



Arbitration Ruling: Finality, Binding Force, And Legal Implications In Indonesia

¹Anjlan Berutu, ²Muhammad Said Harahap, ³Nazila Aulia, ⁴Putri Syifa Fazyra Nasution, ⁵Zulkarnain Iskandar

^{1,2,3,4,5}Universitas Islam Negeri Sumatera Utara

E-mail: ¹anjlanberutu4@gmail.com, ²saidharahap037@gmail.com, ³aulianazila822@gmail.com,
⁴Syifafazyra308@gmail.com, ⁵zul20iskandar@gmail.com

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Article History Received : 2024-08-19 Revised: 2024-08-22 Published: 2024-09-30 Keywords: <i>Arbitration, finality, binding nature, legal implications, execution</i>	In an era of globalization and increasing market complexity, dispute resolution has become a crucial aspect of the business world, with arbitration emerging as an increasingly favored alternative. This method offers flexible and efficient solutions, avoiding lengthy and costly litigation processes. Arbitration has advantages, particularly regarding finality, where its decisions are binding and generally not subject to appeal, providing highly valuable legal certainty for business actors. In Indonesia, economic growth and foreign investment necessitate an effective dispute resolution mechanism, in which the Indonesian National Arbitration Board (BANI) plays an active role in providing an arbitration platform. This study aims to analyze the principles of finality and the binding force of arbitration awards within the context of Indonesian law, as well as the legal implications related to the enforcement and potential annulment of awards. Using a normative juridical approach, this research evaluates the effectiveness of Law No. 30 of 1999 and the 1958 New York Convention. The results indicate challenges in the application of the principles of finality and the independence of arbitrators, while also providing recommendations to strengthen the arbitration system in Indonesia to enhance legal certainty and the effectiveness of dispute resolution.

I. INTRODUCTION

In the era of globalization and increasingly complex market dynamics, dispute resolution has become a crucial aspect of the business world. Various methods have been developed to address conflicts, and arbitration has emerged as a growingly favored alternative. Arbitration offers a flexible and efficient solution, particularly for parties seeking to avoid lengthy and costly litigation processes (Norma Sari, 2021). In this context, a deep understanding of arbitration as an alternative dispute resolution method is essential. Arbitration offers several advantages that make it more appealing compared to litigation. One of its primary strengths is finality. Arbitration awards are binding and generally cannot be appealed, providing legal certainty for the parties involved. This is highly valuable in the business context, where uncertainty can negatively impact operations and a company's reputation (Baharuddin, 2024). Furthermore, arbitration is often faster and more confidential than court proceedings, allowing the parties to protect sensitive information.

In Indonesia, arbitration plays a vital role in resolving business and commercial disputes. With

rapid economic growth and increasing foreign investment, the need for effective dispute resolution mechanisms has become more urgent (Harjono, 2021). The Indonesian National Board of Arbitration (BANI) and other arbitration institutions have been actively providing a platform to settle disputes efficiently and professionally. Supported by adequate regulations, arbitration in Indonesia is expected to continue evolving and become the preferred choice for business actors in addressing disputes.

By introducing and promoting a better understanding of arbitration, stakeholders—including business actors and legal practitioners—can optimally utilize this method to resolve potential conflicts. In the context of arbitration in Indonesia, it is crucial to explore how the principles of finality and the binding nature of arbitration awards are applied. Understanding the application of these principles not only provides insight into legal certainty for the parties involved but also influences public confidence in the arbitration process as an alternative means of dispute resolution. Moreover, it is important to analyze the legal implications of arbitration awards, particularly concerning the

enforcement process and the possibility of annulment. By examining these two aspects, we can gain a clearer understanding of the effectiveness of arbitration in Indonesia and the challenges encountered in its implementation.

This paper aims to analyze in depth the principles of finality and binding force in arbitration, as well as their application in the context of Indonesian law. By understanding how these two aspects function, we can assess the effectiveness of arbitration as an alternative dispute resolution method. Additionally, this research will examine the legal implications of arbitration awards, focusing on the challenges faced in the enforcement process and the potential for award annulment. Through these objectives, it is hoped that clearer and more comprehensive insights into arbitration in Indonesia can be provided, along with recommendations for improving and strengthening the existing arbitration system.

II. RESEARCH METHODS

This research adopts a normative juridical approach to analyze the laws and regulations related to arbitration as an alternative dispute resolution method in Indonesia (Huda & S Hl, 2021). The main focus is to evaluate the effectiveness of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, as well as the 1958 New York Convention. This study will review how these regulations are applied in practice and whether any aspects require reform to enhance the effectiveness of arbitration within Indonesia's legal system.

