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Arbitration in Theory and Practice: Challenges in Implementing Arbitration in Tulungagung Regency

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Original Article

Abstract

This study examines the disparity between the theoretical framework and practical implementation of arbitration in Tulungagung Regency. Employing an empirical legal approach, the research analyzes data collected from interviews with 12 lawyers and 12 individuals seeking justice. While arbitration offers several advantages, including time efficiency, lower costs, confidentiality, and procedural flexibility, its implementation in Tulungagung Regency encounters significant challenges. The findings indicate that arbitration remains largely unfamiliar to the public, primarily due to limited outreach efforts, the centralized location of arbitration institutions in major cities, and the high fees associated with arbitrators. Furthermore, ambiguities in the enforcement of arbitration decisions and inconsistencies between arbitration rulings and the jurisdiction of certain courts present additional obstacles. These results highlight the necessity for a comprehensive strategy to enhance accessibility and public awareness of arbitration as an effective alternative dispute resolution mechanism.

Keywords: *Arbitration, Dispute Resolution, Accessibility, Legal Framework*

Abstrak

Penelitian ini mengeksplorasi kesenjangan antara konsep teoretis dan implementasi praktis arbitrase di Kabupaten Tulungagung. Melalui pendekatan yuridis empiris, studi ini menganalisis data dari wawancara dengan 12 pengacara dan 12 masyarakat pencari keadilan. Meskipun arbitrase menawarkan keunggulan seperti efisiensi waktu, biaya yang lebih rendah, kerahasiaan, dan fleksibilitas prosedur, implementasinya di Kabupaten Tulungagung menghadapi berbagai tantangan signifikan. Hasil penelitian mengungkapkan bahwa arbitrase masih kurang dikenal, terutama karena minimnya sosialisasi, lokasi lembaga arbitrase yang terpusat di kota-kota besar, serta biaya arbiter yang tinggi. Selain itu, ketidakjelasan pelaksanaan putusan dan ketidaksesuaian antara arbitrase dengan kompetensi pengadilan tertentu juga menjadi hambatan. Temuan ini mengindikasikan perlunya strategi komprehensif untuk meningkatkan aksesibilitas dan pemahaman masyarakat terhadap arbitrase sebagai alternatif penyelesaian sengketa yang efektif.

Kata kunci: *Arbitrase, Penyelesaian Sengketa, Kesenjangan, Keadilan*

1. INTRODUCTION

Arbitration serves as an alternative dispute resolution mechanism designed to facilitate the settlement process amid the pressures of global economic acceleration. In the context of increasingly complex business dynamics, the need for fast and effective dispute resolution has become urgent to ensure the continuous operation of economic activities without prolonged disruptions. Consequently, arbitration offers a more flexible solution compared to conventional court proceedings, which are often time-consuming.

The demand for a simple, cost-effective, efficient, and expeditious dispute resolution mechanism has driven various innovations within the arbitration system. By implementing more streamlined procedures and minimizing bureaucratic complexities, arbitration has become the preferred choice for many parties seeking legal certainty without engaging in cumbersome litigation. This efficiency has solidified arbitration's reliability across multiple sectors, particularly in international business transactions, where dispute resolution must be not only swift but also equitable.

As a continuously evolving mechanism, arbitration has been increasingly reinforced by various regulations that enhance its implementation as a premier method of dispute resolution. Its role extends beyond providing legal certainty; it also demonstrates adaptability in addressing the challenges of the modern economy. Arbitration serves as a crucial instrument in maintaining business stability and fostering sustainable economic growth.[1]

Beyond resolving disputes at the national level, arbitration has also emerged as an effective mechanism for handling multinational cases. With its flexible framework and simplified procedures relative to litigation, arbitration facilitates the efficient resolution of cross-border disputes. This aspect is particularly vital in the global business landscape, where legal certainty is essential but should not be constrained by the complexities of individual national judicial systems.

The flexibility and efficiency inherent in arbitration are key factors that lead many parties to prefer this method over traditional judicial processes. With robust regulatory support and widespread acceptance across various jurisdictions, arbitration is increasingly recognized as the primary solution for resolving international business disputes. These advantages position arbitration not only as a relevant legal instrument

[1] Tariq Muhammad Hussein Al-zoubi et al., "Arbitration in the Age of Globalization: Addressing Cultural and Legal Diversity in Commercial Disputes to Achieve Sustainable Development Goals in Society," *Journal of Lifestyle and SDGs Review* 5, no. 1 (2024): 1–21, https://doi.org/10.47172/2965-730X.SDGsReview.v5.n01.pe03168.

at the national level but also as a strategically significant mechanism within global economic dynamics.[2]

Arbitration is widely regarded as a superior dispute resolution mechanism compared to court litigation, particularly in terms of efficiency and flexibility. The arbitration process enables parties to resolve disputes more quickly and through simpler procedures than those required in traditional litigation. This efficiency makes arbitration the preferred choice for many individuals and organizations seeking a legal resolution without the burden of lengthy and complex court proceedings.

