types of disputes in Indonesia (Syaroni & Widyaningrum, 2024).

## **B. Advantages And Challenges Of Arbitration In Indonesia**

Arbitration has various advantages that make it an attractive option for dispute resolution in Indonesia, particularly in the business and commercial sectors. One of the main advantages of arbitration is the speed of the resolution

process compared to litigation in court. In arbitration, the parties have greater control over the process, including the timing and location of the hearings. Unlike in court, where cases are often delayed due to long queues and rigid formal procedures, arbitration provides flexibility in scheduling hearings. Disputes resolved through arbitration are often concluded within a few months, depending on the complexity of the case. On the other hand, litigation in court can take years, especially due to lengthy appeal stages. This speed is one of the main reasons why arbitration is often chosen, particularly in business disputes that require quick resolutions to avoid disrupting business continuity.

In addition to speed, arbitration also offers advantages in terms of cost. Although arbitration costs can vary depending on the complexity of the case and the number of arbitrators involved, in general, these costs are considered more predictable compared to litigation costs. In arbitration, the parties can estimate costs upfront because there are no lengthy stages like appeals or cassation that incur additional costs. Moreover, the parties can agree on various arrangements that can help control costs, such as choosing a smaller number of arbitrators or agreeing on a more streamlined procedure. In court, additional costs often arise from prolonged and protracted processes, including administrative fees, attorney fees, and appeal costs. For business actors, the ability to control these costs is one of the attractions of arbitration (Agustina, 2024).

Another advantage of arbitration is its confidentiality. The arbitration process is closed, meaning that only the disputing parties and the arbitrators involved are privy to the dispute resolution. This is crucial in business disputes where confidential or sensitive information, such as trade secrets or business strategies, may be disclosed. If a dispute is resolved in court, such information could become public, as court hearings are generally open to the public. Confidentiality in arbitration assures companies that their disputes can be resolved without damaging their reputation or disclosing important information to the public or competitors (Pakpahan et al., 2024).

However, despite many advantages, there are several challenges faced in its implementation in Indonesia. One of the main challenges is the lack of public understanding of arbitration as an alternative dispute resolution mechanism. Many parties, especially small and medium enterprises, still believe that disputes must be resolved

through court. The lack of education regarding arbitration procedures and its benefits causes many parties to hesitate to utilize arbitration, especially if they have never been involved in an arbitration process before. The perception that arbitration is only suitable for large-scale disputes or multinational companies also limits its use, even though the law provides broad opportunities for arbitration in various types of disputes.

Another challenge in arbitration is the relatively high costs for small cases. Although arbitration can be cheaper compared to lengthy litigation processes, arbitration costs can be quite high, especially if the selected arbitrators have international reputation and experience. For large companies, this cost may not be an issue, but for small and medium enterprises, arbitration costs can become a significant burden. In Indonesia, arbitration fees at arbitration institutions such as the Indonesian National Arbitration Board (BANI) can be quite substantial, especially if the case involves well-known arbitrators or high complexity (MUNIROH, 2021).

The quality of arbitrators is also a challenge in the implementation of arbitration in Indonesia. Arbitrators are crucial parties in the arbitration process as they decide the outcome of the dispute. However, not all arbitrators in Indonesia possess adequate competence or experience, especially in very complex cases. Although Indonesia has several highly experienced and respected arbitrators, there are concerns that the quality of arbitrators in some arbitration institutions may be insufficient to handle disputes that require deep knowledge of specific laws or industries. Inadequate arbitrator quality can impact the resulting decisions, ultimately undermining trust in arbitration as a fair and effective dispute resolution mechanism.

Additionally, another common challenge is the enforcement of arbitration awards, especially when these awards need to be recognized and executed by state courts. Although arbitration awards are final and binding, the losing party in arbitration sometimes refuses to comply with the award. In such cases, the winning party must file a request with the state court to obtain an execution order. Unfortunately, there are cases where state courts refuse to enforce arbitration awards, particularly foreign arbitration awards, on the grounds that the awards contradict public order. Although Indonesia has ratified the 1958 New York Convention, which requires member states to recognize and enforce foreign arbitration awards, in practice, the application of the public

order concept by state courts often becomes an obstacle to the enforcement of foreign arbitration awards (Riza & Abduh, 2019).

