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Legal analysis of the regulation of Alternative Dispute Resolution (ADR) in international contract law: A case study in Russia and Indonesia

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ABSTRACT

The increasing volume of cross-border trade and investment has positioned international contracts as the primary legal instrument governing global business relationships. Along with this development, the potential for contractual disputes between parties subject to different legal systems has intensified. Litigation before national courts is often considered ineffective in resolving international contract disputes because of jurisdictional constraints, lengthy procedures, and difficulties in the recognition and enforcement of judgments. Consequently, Alternative Dispute Resolution (ADR) has emerged as a more flexible and efficient mechanism within international contract law. This study aims to analyze the legal regulation of ADR in international contract law through a case study of Russia and Indonesia. This study employs normative legal research methods using statutory, conceptual, and comparative approaches. The data are derived from primary, secondary, and tertiary legal materials relevant to the regulation of ADR in both countries. The findings indicate that both Russia and Indonesia have normatively adopted international ADR principles, particularly arbitration, and are parties to the 1958 New York Convention. Nevertheless, significant differences exist in the implementation and effectiveness of ADR, influenced by the characteristics of their respective legal systems, policies, and judicial practices. This study concludes that although the normative frameworks governing ADR in Russia and Indonesia are largely aligned with international standards, further strengthening of consistent application and legal certainty is required to ensure the optimal functioning of ADR in the resolution of international contract disputes.

Keywords: Alternative Dispute Resolution; international contract law; international arbitration; comparative study; Russia and Indonesia

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1. INTRODUCTION

International trade and investment have increased significantly alongside economic globalization and market liberalization. International contracts have become the primary legal instruments governing cross-jurisdictional commercial relationships between private business actors and between states and foreign investors. According to international contract theory, contracts function not only as instruments of economic exchange but also as mechanisms for risk allocation and the creation of legal certainty in transnational relationships (Schmitthoff, 2018; Bonell, 2020). However, differences in legal systems, legal cultures, and the parties' economic interests frequently give rise to disputes in the performance of international contracts.

Empirical data indicate that international contract disputes have increased in line with the growing complexity of global transactions, particularly in the energy, trade, and cross-border investment sectors (UNCITRAL, 2021). In recent years, the escalation of cross-border commercial disputes has become increasingly evident, particularly following global economic disruptions such as the COVID-19 pandemic, geopolitical tensions, and volatility in strategic sectors, including energy and international trade. Reports from international arbitration institutions indicate that disputes involving international contracts have increased in number and complexity, often involving parties from jurisdictions with divergent legal systems and political interests. This condition is particularly relevant for countries such as Russia and Indonesia, which are actively involved in cross-border investments and international commercial activities. As global business actors increasingly seek dispute resolution mechanisms that ensure neutrality, efficiency, and enforceability, the role of Alternative Dispute Resolution (ADR) has become more critical than ever in maintaining legal certainty in international contractual relationships. Dispute resolution through litigation before national courts is often considered ineffective because of jurisdictional constraints, lengthy judicial processes, and difficulties in the recognition and enforcement of judgments in foreign jurisdictions (Born, 2021). These conditions have driven the development of ADR as a more flexible, efficient, and party-oriented mechanism.

ADR, encompassing negotiation, mediation, conciliation, and arbitration, has been widely recognized as an integral component of modern international contract law. International arbitration, in particular, has emerged as the most dominant mechanism because of the final and binding nature of arbitral awards and the support provided by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention). This Convention serves as the cornerstone of cross-border arbitral award enforcement and has been ratified by more than 160 states (Gaillard & Savage, 2019; Redfern & Hunter, 2020).

Both Indonesia and Russia are parties to the New York Convention, reflecting their commitment to international arbitration. In Indonesia, ADR is regulated under Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. This legislation provides a legal basis for out-of-court dispute resolution, including the recognition and enforcement of international arbitral awards (Margono, 2017). Nevertheless, several studies indicate that the practice of recognizing and enforcing foreign arbitral awards in Indonesia continues to face challenges, particularly due to judicial intervention and divergent legal interpretations (Hernoko, 2021).

Russia regulates ADR through the Arbitrazh Procedural Code and specific legislation governing international commercial arbitration. The Russian ADR system is widely used in international contract disputes, particularly those related to the energy sector and strategic trade (Butler, 2019). However, the effectiveness of ADR in Russia is also influenced by the characteristics of its national legal system and state policies that exercise strong control over certain sectors (Trochev, 2020). This situation has generated an academic debate regarding the level of legal certainty and independence of ADR enforcement in Russia.