In addition to analyzing the regulations, this research also examines arbitration awards and case studies to understand how arbitration decisions are recognized and enforced, both at the national and international levels. The study aims to bridge the gap between theory and practice, particularly regarding the role of Indonesian courts in the annulment or enforcement of arbitration awards.

Data collection is conducted through secondary sources such as regulations, academic journals, legal literature, arbitration reports, and relevant court rulings. This data is analyzed using a qualitative juridical method to identify patterns in the application of arbitration and to reveal inconsistencies in the implementation of the principles of finality and the binding nature of arbitration awards. This research aims to provide reform recommendations to improve legal

certainty and the effectiveness of arbitration in Indonesia.

III. RESULTS AND DISCUSSION

A. The Principle of Finality and the Binding Force of Arbitration Awards

Finality in the context of arbitration refers to the non-appealable nature of an arbitration award. Arbitration awards are final because, once rendered, they cannot be appealed like court decisions. The award concludes the dispute between the parties and must be complied with and enforced without further proceedings. This is consistent with the principle of *res judicata*, which states that a dispute resolved by an arbitration award cannot be brought before the courts again (Hidayat, 2020).

The main difference between an arbitration award and a court judgment is the absence of an appeal mechanism in arbitration. In court rulings, a dissatisfied party can appeal the decision from the first instance up to the cassation or judicial review level at the Supreme Court. This appeal process can take years, causing legal uncertainty for the parties. In contrast, arbitration awards are final and cannot be appealed, except in very limited situations such as fraud, conflicts of interest with the arbitrator, or serious violations of procedural rules. This ensures that arbitration provides a faster and more efficient dispute resolution process (Latief et al., 2023).

An arbitration award is considered a legally binding agreement because the arbitration process begins with an agreement between the parties to resolve their dispute through arbitration rather than litigation. By signing an arbitration agreement, the parties agree that the decision rendered by the arbitrator is final and must be complied with. Therefore, the arbitration award has the same binding force as a contract agreed upon by the parties (Fahmi, 2024).

Additionally, arbitration awards carry executory power, meaning they can be enforced through the courts if one party refuses to voluntarily comply. Once an arbitration award is rendered, the parties are legally bound to comply with the award (Sigar et al., 2023). The legal consequences of a binding decision include:

a) Obligation to Comply with the Award

The parties must voluntarily execute the arbitration award, whether it involves compensation payments, ceasing certain actions, or performing obligations set out in the agreement. If the losing party fails to fulfill their

obligations, the other party can request court enforcement of the award.

b) Executory Power

Arbitration awards in Indonesia can be enforced after being registered with the relevant district court in accordance with Article 61 of Law No. 30 of 1999. If one party refuses to comply with the award, the court can carry out forced execution.

c) Limited Annulment

Arbitration awards can only be annulled in limited situations as stipulated in Article 70 of the Arbitration Law. Annulment can only be granted if there is evidence of fraud, the arbitrator exceeded their authority, or there was a serious violation of procedure (Hakim, 2022).

Law No. 30 of 1999 regulates the resolution of disputes through arbitration and alternative dispute resolution in Indonesia. This law provides a clear legal framework regarding:

a) Arbitration Agreement

An agreement to resolve disputes through arbitration is valid if agreed to in writing by the parties.

b) Finality and Binding Nature of Arbitration Awards

Article 60 of the Arbitration Law confirms that arbitration awards are final and binding, and cannot be appealed or cassated.

c) Execution of Arbitration Awards

Article 61 stipulates that arbitration awards can be executed after being registered with the relevant district court.

d) Annulment of Arbitration Awards

Article 70 sets out the limited circumstances under which an arbitration award can be annulled by the court, such as fraud, arbitrators exceeding their authority, or procedural violations.

The 1958 New York Convention is an international instrument that governs the recognition and enforcement of foreign arbitration awards in countries that are parties to the convention. The principle of finality in this convention is that arbitration awards rendered in one country will be recognized and enforceable in another country, provided they do not conflict with the public policy of the country where enforcement is sought (Roychan, 2021).

This principle of finality provides legal certainty for parties in cross-border transactions, as they can be confident that an arbitration award rendered in one country will be recognized and enforceable in another jurisdiction without having to undergo lengthy court proceedings in the enforcement destination country.

