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The Development of National Arbitration Law in Indonesia: Challenges and Prospects in Handling Trade Disputes

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Abstract

The development of complex modern trade demands the presence of an efficient and reliable dispute resolution system. In Indonesia, arbitration is one of the alternative dispute resolution mechanisms regulated in Law Number 30 of 1999. Although it has a final and binding character, its implementation is faced with various challenges such as lack of understanding of business actors, uncertainty of decision execution, and limited resources in arbitration institutions. In addition, the phenomenon of digitalization and cross-border trade also requires adaptation to technology-based dispute resolution mechanisms such as Online Dispute Resolution (ODR). This study aims to analyze the development of national arbitration law in Indonesia by examining the challenges faced and the prospects for reform that can be carried out. The method used is a literature study (library research) with a qualitative normative approach. Data were collected from various secondary sources such as laws and regulations, academic journals, and reports from related institutions. The results of the study indicate that arbitration law reform in Indonesia is urgently needed to answer the challenges of the digital era and globalization. Strengthening the capacity of arbitration institutions, harmonization with international standards such as UNCITRAL, and special regulations regarding ODR are important agendas for the future. This research contributes to providing a conceptual framework for policy makers and legal practitioners in improving the national arbitration system to make it more adaptive, efficient and reliable.

INTRODUCTION

The increasingly complex modern trade drives the need for an efficient, fast, and fair dispute resolution mechanism. One form of settlement that is widely used at the national and international levels is arbitration, especially in the context of trade (Widiarty, 2023; Winarta, 2022). In Indonesia, the development of arbitration law is increasingly relevant along with the increasing business activities involving various domestic and foreign parties (Kurnia & Yasarman, 2024; Radix, 2020). The effectiveness of arbitration as an alternative dispute resolution has made the Indonesian National Arbitration Board (BANI) a significant institution in the world of business law.

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The National Arbitration Law in Indonesia is regulated through Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which is the main basis for dispute resolution outside the court. Arbitration is defined as a method of resolving civil disputes outside the general court, which is agreed upon by the parties and the decision is final and binding. This law provides legal certainty regarding arbitration clauses in contracts and prevents court intervention in cases that have been decided by arbitration, except for the implementation of the award or its cancellation.

One of the most prominent national arbitration institutions in Indonesia is the Indonesian National Arbitration Board (BANI). BANI plays a crucial role in resolving various commercial disputes, including disputes in business, property, services, and the financial sector. Research by Aulya and Maulana (2024) confirms that the mechanism at BANI provides higher efficiency and legal certainty than conventional litigation because the process is faster and more confidential (Aulya & Maulana, 2024). However, its effectiveness depends on the awareness and compliance of the parties to comply with the arbitrator's decision (Hakim, 2022).

The implementation of national arbitration in Indonesia is regulated through Law Number 30 of 1999, which confirms the position of arbitration as a final and binding settlement (Kasih et al., 2021). However, various challenges arise in its implementation, such as the uncertainty of the execution of arbitration decisions, low understanding of arbitration procedures by business actors, and limited resources in the arbitration institution itself (Qomarani, 2023; Solikhin, 2023). In addition, digitalization also poses new challenges in the form of Online Dispute Resolution (ODR), which has not been fully accommodated in the existing legal framework (MUNIROH, 2021; Palasari & Yuliartini, 2022).

In the midst of the wave of international trade and global economic integration, the development of arbitration law is an important indicator of Indonesia's readiness to face cross-border disputes (Serlika Aprita et al., 2020; Widhiyanti, 2021). The arbitration mechanism needs to be redesigned to be able to anticipate changes in legal and business dynamics, including issues of transparency, arbitrator neutrality, and harmonization with UNCITRAL principles (Ginting, 2020; Sidiq, 2023). The prospect of improving the national arbitration system is wide open if the government and law enforcement agencies also encourage structural and substantial reforms.