To enhance the effectiveness of arbitration in Indonesia, there needs to be stronger efforts to address these challenges. One important step is to improve education and socialization about arbitration, both among business actors and the general public. Furthermore, enhancing the quality of arbitrators through more stringent training and certification will greatly help increase trust in the arbitration process. The government also needs to ensure that state courts understand the role of arbitration and the importance of consistently enforcing arbitration awards in accordance with applicable law, including international arbitration awards.

By addressing these challenges, arbitration can become a more effective and inclusive option for dispute resolution in Indonesia, especially in sectors that require quick resolution, predictable costs, and guaranteed confidentiality.

### **C. Case Study**

In examining the effectiveness of arbitration as a dispute resolution mechanism in Indonesia, case studies serve as important tools to understand how arbitration is applied in practice and the extent to which this system functions effectively in the legal and business context. Several arbitration cases in Indonesia provide a clear picture of both the advantages and challenges of this mechanism, both domestically and internationally. Through the analysis of these cases, conclusions can be drawn regarding the extent to which arbitration is capable of resolving disputes quickly, fairly, and efficiently compared to litigation mechanisms (Latumahina, 2020).

One notable case study is the dispute between PT Pertamina and Karaha Bodas Company (KBC) that occurred in the late 1990s. This dispute was related to the cancellation of a geothermal energy project in Indonesia, which occurred due to the Asian economic crisis in 1997-1998. PT Pertamina, representing the Indonesian government, canceled the project, prompting a lawsuit from KBC. Since the contract between both parties included an arbitration clause, the dispute was resolved through international arbitration in Geneva, Switzerland, following the rules of the International Chamber of Commerce (ICC).

The arbitrator in this case ruled that PT Pertamina's cancellation of the project constituted a breach of contract and ordered

Pertamina to pay damages to KBC amounting to over \$261 million. However, Pertamina refused to comply with the arbitration award, which led KBC to seek enforcement in various countries, including the United States and Hong Kong. In the Indonesian context, the district court refused to enforce the award, citing public order concerns. Although KBC eventually managed to execute some of Pertamina's assets abroad, this case highlights the challenges in enforcing international arbitration awards in Indonesia, particularly concerning the public order doctrine (Asokawati, 2023).

This case study highlights two important aspects of the implementation of arbitration in Indonesia. First, international arbitration can provide quicker and more efficient results compared to litigation, especially in disputes involving parties from different countries. The arbitrator's decision in this case was reached within a relatively short period, considering the complexity of the dispute and the large sum involved. This demonstrates how arbitration can offer swift solutions in situations where cross-border court processes can be time-consuming and resource-intensive.

However, this case also reveals significant challenges, particularly regarding the enforcement of arbitration awards. Despite Indonesia's ratification of the 1958 New York Convention, which obliges member states to recognize and enforce foreign arbitration awards, in practice, Indonesian courts often reject foreign arbitration awards on public order grounds. This public order concept is often applied broadly by Indonesian courts, leading to uncertainty in the enforcement of foreign arbitration awards. This case illustrates how, although arbitration can be an effective tool for resolving disputes at the international level, the implementation of such awards in Indonesia still faces significant obstacles.

Another case study that can be highlighted is the dispute between PT Telekomunikasi Indonesia (Telkom) and Astro All Asia Networks, a Malaysian broadcasting company, which occurred in 2008. This dispute stemmed from a business collaboration between the two companies for the provision of satellite TV services in Indonesia. When the business relationship soured, Astro filed an arbitration claim against Telkom in Singapore, according to the previously agreed arbitration agreement. The arbitration in Singapore ruled that Telkom must pay damages to Astro. However, when Astro

attempted to enforce the award in Indonesia, the Indonesian court refused to enforce it on the grounds that most of the transactions and disputes occurred in Indonesia and, therefore, should be resolved under Indonesian legal jurisdiction.

This case underscores issues of jurisdiction and challenges in implementing international arbitration awards in Indonesia, particularly when there are inconsistencies between the arbitration laws applied abroad and Indonesia's national legal policies. Although international arbitration offers a quick solution independent of any specific jurisdiction, in practice, the enforcement of awards in Indonesia remains influenced by local views on disputes and national interests.