Moreover, arbitration is favored because it embodies the principle of peaceful dispute resolution. Its flexible nature allows parties to determine procedural rules, select arbitrators with recognized expertise, and engage in a more cooperative approach to reaching agreements. As a result, arbitration not only ensures legal certainty but also fosters more harmonious business relationships and cooperation between disputing parties.

In Tulungagung Regency, arbitration remains relatively unfamiliar to those seeking justice. Although, in theory, arbitration is considered an efficient and flexible dispute resolution mechanism, its practical implementation faces several challenges. One of the primary reasons for this limited awareness is the lack of public outreach and understanding regarding arbitration as an alternative dispute resolution method outside the court system. Consequently, a significant gap exists between the theoretical concept of arbitration and its actual application in practice.

This article aims to examine the disparity in public understanding of arbitration and its practical implementation. By analyzing the presence and application of arbitration in Tulungagung, this study seeks to assess the extent to which the community is aware of and utilizes arbitration for dispute resolution. Therefore, it is crucial to investigate the factors contributing to the minimal use of arbitration and explore potential strategies to enhance public awareness and its adoption at the local level.

2. RESEARCH METHODOLOGY

This study employs an empirical juridical research approach, examining legal behavior in society by integrating field data with relevant legal provisions and regulations.[3] Two types of data are utilized: primary and secondary. Primary data include interviews with twelve (12) lawyers and twelve (12) individuals who have filed cases at the Tulungagung

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[2] Cavinder Bull, "An Effective Platform for International Arbitration: Raising the Standards in Speed, Costs and Enforceability," in *International Organizations and the Promotion of Effective Dispute Resolution* (Leiden: Brill–Nijhoff, 2019), 7–27, https://doi.org/10.1163/9789004407411_003.

[3] Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33, https://doi.org/10.14710/gk.2020.7504.

Regency Court, as well as relevant laws and derivative regulations. Secondary data consist of additional literature, mass media sources, and court publications. The collected data are validated using source and theory triangulation to ensure reliability and accuracy.[4] Following validation, the data undergo an initial coding process using the NVivo software. The coded data are then analyzed in conjunction with relevant literature and theoretical frameworks to provide a comprehensive interpretation of the findings.

3. RESEARCH RESULT AND DISCUSSION

3.1. Development of Arbitration in Indonesia

The precise origins of arbitration remain uncertain. The foundations of arbitration are believed to have emerged within societal traditions, including those of several major world religions, even though these early practices were not formally recognized as arbitration in the manner known today.[5]

According to records from the International Court of Justice, arbitration has been documented since the signing of the Jay Treaty in 1794 between the United States and Great Britain. One of the treaty clauses addressed the resolution of disputes that could not be settled through conventional negotiations. In 1871, the United States and Britain further expanded arbitration's role through the Washington Treaty, agreeing to submit the issue of British neutrality during the American Civil War (1861–1865) to international arbitration. This process involved neutral arbitrators from Brazil, Italy, and Switzerland, who adjudicated the dispute based on international law.[6]

In the 1770s, three British imperial officials engaged in arbitration as an alternative to litigation. Similarly, in Bengal, India, the East India Company prohibited court-based dispute resolution and instead appointed elite statesmen as arbitrators. In the Southeast Asian region, arbitration first gained formal recognition in 1978 with the establishment of the Kuala Lumpur Regional Centre for Arbitration in Malaysia. In 1990, Hong Kong ratified the Uncitral Model Law, which provided a framework for the regulation, validity of agreements, recognition and enforcement of arbitral awards, and the arbitration

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4 Matthew B. Miles, A. Michael Huberman, and Johnny Saldana, *Qualitative Data Analysis: A Methods Sourcebook* (New York: SAGE Publications, Inc, 2018).

5 Earl S Wolaver, "The Historical Background of Commercial Arbitration," *University of Pennsylvania Law Review and American Law Register* 83, no. 2 (1934): 132–46, https://doi.org/10.2307/3308189.