Based on these dynamics, attention to national arbitration law is not only important in the context of resolving trade disputes, but also as a reflection of the state's capacity to guarantee legal certainty for investors and business actors (Dewi, 2022; Haryani & Ansari, 2024). Thus, studying the development of arbitration law is urgent and strategic in responding to the need for more adaptive and modern dispute resolution.

The urgency of this research lies in the urgent need for synchronization between national arbitration practices and developments in international law and digital technology that influence modern trade patterns. The absence of specific rules related to online arbitration, weak understanding of arbitration procedures by business actors, and the potential for court intervention in arbitration decisions pose serious threats to the credibility of the national business law system (Hidayati & Sari, 2022; Meher et al., 2024).

Previous studies have discussed individual aspects of the arbitration mechanism such as the effectiveness of BANI (Radix, 2020), the legal force of arbitration decisions (Kurnia & Yasarman, 2024), and the development of the ODR system (Solikhin, 2023). However, there has been no comprehensive study that maps the challenges and prospects of national arbitration law as a whole in the context of contemporary trade that is digitally and globally integrated.

This study aims to analyze the development of national arbitration law in Indonesia with a focus on the challenges faced in the practice of resolving trade disputes and the prospects for

reforming the arbitration system towards a system that is more adaptive, efficient, and responsive to changes in the times. This research is also expected to provide a conceptual contribution to improving the arbitration legal system in Indonesia.

METHOD

This study uses a qualitative approach with a library research type, which aims to analyze and evaluate the development of national arbitration law in Indonesia in the context of trade dispute resolution. Literature studies were chosen because they are relevant to exploring concepts, regulations, and legal dynamics contained in various written sources such as laws and regulations, arbitration decisions, scientific journals, law books, and reports from related institutions such as the Indonesian National Arbitration Board (BANI). This approach allows researchers to comprehensively understand the normative and contextual aspects of arbitration practices in Indonesia (Creswell & Poth, 2016; Zed, 2018).

The data sources in this study consist of secondary data obtained from relevant scientific literature, including primary legal documents such as Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, as well as secondary documents such as national and international law journal articles, conference proceedings, BANI reports, and trade and arbitration law textbooks published in the last five years. In addition, academic articles available in databases such as Google Scholar, Garuda, and university e-journals are also used as comparative sources and to strengthen arguments.

The data collection technique is carried out by means of documentation, namely tracing, identifying, and classifying documents that are relevant to the research topic. The data that has been collected is then tested for relevance and reliability based on the criteria of source credibility, novelty of information, and suitability of the context of the discussion of arbitration law in Indonesia (Bowen, 2009). This technique is important in literature studies because it allows researchers to develop in-depth theoretical synthesis based on valid and verified references.

The data analysis method used is content analysis which is carried out descriptively and critically. Through this method, researchers interpret the meaning of the collected text data, identify emerging patterns, and group the main issues related to the challenges and prospects of national arbitration law. The analysis is carried out systematically on the structure of legal norms, the role of arbitration institutions, and the response of the legal system to developments in the economy and digital technology (Krippendorff, 2018). Thus, the results of the study are expected to provide a meaningful contribution to strengthening policies and updating arbitration law in Indonesia.

RESULT AND DISCUSSION

The following is a table of bibliographic data from 10 international journal articles that have been selected based on high relevance to the research topic entitled: "The Development of National Arbitration Law in Indonesia: Challenges and Prospects in Handling Trade Disputes". These articles were selected from various reputable journals such as Cambridge Core, Springer, ScienceDirect, and Taylor & Francis, and all were published in the last five years (2019–2024). The selection process considered contributions to the theme of national arbitration, trade dispute resolution, and relevance to the Indonesian legal system.