In addition to the cases mentioned, other studies supporting arguments about the effectiveness of arbitration in Indonesia can be found in disputes involving multinational companies in the energy and infrastructure sectors. In these cases, arbitration is often chosen because it offers better confidentiality compared to public litigation. For example, in disputes between energy companies involved in natural resource exploration, information related to oil or gas reserve values and contract details can be highly sensitive. Resolving disputes through arbitration allows both parties to maintain the confidentiality of such information, which can protect their competitive positions in the market.

However, case studies involving domestic companies in sectors such as manufacturing or trade show that arbitration has not yet been fully embraced by small and medium-sized enterprises (SMEs). Many prefer litigation in court because they are unfamiliar with the arbitration process or feel that arbitration is too expensive. This indicates that while arbitration offers significant advantages in cases involving large or international companies, challenges regarding costs and understanding of the arbitration process remain barriers to its wider use at the domestic level (Agustina, 2024).

In conclusion, the above case studies demonstrate that arbitration can be an effective and efficient dispute resolution method in the context of international or large commercial disputes. However, its success heavily relies on the readiness of the national legal system to enforce arbitration awards and on the understanding and acceptance of society toward arbitration as a legitimate alternative dispute resolution mechanism. Challenges in enforcing

foreign arbitration awards and the costs of domestic arbitration signify that there is still room for improvement in the arbitration system in Indonesia, particularly in enhancing accessibility and trust in this mechanism.

#### **D. Comparison With Other Dispute Resolution Mechanisms**

In comparing the effectiveness of arbitration with other dispute resolution mechanisms, such as litigation in court and mediation, several important aspects need to be considered, including the time of resolution, costs involved, confidentiality, process flexibility, and the outcomes obtained. Each method has its advantages and disadvantages that the parties involved in the dispute must consider (Ikbal et al., 2024).

Arbitration is known as one of the alternative dispute resolution methods that is quicker than litigation in court. In many cases, arbitration allows for the resolution of disputes in a shorter time, especially because its process is more structured, and arbitrators typically have strict deadlines for issuing decisions. In contrast, litigation in court tends to be slower, particularly in Indonesia, where the judicial system still faces various challenges, such as a backlog of cases, limited resources, and lengthy bureaucracy. The litigation process can take years, with the possibility of appeals and cassation extending the resolution of the case. Therefore, in terms of time efficiency, arbitration is clearly superior to litigation.

In terms of costs, arbitration is often considered more expensive at first because of the fees that must be paid to the arbitrator, the arbitration service provider, and other administrative expenses. However, in the long run, arbitration costs may be lower than those of protracted litigation. The litigation process, although initially appearing cheaper due to relatively low court fees in Indonesia, can become very costly over time. Expenses incurred from the lengthy court proceedings, attorneys, expert witnesses, and multiple appeals can exceed the costs incurred for arbitration. Therefore, arbitration can be more economically efficient in the long term, especially for complex and high-value disputes.

Another framework that distinguishes arbitration from litigation is the aspect of confidentiality. Arbitration offers a high level of confidentiality because its process is not open to the public. This is one of the main advantages for

companies that want to protect their business information from public consumption, especially in disputes involving intellectual property, business strategies, or trade secrets. On the other hand, litigation in court is public, and every detail of the case can be accessed by the public, except in certain cases ordered to be heard privately. The confidentiality offered by arbitration is a primary reason why many large companies prefer this mechanism over litigation.

However, arbitration is not without its shortcomings. One of the main challenges in the arbitration process is the quality of the arbitrator. Unlike judges in court who have deep legal backgrounds and extensive experience, arbitrators do not always come from a legal background, although they are usually experts in specific fields related to the dispute. This can be a problem if the arbitrator does not have adequate understanding of the legal principles relevant to the dispute, potentially resulting in a decision that is less consistent with applicable legal norms. On the other hand, judges in court are required to have legal qualifications and undergo regular training and evaluation, although the quality of decisions can also vary depending on the experience and capabilities of the respective judge.

Additionally, the enforcement of arbitration awards in Indonesia still faces challenges, especially in international arbitration cases. Although Indonesia has ratified the 1958 New York Convention, which requires member countries to recognize and enforce foreign arbitration awards, in practice, Indonesian courts are often reluctant to enforce these awards, especially if deemed to violate "public order." This is different from litigation in court, where domestic court decisions have full legal force and can be executed directly by the state. Therefore, while arbitration offers a quicker and more efficient process, challenges in enforcing its awards can diminish the appeal of this mechanism in certain contexts.