6 International Organization Foundation, "International Court of Justice," *International Organization* 8, no. 3 (1954): 380–81, https://doi.org/10.1017/S0020818300022165.

process.[7] Similarly, in 1994, the Singaporean government adopted the Uncitral Model Law through the Singapore International Arbitration Act.[8]

Indonesia also has a long history of dispute resolution through arbitration. Arbitration-like practices have been deeply embedded in Indonesian society for centuries. Indonesian tradition of resolving disputes cooperatively, where deliberation and peaceful negotiation are prioritized. This cultural inclination toward consensus-based dispute resolution suggests that the arbitration model has existed in Indonesia since ancient times.[9]

This position is reinforced by the enactment of Article 377 of the *Herzien Indonesisch Reglement* (HIR) (Article 705 of the *Rechtsreglement voor de Buitengewesten* (RBG), which states:

> "If Indonesians and foreign Easterners wish to have their disputes decided by an arbitrator, they must comply with the court rules applicable to European nations."

The implementation of arbitration has also been recognized in various scattered regulations. For instance, Law No. 1 of 1950 on the Structure and Function of the Supreme Court of the Republic of Indonesia includes provisions on arbitration and its decisions in Article 15. Additionally, Law No. 14 of 1970 affirms that dispute resolution outside the court, whether through mediation or arbitration, remains permissible.[10]

Indonesia formally ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) through Presidential Decree No. 34 of 1981. This decree, signed on June 10, 1958, and effective as of June 7, 1959, regulates the validity of arbitration agreements and the recognition and enforcement of arbitral awards in Indonesia.[11]

Further regulatory frameworks were introduced to strengthen arbitration in Indonesia. Supreme Court Regulation No. 1 of 1990 established that foreign arbitral awards rendered by countries that are signatories to the New York Convention could be enforced in Indonesia, provided they are registered with the Central Jakarta District Court.[12]

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7 Tan Sri Lim Phaik Gan, "Institutional Arbitration in Asia - the Experience of the Kuala Lumpur Regional Centre for Arbitration," *Singapore Journal of Legal Studies*, 1993, 656–67, https://law.nus.edu.sg/sjls/wp-content/uploads/sites/14/2024/07/1474-1993-sjls-dec-656.pdf.

8 Tran Hoang Tu Linh, "Commercial Arbitration in Asia: Legal Developments and Regional Dynamics from An ASEAN Perspective," *Asia Pacific Law Review*, 2025, 1–26, https://doi.org/10.1080/10192557.2024.2445627.

9 Rahayu Hartini et al., "The International Arbitration Award as a Simple Proof Requirement in Bankruptcy," *Lex Scientia Law Review* 8, no. 1 (2024): 1–28, https://doi.org/10.15294/lslr.v8i1.14056.

10 S.U.T Girsang, *Arbitrase*, 1st ed. (Jakarta: Mahkamah Agung RI, 1992).

11 Pemerintah Republik Indonesia, "Keputusan Presiden No. 34 Tahun 1981 Tentang Mengesahkan 'Convention On The Recognition And Enforcement Of Foreign Arbital Awards', Yang Telah Ditandatangani Di New York Pada Tanggal 10 Juni 1958 Dan Telah Mulai Berlaku Pada Tanggal 7 Juni 1959" (1981), https://peraturan.bpk.go.id/Details/66483/keppres-no-34-tahun-1981.

12 Mutiara Hikmah, "Pengakuan Dan Pelaksanaan Putusan Arbitrase Asing," *Indonesian Journal of International Law* 5, no. 2 (2008): 319–43, https://doi.org/10.17304/ijil.vol5.2.172%0A%0A.

Additionally, Law No. 8 of 1999 on Consumer Protection explicitly recognizes arbitration as a mechanism for resolving disputes between consumers, producers, and other business entities. Another significant milestone was the enactment of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, along with Supreme Court Regulation No. 3 of 2023, which governs the procedures for appointing arbitrators, the right to challenge appointments, and the review, enforcement, and annulment of arbitration decisions.[13] These legal frameworks have reinforced the legitimacy and effectiveness of arbitration in Indonesia.