A comparative analysis between Indonesia and Russia is particularly relevant because both countries share a civil law legal tradition while differing significantly in terms of legal policy and enforcement practices. Previous studies have tended to examine ADR separately within each jurisdiction, leaving a gap in comparative scholarship that specifically addresses the regulation and implementation of ADR in international contract law in both countries (Zekoll, 2018; Merryman & Pérez-Perdomo, 2019).

Based on these considerations, this study aims to conduct a juridical analysis of the regulation of Alternative Dispute Resolution in international contract law through a case study of Russia and Indonesia. This study is expected to contribute academically to the development of international contract law and provide normative recommendations for optimizing ADR mechanisms to enhance legal certainty and strengthen the confidence of business actors in cross-border transactions. Despite the growing body of literature on Alternative Dispute Resolution and international arbitration, existing studies predominantly examine ADR within a single national jurisdiction or focus primarily on normative frameworks without sufficiently addressing differences in implementation across legal systems. Comparative analyses that specifically examine the regulation and practical application of ADR in international contract law between civil law countries with distinct legal and political characteristics, such as Russia and Indonesia, are limited. Moreover, prior research often lacks an in-depth discussion of how national legal culture and judicial practices influence the effectiveness of ADR mechanisms. Accordingly, this study seeks to fill this gap by providing a comparative juridical analysis of the regulation and implementation of ADR in Russia and Indonesia. This research contributes to the literature from a comparative perspective, focusing on implementation challenges and providing normative recommendations to strengthen legal certainty and promote the effective use of ADR in international contract disputes. This study employs a normative legal research method, focusing on the analysis of legal norms governing ADR in international contract law. This study adopts a qualitative juridical approach to examine the regulation and implementation of ADR mechanisms within different legal systems.

The approaches used in this research include statutory, conceptual, and comparative approaches. The statutory approach is applied to analyze relevant national and international legal instruments, including Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution in Indonesia, the Russian Arbitrazh Procedural Code, legislation on international commercial arbitration, and the 1958 New York Convention (NYC). The conceptual approach is used to examine legal doctrines and principles related to ADR and international contract law, while the comparative approach is employed to identify similarities and differences in the regulation and practice of ADR between Indonesia and Russia.

The unit of analysis in this study comprises the legal norms, judicial practices, and institutional frameworks governing ADR in both countries. This study relies on primary legal materials, including statutes, international conventions, and court decisions, as well as secondary legal materials, such as scholarly books and peer-reviewed journal articles. Tertiary legal materials, including legal dictionaries and encyclopedias, are also utilized to support legal interpretation.

Data collection is conducted through systematic literature review and document analysis of relevant legal sources. To minimize bias, this study prioritizes the use of reputable and peer-reviewed academic sources and applies a consistent comparative framework to analyze both jurisdictions. The data are analyzed using qualitative juridical analysis to draw normative conclusions regarding the effectiveness of ADR regulation and its implications for legal certainty in international contract law.

2. LITERATURE REVIEW

2.1. Concept and Development of Alternative Dispute Resolution (ADR) in International Law

ADR has developed in response to the limitations of litigation in resolving cross-border disputes. In the context of international contract law, ADR is understood as a non-litigation mechanism that enables parties to resolve disputes efficiently, flexibly, and based on mutual agreement (Brown & Marriott, 2018). ADR encompasses various forms, including negotiation, mediation, conciliation, and arbitration, each of which has distinct characteristics and legal consequences.

From a theoretical perspective, ADR aligns with the principle of party autonomy, which constitutes a fundamental pillar of international contract law. This principle grants parties the freedom to determine the forum, the applicable law, and the dispute resolution mechanism (Bonell, 2020). In international practice, such freedom is commonly reflected in arbitration clauses or multi-tier dispute resolution clauses.

2.2. International Arbitration as the Dominant ADR Mechanism

International arbitration represents the most dominant form of ADR used in international contracts. This dominance is attributable to the final and binding nature of arbitral awards, as well as the support provided by international legal instruments, particularly the 1958 New York Convention. The Convention establishes a global legal framework for the recognition and enforcement of foreign arbitral awards (Born, 2021).

Redfern and Hunter argue that the success of international arbitration lies in its forum neutrality, procedural flexibility, and the certainty of award enforcement across jurisdictions (Redfern & Hunter, 2020). Furthermore, international arbitration institutions such as the ICC, LCIA, and SIAC have experienced a continuous increase in caseloads, reflecting strong confidence among business actors in arbitration as a dispute resolution mechanism (Gaillard & Savage, 2019).