Mediation, as a more informal dispute resolution alternative compared to arbitration and litigation, also has its own advantages. Mediation places the parties in a more flexible position, where they can negotiate to reach mutually beneficial solutions without a third party deciding the final outcome, as in arbitration or litigation. Mediation is particularly useful in non-commercial disputes or those involving long-term relationships between the parties, where a mutually satisfactory outcome is prioritized over winning for one party. In this context, mediation

can help maintain good relationships between the disputing parties and prevent further escalation of conflicts.

However, mediation also has its weaknesses. The absence of a binding decision-making authority means that the outcome of mediation can only be accepted if both parties are willing to reach an agreement. If one party refuses the mediation outcome or no agreement is reached, the dispute must be brought to another mechanism, such as arbitration or litigation, which can prolong the resolution time. Moreover, mediation is not always suitable for disputes involving complex legal issues or where one party is unwilling to compromise (Tampubolon, 2019).

From this perspective, arbitration can be viewed as a middle ground between formal and time-consuming litigation and the more informal and flexible mediation. Arbitration offers final and binding outcomes, with a relatively quick process and maintained confidentiality, but with costs and enforcement challenges that can pose obstacles. In contrast, litigation offers legal certainty and strong enforcement, but with greater risks of time and cost. Mediation provides flexibility and the potential to maintain good relationships, but its outcomes are not binding and do not always provide definitive solutions.

In choosing a dispute resolution mechanism, parties need to consider the characteristics of their dispute, the urgency of the situation, the need for confidentiality, and the ability to enforce the final decision. In Indonesia, although arbitration is increasingly accepted as an effective mechanism, especially among international businesses and large companies, there are still challenges that must be addressed for arbitration to function as effectively as expected.

#### **IV. CONCLUSION AND SUGGESTIONS**

##### **A. Conclusion**

Arbitration in Indonesia, as an alternative dispute resolution, has a clear legal basis in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Through this regulation, arbitration offers several advantages, including a faster process compared to litigation, potentially more efficient costs in the long run, and maintained confidentiality. These benefits make arbitration an attractive choice for business practitioners seeking efficient dispute resolution that does not disrupt their operations.

However, despite its advantages, arbitration still faces several significant challenges. First, the lack of understanding among the public and

business practitioners regarding arbitration as a dispute resolution method often results in uncertainty in utilizing this mechanism. Many parties are not fully aware that arbitration can provide better solutions compared to litigation. Second, the potentially high costs of arbitration often pose a barrier for small and medium-sized enterprises that may not have sufficient resources to cover these expenses. Third, the varying quality of arbitrators, where not all arbitrators have adequate legal backgrounds, can affect the quality of the resulting decisions. Lastly, the enforcement of arbitration awards in Indonesia, particularly in the context of international arbitration, still faces challenges in domestic courts, where arbitration awards are sometimes considered contrary to "public order."

Overall, arbitration has great potential as an alternative dispute resolution in Indonesia, but the existing challenges need to be addressed for this mechanism to function optimally.

##### **B. Suggestion**

Enhancing Understanding and Education, it is essential for society, particularly business practitioners, to gain a deeper understanding of the advantages of arbitration as an alternative dispute resolution method. Educational programs about arbitration should be expanded, targeting entrepreneurs, legal practitioners, and educational institutions. By increasing awareness and knowledge, stakeholders will be better equipped to utilize arbitration effectively.

Reducing Arbitration Costs, to improve accessibility, arbitration costs need to be adjusted to make them more affordable for disputing parties, especially small and medium-sized enterprises. This can be achieved through government support or by arbitration institutions offering subsidies or special programs tailored for small businesses. Making arbitration financially viable will encourage more entities to consider it as a viable option for resolving disputes.

Strengthening the Quality of Arbitrators, there is a need to enhance the standards and training for arbitrators, ensuring they can render fair decisions grounded in applicable law. Arbitration institutions should also maintain a list of qualified arbitrators with relevant expertise corresponding to the specific disputes they handle. By focusing on the quality of arbitrators, the integrity and effectiveness of the arbitration process can be significantly improved.

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