The increasing legal recognition of arbitration has been accompanied by the emergence of various arbitration institutions across different sectors. Among these institutions is the Indonesian National Arbitration Board (Badan Arbitrase Nasional Indonesia or BANI), established in 1977. In 1993, the Indonesian Council of Ulama (Majelis Ulama Indonesia or MUI) founded the Indonesian Muamalat Arbitration Board (Badan Arbitrase Muamalat Indonesia or BAMUI), which was later renamed the National Sharia Arbitration Board (Badan Arbitrase Syariah Nasional or Basyarnas). Other notable arbitration institutions include the Indonesian Energy Arbitration Board (Badan Arbitrase Energi or BASE), the Trisakti Arbitration Institute, the Indonesian Insurance Mediation and Arbitration Board (Badan Mediasi dan Arbitrase Asuransi Indonesia or BMAI), the Indonesian Capital Market Arbitration Board (Badan Arbitrase Pasar Modal Indonesia or BAPMI), the Indonesian Guarantee Company Arbitration and Mediation Board (Badan Arbitrase dan Mediasi Perusahaan Penjaminan Indonesia or BAMPPI), the Pension Fund Mediation Board (Badan Mediasi Dana Pensiun or BMDP), the Indonesian Banking Dispute Resolution Alternative Institution (Lembaga Alternatif Penyelesaian Sengketa Perbankan Indonesia or LAPSPI), and the Indonesian Pawnshop and Venture Financing Mediation Board (Badan Mediasi Pegadaian dan Pembiayaan Ventura Indonesia or BMPPVI).[14]

3.2. Advantages of Arbitration as an Alternative Dispute Resolution Mechanism

Arbitration is an alternative dispute resolution mechanism conducted outside the court system, characterized by the mutual agreement of parties to submit their case to one or more arbitrators. As a form of private adjudication, the arbitral decision is final and

[13] Mahkamah Agung Republik Indonesia, "Peraturan Mahkamah Agung Nomor 3 Tahun 2023 Tentang Tata Cara Penunjukan Arbiter Oleh Pengadilan Hak Ingkar, Pemeriksaan Permohonan Pelaksanaan Dan Pembatalan Putusan Arbitrase" (2023), https://peraturan.bpk.go.id/Details/277123/perma-no-3-tahun-2023.

[14] Indonesia Financial Services Authority, "List of Alternative Dispute Resolution Agencies in Financial Services Sector," Indonesia Financial Services Authority, 2017, https://ojk.go.id/en/berita-dan-kegiatan/pengumuman/Pages/List-of-Alternative-Dispute-Resolution-Agencies-in-Financial-Services-Sector.aspx.

binding. The appointed arbitrator acts as a judge, hearing arguments from both parties and rendering a decision accordingly.[15]

The primary prerequisite for arbitration is *the pactum de compromittendo*, an agreement between the parties to resolve their dispute through arbitration. This agreement is typically outlined in an arbitration clause embedded within the main contract, its amendments, or addenda. Alternatively, the parties may enter into an arbitration agreement before a notary after a dispute has arisen, known as a deed of compromise.[16]

Arbitration is widely regarded as offering several advantages over court-based dispute resolution, including:

a) Speed and Flexibility

Arbitration facilitates faster dispute resolution due to its flexible scheduling, adaptable procedural mechanisms, and customizable rules that can be tailored to the parties needs. This flexibility makes arbitration a more efficient option compared to conventional court proceedings, which often involve prolonged timelines.[17] Additionally, the parties have the freedom to choose the location of the hearings, enhancing convenience and further reflecting arbitrations capacity to deliver swift, fair, and targeted outcomes.

b) Cost-Effectiveness

Arbitration is generally considered more economical than litigation. Its streamlined procedures and shorter timelines significantly reduce administrative costs, legal fees, and the time spent on lengthy court processes. This efficiency makes arbitration an attractive option for parties seeking to resolve disputes without the substantial financial burdens associated with conventional litigation.[18]

c) Confidentiality

Arbitration hearings are conducted in a private setting, ensuring that proceedings remain confidential and that decisions are not published, as is common in general court systems. This confidentiality is a key advantage of arbitration, as it protects

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15 Rini Eka Agustina, "Efektifitas Arbitrase Sebagai Penyelesaian Perselisihan," *Ethics and Law Journal: Business and Notary* 2, no. 1 (2024): 263–272, https://doi.org/10.61292/eljbn.130.

16 Benny Iswari et al., "Pactum De Compromittendo In Shares Purchase Agreement," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 15, no. 2 (2023): 240–51, https://doi.org/10.32505/jurisprudensi.v15i2.6462.

17 Ahmed Salem Ahmed, "The Extent of Arbitration's Preference and Independence over the Judicial System in Disputes Resolution Selection: A Re-Evaluation for Developing Judiciary and Arbitration Systems," *Mazahib: Jurnal Pemikiran Hukum Islam* 18, no. 2 (2019): 285–316, https://doi.org/10.21093/mj.v18i2.1450.