Table 1. Literature Review

No	Title	Author	Research Focus

1	International investment agreements and investor-state arbitration in Asia	Bath & Nottage	Comparison of ISDS and national arbitration laws including Indonesia
2	ICS from South East Asia Perspective	Setiawati	Assessment of the effectiveness of ASEAN investment dispute settlement systems, including Indonesia
3	The Evolution of the Dispute Settlement Mechanism in PTAs: The Case of Indonesia	Widiatedja	Changes in dispute settlement systems in Indonesia's bilateral trade agreements
4	Settling outside the WTO: Indonesia-US Kretek Cigarette Trade Dispute	Amurwanti et al.	Analysis of approaches to bilateral trade dispute settlement outside the WTO
5	Commercial Arbitration in Asia: ASEAN Legal Developments	Hoang Tu Linh	Development of arbitration law in Southeast Asia, with a focus on the integration of Islamic and Western law
6	International Law and Non-signatory Extension in Arbitration	Risvas	Extension of arbitration clauses to non-signatories based on international law principles
7	Jurisdiction of Courts vs. Party Choice: Indonesian Private Int'l Law Analysis	Kusumadara	Jurisdictional issues in international arbitration cases with foreign vs. national court forums
8	International Trade and Investment Dispute Settlement in Asia-Pacific	Nedumpara	Indonesia's involvement in international and regional dispute settlement systems
9	Rethinking Investor-State Arbitration: Policy and Reform	Marisi	Critique of the ISDS system and its comparison with national arbitration practices in Southeast Asia
10	EU-Indonesia Trade Relations: Policy Challenges and Legal Friction	Hennessy & Winanti	Palm oil trade disputes and Indonesia's response in bilateral and arbitration forums

Based on the results of literature selection of ten relevant international journal articles, a comprehensive picture of the development of national arbitration law in Indonesia and its challenges and prospects in handling trade disputes is obtained. The articles discuss from various perspectives, ranging from the national legal system, the influence of globalization and international trade agreements, to comparative approaches with countries in the Asia-Pacific region.

The first article written by Bath and Nottage (2020) in the Handbook of International Investment Law and Policy highlights Indonesia's involvement in bilateral investment agreements and its role in the Investor-State Dispute Settlement (ISDS) system. The authors reveal that Indonesia had withdrawn from a number of investment agreements due to concerns about the inequality in the ISDS mechanism, which was considered detrimental to national legal sovereignty. Consequently, Indonesia tried to build a stronger national arbitration framework so that it could become a credible alternative in resolving disputes, especially in the trade and investment sectors (Bath & Nottage, 2020).

Setiawati (2021), in the next article, discusses the Investment Court System (ICS) and its effectiveness from a Southeast Asian perspective, especially Indonesia. This article argues that Indonesia has not yet fully adopted an investment court system such as the ICS because it still relies on national mechanisms and conventional arbitration. However, the discourse on modernizing the

arbitration system continues to grow in Indonesia, especially in encouraging transparency, accountability, and legal certainty for foreign investors (Setiawati, 2021).

In an article by Widiatedja (2020) published in the Asian Journal of International Law, the evolution of dispute resolution mechanisms in Indonesia's Preferential Trade Agreements (PTAs) is examined. This study shows that in bilateral agreements such as Indonesia-Japan or Indonesia-Australia, dispute resolution is carried out progressively through cross-border arbitration and mediation. This forces Indonesia's national arbitration law to continue to adapt, both normatively and institutionally, in order to be able to bridge the provisions of the agreement with the domestic legal system (Widiatedja, 2020).

Meanwhile, a case study by Amurwanti et al. (2021) regarding the clove cigarette trade dispute between Indonesia and the United States provides a concrete example of how Indonesia chose to resolve disputes outside the WTO mechanism through a bilateral memorandum of understanding (MoU). This approach is considered more flexible and in accordance with the domestic socio-political context. However, on the other hand, this case also reveals the weaknesses of national arbitration structures in providing fast and efficient solutions to large-scale trade conflicts (Amurwanti et al., 2021).