B. Legal Implications of Arbitration Awards in Indonesia

The execution of arbitration awards, whether domestic or international, in Indonesia is specifically regulated by Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. To enforce an arbitration award, the first step is to register the award with the District Court where the arbitration took place. For international arbitration awards, registration must be done at the Central Jakarta District Court. After registration, the winning party in arbitration can submit an execution request to the court. The court will issue an execution order if there is no basis for annulment or refusal of enforcement. Once the order is granted, the arbitration award can be enforced, including through the seizure of assets if necessary (agustinus SImanjuntak, 2021).

The implementation of arbitration awards in Indonesia faces several challenges. One of the biggest obstacles is the possibility of court refusal to enforce the award, particularly for international arbitration awards. Article 66 of Law No. 30 of 1999 gives courts the authority to reject enforcement if the award is deemed to contradict Indonesia's public policy. The subjective interpretation of public policy often hinders the execution of international arbitration awards. Furthermore, the losing party's non-compliance with the award remains an issue, requiring court intervention for forced execution. Other challenges include lengthy administrative and bureaucratic processes, especially in the application of the 1958 New York Convention on the recognition and enforcement of foreign arbitration awards (SETYALAKSONO, 2024).

Article 70 of Law No. 30 of 1999 provides a legal basis for parties to apply for the annulment of an arbitration award, though such annulments can only be pursued under very limited conditions. An annulment can be sought if it is found that crucial documents or evidence were falsified, there was fraud by one of the parties, or the arbitrator exceeded the authority granted under the arbitration agreement. An annulment must be filed with the District Court within 180 days of the award being delivered to the parties. This provision is designed to maintain the integrity of the arbitration process while also offering protection against potential abuses (Oscar, 2024).

The conditions that allow for the annulment of an arbitration award under Law No. 30 of 1999 include the use of false evidence or fraud committed by one of the parties. If it is discovered

that the evidence or documents submitted in the arbitration process were invalid, an annulment may be granted. Additionally, if the arbitrator exceeds the authority granted by the parties in the arbitration agreement, the arbitration award can be annulled. Arbitrators must act within the mandate agreed upon by the parties and cannot issue decisions beyond the scope of the agreement.

One significant case illustrating the annulment of an arbitration award in Indonesia is the Karaha Bodas Company (KBC) vs. Pertamina case. In 2000, Karaha Bodas Company secured an international arbitration award ordering Pertamina to pay over USD 260 million related to a geothermal energy project dispute. However, the Jakarta District Court annulled the award on the grounds that it violated Indonesia's public policy. This case demonstrates that, although arbitration awards are final, they can still be annulled in Indonesia, particularly when public policy issues are involved. Nevertheless, courts in other countries upheld the arbitration award, highlighting differences in interpretation at the international level (Harahap, 2022).

Indonesian courts have very limited involvement in the arbitration process, as stipulated in Law No. 30 of 1999. Court involvement is restricted to a few areas, such as issuing execution orders for arbitration awards and annulling awards under very limited conditions, such as fraud or when arbitrators exceed their authority. Additionally, courts may refuse to enforce international arbitration awards if they are deemed to contradict public policy. These limitations are consistent with the principle that arbitration is an out-of-court dispute resolution method and that arbitrators' decisions should be final and not interfered with by the courts.

Court intervention in the annulment or refusal to enforce arbitration awards can negatively impact the principle of finality and legal certainty. One of the main advantages of arbitration is its ability to provide a swift and final resolution without the appeal mechanisms typical in litigation. However, court intervention, particularly in the form of annulment or refusal to enforce, can prolong the dispute resolution process and undermine the efficiency expected from arbitration. Furthermore, the often-subjective interpretation of public policy by the courts can create legal uncertainty for parties seeking to enforce arbitration awards, particularly in the context of international arbitration (Hombokau, 2024).

C. Challenges in the Application of the Principle of Finality in Indonesia

One common issue that arises in arbitration is the lack of understanding among disputing parties regarding the finality of arbitral awards. In many cases, parties still believe that arbitration decisions can be reviewed in court, either through appeals or other judicial processes. However, one of the core principles of arbitration is finality, where the decision rendered by the arbitrator is final and binding, with no appeal mechanism as exists in court litigation. This lack of awareness often leads to confusion and resistance from the losing party, who may seek ways to have the arbitral award annulled or reviewed in court. This phenomenon weakens trust in the effectiveness of arbitration as a swift and final dispute resolution mechanism (Yamin, 2024).