18 Rahmatsyah Rahmatsyah, "The Effectiveness of Arbitration as An Expensive Alternative Dispute Resolution," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 2 (2023): 1–8, https://doi.org/10.31941/pj.v22i2.3796.

sensitive information and safeguards the reputation of the disputing parties.[19] As a result, arbitration provides a secure environment for resolving disputes without the risk of public exposure, which could potentially affect business or professional relationships.

d) Informal and Cooperative Atmosphere

Arbitration offers a less formal process than conventional court proceedings, fostering a more collaborative and non-adversarial environment. This approach allows disputes to be resolved through deliberation and mutual agreement rather than rigid legal procedures.[20] With its flexibility, arbitration encourages amicable resolutions and minimizes prolonged conflicts, enabling the parties to reach a fair and mutually beneficial settlement.

e) Freedom to Choose Arbitrators

One of arbitrations key advantages is the ability of the parties to select their own arbitrators. This flexibility allows them to appoint professionals with the necessary expertise, experience, and in-depth understanding of the specific area of dispute. By choosing competent and knowledgeable arbitrators, the resolution process becomes more efficient, objective, and aligned with the interests of both parties.[21] This feature makes arbitration more adaptable than litigation, where judges are appointed without consideration of the disputing parties preferences or specialized needs.

f) Final and Binding Decisions

Arbitration awards carry legal finality, meaning they are binding on the disputing parties and cannot be appealed or overturned through higher courts, as is possible in litigation. This characteristic enhances arbitrations effectiveness, as it ensures that disputes are resolved swiftly without prolonged legal battles.[22] Additionally, arbitration awards can be enforced through court ratification, often with minimal judicial review or without the need for further examination. With its legally binding

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[19] Nobumichi Teramura and Leon Trakman, "Confidentiality and Privacy of Arbitration in The Digital Era: Pies in The Sky?," *Arbitration International* 40, no. 3 (2024): 277–306, https://doi.org/10.1093/arbint/aiae017.

[20] Shauhin A. Talesh and Peter C. Alter, "The Devil Is in The Details: How Arbitration System Design and Training Facilitate and Inhibit Repeat-Player Advantages in Private and State-Run Arbitration Hearings," *Law and Policy* 42, no. 4 (2020): 315–43, https://doi.org/10.1111/lapo.12155.

[21] Jafar Sidik et al., "Choice of Arbitrators Regarding Dispute Settlement: Comparing Indonesia and Russia," *Journal of Law and Legal Reform* 5, no. 1 (2024): 109–36, https://doi.org/10.15294/jllr.vol5i1.2093.

[22] Noer Dini Camelia et al., "The Existence of Arbitration Verdict Cancellation Efforts Regarding Final and Binding Characteristics," *Legal Brief* 13, no. 2 (2024): 426–432, https://legal.isha.or.id/index.php/legal/article/view/986.

nature, arbitration provides a high degree of legal certainty, making it a highly efficient dispute resolution option.

g) International Recognition and Enforcement

Arbitration awards are widely recognized and enforceable across international jurisdictions. Unlike national court rulings, which often face significant legal and procedural challenges when enforced in other countries, arbitration awards benefit from international treaties and frameworks that facilitate their execution.[23] This is particularly true for arbitration institutions operating under recognized international arbitration procedures. Countries that are signatories to agreements such as the New York Convention and those that have adopted the Uncitral Model Law provide a strong legal basis for the global enforcement of arbitration decisions.

3.3. Challenges and Obstacles to the Implementation of Arbitration in Tulungagung Regency

In theory, arbitration, as previously discussed, offers numerous advantages over the traditional court system. However, in practice, particularly in Tulungagung Regency, arbitration has not demonstrated significant benefits for those seeking justice. A considerable gap exists between the ideal concept of arbitration (das sollen) and its actual implementation in society (das sein). This discrepancy arises due to several underlying challenges and obstacles.