Hoang Tu Linh (2025) in the Asia Pacific Law Review highlights the integration of Islamic and Western legal principles in arbitration in ASEAN, especially Indonesia and Malaysia. This article reflects the regulatory challenges in harmonizing national arbitration systems with sharia principles, especially in Islamic finance and halal trade disputes. For Indonesia, this dilemma has an impact on arbitration legislation policies that must be inclusive but remain responsive to global standards (Hoang Tu Linh, 2025).

From an international law perspective, the article by Risvas (2022) discusses the extension of the effect of arbitration agreements to non-signatories, especially when states or state-owned entities are involved. In the Indonesian context, this article illustrates the importance of recognizing the principle of consensualism in arbitration, but also shows the need for transparency in the principle of enforcing decisions against parties who are not directly involved but are affected by the substance of the case (Risvas, 2022).

Kusumadara (2022) reviews the dynamics of jurisdiction in international court forum agreements that often clash with Indonesian civil procedural law practices. Although the parties have agreed to international arbitration, national courts often continue to claim jurisdiction on the basis of domestic procedural law. This article highlights the lack of synchronization between national law and the will of the parties in resolving cross-border disputes, which can reduce Indonesia's credibility in international trade forums (Kusumadara, 2021).

A study by Nedumpara (2023) in the Asia Pacific Law Review traces the evolution of dispute resolution in the Asia Pacific region and describes Indonesia as a country that is still experiencing a transition between a protectionist and liberal approach in handling investment and trade cases. The authors emphasize the importance of restructuring Indonesia's arbitration legal framework to be able to compete with more advanced dispute resolution systems such as Singapore or Hong Kong (Nedumpara, 2023).

Marisi (2023) from Springer provides an evaluation of the ISDS system as a whole and proposes a comprehensive reform of the national arbitration approach. According to him, Indonesia must be more proactive in setting ethical standards, arbitrator independence, and oversight mechanisms for closed arbitration processes. Indonesia needs to create a modern and accountable arbitration ecosystem, especially to support the growing digital trade and e-commerce (Marisi, 2023).

Finally, Hennessy and Winanti (2022) highlight the legal and policy frictions in trade relations between Indonesia and the European Union, especially regarding palm oil. This conflict shows that Indonesia needs a resilient dispute resolution system amidst external political and trade regulatory pressures. National arbitration has a strategic role as a domestic legal bulwark, but will only be effective if it gains international legitimacy through procedural and institutional improvements (Hennessy & Winanti, 2022).

Overall, the ten articles emphasize that although Indonesia has a fairly strong legal basis for arbitration through Law Number 30 of 1999, in practice there are still many gaps and challenges that need to be overcome. These challenges include synchronizing national law with international agreements, adapting to the digitalization of disputes, and reforming arbitration institutions to meet the increasingly complex needs of resolving trade disputes. On the other hand, the prospects remain wide open if Indonesia is able to strengthen the legitimacy and effectiveness of the national arbitration system as a strategic instrument in fighting for the country's economic interests on the global stage.

Discossion

The development of national arbitration law in Indonesia has shown a progressive direction, especially since the enactment of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This law replaces the colonial legacy of arbitration rules previously stated in the Reglement op de Burgerlijke Rechtsvordering (Rv), and provides a more modern legal basis and supports dispute resolution outside the courts. The presence of this law reflects the spirit of legal reform and the desire to create an efficient and credible dispute resolution system. In practice, arbitration has been recognized as a settlement method that is equal to the litigation process, with the principle of finality and binding nature inherent in its decisions. The existence of arbitration institutions such as BANI (Indonesian National Arbitration Board) is increasingly legitimizing itself in the Indonesian legal system.