The perception that arbitral awards can still be reviewed in court is one of the challenges in implementing arbitration in Indonesia. Many losing parties in arbitration hope that they can still challenge or annul the award through legal channels. Although Law No. 30 of 1999 provides room for the annulment of arbitral awards under very limited conditions, such as fraud or the use of false evidence, many parties attempt to expand the interpretation of this law to file annulments on unsubstantial grounds. This highlights the need for greater education about the principle of finality in arbitration, so that disputing parties understand that arbitral awards are final and cannot be contested, except in very limited situations.

One of the biggest challenges in arbitration is ensuring the independence of arbitrators in deciding cases. Arbitrators are expected to remain neutral, impartial, and decide the case based on the facts and applicable law. However, in practice, suspicions often arise that arbitrators may have conflicts of interest or favoritism towards one of the parties. These suspicions frequently surface when arbitrators have business, personal, or professional relationships with one of the disputing parties. Ambiguity regarding the standards of arbitrator independence can lead to distrust in the arbitration process, with the losing party in arbitration potentially doubting the integrity and neutrality of the arbitrator in rendering the decision (Agustina, 2024).

Suspensions of conflicts of interest in arbitration can undermine the parties' confidence in the integrity of the arbitration process. In some cases, the losing party may feel that the arbitrator was not entirely neutral or independent, which then

leads to lawsuits to annul the arbitral award on the grounds that the arbitrator had an undisclosed relationship with the opposing party. This situation highlights the importance of transparency in the selection of arbitrators, where any potential conflicts of interest must be disclosed and considered from the outset. Trust in the integrity of the arbitrator is a fundamental aspect of arbitration, and any suspicions of conflict of interest can erode this foundation. Therefore, arbitrators must adhere to strict ethical standards and be willing to disclose any potential conflicts before the arbitration process begins.

Certain aspects of the regulations regarding the annulment and enforcement of arbitral awards in Indonesia are still considered unclear, which can create legal uncertainty for disputing parties. For example, although Law No. 30 of 1999 stipulates that annulment of arbitral awards can only be sought under limited conditions, the interpretation of what constitutes public policy as grounds for refusing the enforcement of arbitral awards is often unclear and subjective. Indonesian courts have the authority to refuse the enforcement of international arbitral awards if they are deemed to violate Indonesia's public policy, but this concept is often interpreted broadly and inconsistently. This ambiguity can be exploited by the losing party to avoid or delay the enforcement of the award, thereby creating legal uncertainty for the winning party.

To address these challenges, there needs to be clearer and more consistent regulatory enforcement supporting arbitration in Indonesia. More detailed regulations on the independence of arbitrators, potential conflicts of interest, and the standards of public policy in the enforcement of arbitral awards would help reduce legal uncertainty and increase trust in the arbitration system. Additionally, education and outreach regarding the principle of finality in arbitration should be enhanced, so that disputing parties understand that arbitral awards are final and binding, and can only be annulled under specific conditions. With stronger regulations and better education, arbitration can become a more effective, efficient, and reliable dispute resolution mechanism in Indonesia.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The conclusion of this research indicates that arbitral awards possess the principle of finality and binding force, distinguishing them from court

rulings. Finality means that arbitral awards cannot be appealed and must be complied with by the parties involved in the dispute. This ensures a swift and efficient resolution, without being prolonged through court proceedings. The principle of finality in arbitration ensures that disputes resolved through arbitration cannot be appealed, providing certainty and efficiency in dispute resolution. The binding nature of arbitral awards has legal force equivalent to agreements made by the parties and must be honored. At the international level, this principle is supported by the 1958 New York Convention, which ensures that foreign arbitral awards are recognized and enforceable in the countries that are parties to the convention. In Indonesia, the legal framework for arbitration is clearly regulated under Law No. 30 of 1999.

The enforcement of arbitral awards in Indonesia is clearly governed by Law No. 30 of 1999, but its implementation still faces various challenges, especially in the context of international arbitration. The role of the courts in arbitration is limited, but court intervention in the annulment or refusal of enforcement can have a significant impact on the principles of finality and legal certainty. Although arbitration aims to resolve disputes quickly and efficiently, excessive court intervention, particularly when using subjective reasons like public policy, can hinder these objectives.

B. Suggestion

Based on the conclusion above, it is recommended that efforts be made to strengthen the principle of finality in arbitration by minimizing unnecessary court intervention, particularly in the enforcement of arbitral awards. Clear guidelines and consistent interpretation of the concept of public policy should be established to prevent subjective reasoning from undermining the binding nature of arbitral decisions. Additionally, raising awareness and providing education about the finality and binding force of arbitration can help ensure that parties fully understand the process and its outcomes, fostering greater confidence in arbitration as an efficient and reliable dispute resolution mechanism.

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