An attorney who has represented clients at the arbitration institution Basyarnas, the effectiveness of arbitration as an alternative dispute resolution mechanism remains suboptimal. He noted that a sharia arbitration decision he handled, for instance, could not be enforced by the district court. In his view, disputes related to sharia economics should fall under the jurisdiction of the religious court, which already possesses the necessary legal competence.[24]

This jurisdiction is established under Article 49 of Law Number 3 of 2006, which amends Law Number 7 of 1989 on Religious Courts. This provision grants religious courts the authority to examine, adjudicate, and resolve specific cases involving Muslim parties, including those related to sharia economics. Meanwhile, Law Number 30 of 1999 on Alternative Dispute Resolution stipulates that: (1) Within a maximum of thirty (30) days from the date the decision is issued, the original document or an authentic

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[23] Muhamad Dzadit Taqwa, Amaraduhita Laksmi Prabhaswari, and Maria Jasmine Putri Subiyanto, "Inconsistency in Recognition and Enforcement of Foreign Arbitral Awards: Non-Compliance or Normative Factors?," *Jurnal Bina Mulia Hukum* 8, no. 2 (2024): 258–75, https://doi.org/10.23920/jbmh.v8i2.1310.

[24] M.D, "Personal Interview."

copy of the arbitration award must be submitted and registered by the arbitrator or their legal representative with the Clerk of the District Court.

Another significant challenge is the perception that arbitration is not designed for lower-income individuals. According to interviews with R.D, M.K, and K.N, arbitration primarily caters to a market composed of educated individuals and those with substantial financial resources. The disputing parties who typically engage in arbitration proceedings are predominantly legal entities, including national and international corporations.[25]

This reality also intersects with another critical issue: arbitration, as an alternative dispute resolution mechanism, remains relatively unknown among the general public, particularly in rural areas. This lack of awareness is further exacerbated by inadequate socialization and outreach efforts to inform communities about arbitration as a viable dispute resolution option.

Another significant obstacle is the cost of arbitration proceedings. While arbitration is often perceived as a more affordable alternative to litigation, in reality, the fees for experienced and highly qualified arbitrators can be substantial. This concern was highlighted by AS, who once represented a client at the Indonesian National Arbitration Board (BANI) in Jakarta.[26]

According to Article 12 of Law Number 30 of 1999 on Alternative Dispute Resolution, individuals eligible to serve as arbitrators must meet specific criteria, including a minimum age of 35 and at least 15 years of expertise and active experience in their respective fields. As A.S explained, the high cost of arbitrator fees is justified, as many arbitrators hold prestigious professional backgrounds beyond their arbitration work. Some serve as professors, while others hold prominent positions, such as commissioners in major corporations.

Additionally, claims that arbitration is a more cost-effective dispute resolution method require further scrutiny. In cases involving international arbitration institutions—particularly those based abroad—the cost of dispute resolution can far exceed that of national courts. In countries that operate with the euro or pound sterling, the exchange rate significantly increases arbitration expenses compared to proceedings conducted in Indonesian courts, where costs are calculated in rupiah.

Another challenge is the limited availability of arbitration institutions, which are predominantly located in major economic centers and large cities. This concentration creates an impression of exclusivity, making arbitration appear less accessible to the general public. D.R, for instance, stated that he had to accompany his client from Tulungagung to the Indonesian National Arbitration Board (BANI) office in Surabaya. He also expressed concerns about the additional costs his client incurred due to the long-distance travel required.[27]

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[25] R.D, M.K, and K.N, "Personal Interviews."
[26] A.S, "Personal Interview."
[27] D.R, "Personal Interview."

Although arbitration does offer online hearing mechanisms, the absence of arbitration institutions in smaller regions suggests that arbitration has yet to be optimized as a truly accessible alternative dispute resolution method. This issue is also evident in regions such as Kalimantan, where arbitration institutions remain scarce. Currently, the only recorded arbitration institution in the area is a representative office of the Indonesian National Arbitration Board (BANI) located in Pontianak, West Kalimantan.

CONCLUSION

Arbitration, as an alternative dispute resolution mechanism, offers several advantages, including time efficiency, lower costs, confidentiality, flexibility, and the ability to select arbitrators with expertise in relevant fields. Additionally, the final and binding nature of arbitration awards, along with their international recognition, makes arbitration a compelling alternative to litigation. However, the implementation of arbitration in Indonesia, particularly in Tulungagung Regency, faces several challenges. Despite the existence of various legal provisions supporting arbitration, a gap remains between theory and practice. Some of the key obstacles include limited access to arbitration institutions in regional areas, the high costs of arbitration—often unaffordable for lower-income individuals—and a lack of public awareness regarding the availability of arbitration services. Furthermore, arbitration is frequently perceived as catering primarily to the elite and large corporations, limiting its acceptance and use among the broader community. Thus, while arbitration presents numerous advantages, significant challenges must be addressed to enhance its role as an effective alternative dispute resolution mechanism in Indonesia.

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