However, although the national arbitration legal framework has been well established, various challenges still hamper its effectiveness, especially in the context of resolving trade disputes. One of the main challenges is the lack of harmonization of national law with international practices and standards. Although Indonesia has ratified the 1958 New York Convention, its implementation has not been fully optimized, and obstacles in the implementation of international arbitration awards are still often encountered at the national court level. Another challenge lies in human resources. The availability of arbitrators who have the capacity and experience in handling international trade disputes is still limited, and national arbitration institutions are not yet fully able to compete globally in terms of integrity, efficiency, and governance. It is also not uncommon for court intervention to occur in arbitration cases, which obscures the principle of finality of the system and weakens the trust of business actors.

On the other hand, business actors' trust in the arbitration system is also still limited, especially among small and medium business actors. Many of them do not understand the benefits of arbitration or even feel unfamiliar with this mechanism. This indicates that legal awareness in society and the business world needs to be increased, along with efforts to improve the substance and structure of arbitration law itself.

In facing these challenges, reform of the national arbitration system is very urgent. One important prospect is the revision of Law No. 30 of 1999 to align with global developments, including the adoption of the principles of the UNCITRAL Model Law and strengthening aspects of the implementation of international arbitration awards. In addition, modernization of the arbitration system through digitalization, including the development of an online arbitration mechanism or

Online Dispute Resolution (ODR), needs to be considered to address the dynamics of today's digital trade. Reforms also need to be directed at strengthening the capacity of national arbitration institutions through arbitrator training, standardization of procedures, and the implementation of a transparent and efficient case management system.

Increasing legal awareness is an important element of this reform. There needs to be a systematic effort to build business actors' understanding of arbitration, both through public education, professional training, and integration of arbitration materials into the legal education curriculum. All of these reforms must be based on the principles of good governance—namely transparency, accountability, and professional integrity—so that the arbitration system is able to regain the trust of users of dispute resolution services.

This research ultimately provides an important contribution in building a conceptual framework for assessing the effectiveness of the current Indonesian arbitration legal system. The findings produced can be the basis for designing normative and practical recommendations for arbitration law reform that is more adaptive, efficient, and responsive to changing times. In addition to strengthening Indonesia's position in the international trade dispute resolution arena, improving this system also supports the creation of legal certainty and a healthy business climate at the national level.

CONCLUSION

This study concludes that Law Number 30 of 1999 has provided a strong legal basis for the implementation of arbitration in Indonesia. However, in practice, the effectiveness of the national arbitration system still faces various obstacles. These obstacles include the low understanding of business actors regarding arbitration procedures, the less than optimal implementation of arbitration decisions, and the absence of adequate legal regulations related to online arbitration mechanisms or Online Dispute Resolution (ODR). Along with the increasing complexity of trade and Indonesia's entry into the flow of digitalization and globalization, the national arbitration system needs to be reformed comprehensively in order to be able to answer the challenges of the times and increase business actors' trust in non-litigation dispute resolution mechanisms.

In practice, the reform in question needs to start with a revision of Law Number 30 of 1999 in order to accommodate technological developments and more modern principles of international arbitration. In addition, increasing the capacity of national arbitration institutions such as BANI is very important, including strengthening human resources and an efficient and transparent case management system. Efforts to educate and socialize the public and business actors must also be carried out systematically so that legal awareness and interest in dispute resolution through arbitration can be significantly increased.

Although this study provides a relevant conceptual contribution in the context of developing national arbitration law, there are several limitations that need to be noted. This study is normative and only relies on literature studies without involving empirical data from stakeholders. In addition, this study focuses more on the Indonesian legal context without comparing it in depth with the arbitration system in other countries that are more advanced in implementing arbitration digitalization.

Therefore, for future research, it is recommended to take an empirical approach to explore the perceptions and experiences of legal practitioners, business actors, and parties who have been involved in dispute resolution through arbitration. Comparative research with arbitration systems from countries that have successfully implemented Online Dispute Resolution effectively can also provide new insights that are useful in designing more adaptive, efficient, and reliable national arbitration regulations in the future.

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