2.3. Regulation of ADR in International Contract Law

Within the framework of international contract law, ADR is not merely perceived as a technical dispute resolution mechanism but as an integral component of contractual structure. ADR clauses are often designed to preserve long-term business relationships and prevent the escalation of conflicts (McKendrick, 2019). UNCITRAL, through the Model Law on International Commercial Arbitration and the Model Law on International Commercial Mediation, promotes the harmonization of ADR regulations across jurisdictions (UNCITRAL, 2021).

Nevertheless, the effectiveness of ADR largely depends on the extent to which international norms are adopted and implemented within national legal systems. Differences in legal systems, levels of judicial independence, and legal culture constitute decisive factors influencing the success of ADR (Merryman & Pérez-Perdomo, 2019). Recent peer-reviewed studies confirm that international arbitration remains the most dominant dispute resolution mechanism in international contracts due to its neutrality, procedural flexibility, and the ease of cross-border enforcement of arbitral awards. These characteristics make arbitration particularly attractive in complex, multi-jurisdictional, and politically sensitive disputes (Rogers, 2022; Ginsburg & Zubov, 2022).

2.4. Regulation and Practice of ADR in Indonesia

In Indonesia, ADR is normatively regulated under Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. This legislation recognizes arbitration and other forms of ADR as legitimate and binding mechanisms for dispute resolution (Margono, 2017). Several studies indicate that Indonesia's normative framework for ADR is relatively adequate, particularly in the context of international arbitration (Hernoko, 2021).

However, empirical and juridical studies reveal that the practice of ADR in Indonesia continues to face challenges, particularly at the stage of recognition and enforcement of foreign arbitral awards. Judicial intervention and divergent legal interpretations often undermine the principle of arbitral finality (Rachmawati & Karim, 2022). These issues raise concerns regarding the consistency of Indonesia's pro-arbitration stance within its legal system. Recent empirical legal research shows that although Indonesia has adopted a pro-arbitration legal framework, significant challenges persist at the enforcement stage due to inconsistent judicial interpretations. Such conditions have been identified as factors that weaken arbitral finality and reduce legal certainty for foreign investors involved in international contracts (Rachmawati & Karim, 2022).

2.5. Regulation and Practice of ADR in Russia

Russia regulates ADR through various legal instruments, including the Arbitrazh Procedural Code and specific legislation governing international commercial arbitration. In practice, Russia is known for its active engagement in resolving international contract disputes, particularly in strategic sectors such as energy and trade (Butler, 2019). International arbitration in Russia is frequently employed in contracts involving multinational corporations and state-owned enterprises.

Nonetheless, several international studies highlight structural challenges in the implementation of ADR in Russia, particularly concerning the role of the state and judicial independence (Trochev, 2020). Although Russia has normatively adopted international ADR standards, their implementation is often influenced by political interests and national policy considerations (Zubov, 2021). Scholarly analyses indicate that while Russia has formally adopted international arbitration standards, the effectiveness of ADR implementation is strongly influenced by state interests and judicial discretion, particularly in disputes involving strategic economic sectors such as energy and international trade (Ginsburg & Zubov, 2022).

2.6. Comparative Study of ADR and the Research Gap

Comparative studies on ADR demonstrate that the effectiveness of dispute resolution mechanisms is highly contingent upon national contexts. Zekoll emphasizes that civil law countries may adopt significantly different approaches to ADR despite adhering to the same international legal instruments (Zekoll, 2018). In the cases of Indonesia and Russia, differences in legal policy, legal culture, and judicial practice constitute critical variables affecting the effectiveness of ADR.

Based on a review of the existing literature, research that specifically compares the regulation and implementation of ADR in international contract law between Russia and Indonesia remains limited. Most existing studies are descriptive in nature and focus on a single jurisdiction (Born, 2021; Hernoko, 2021). Accordingly, a clear research gap exists that can be addressed through a comparative juridical analysis aimed at identifying similarities, differences, and the legal implications of ADR regulation in both countries.

3. RESULT AND DISCUSSION

3.1. Trends in the Use of Alternative Dispute Resolution in International Contracts

The analysis of secondary data derived from reports issued by international institutions indicates that ADR, particularly international arbitration, is the most dominant dispute resolution mechanism used in international contracts. Figure 1 illustrates that approximately 70% of international contract disputes are resolved through arbitration, while litigation before national courts accounts for only around 20%, with the remainder settled through mediation and other forms of ADR.

The dominance of international arbitration is closely linked to its final and binding nature, as well as the relative ease of cross-border recognition and enforcement of arbitral awards under the New York Convention of 1958. In the context of international contracts, business actors tend to avoid litigation due to jurisdictional complexities and uncertainties regarding the enforcement of court judgments in foreign jurisdictions. Accordingly, these findings confirm that ADR has become an integral component of modern international contract law practice.

These findings further reinforce the view that the development of ADR is not merely a normative phenomenon but a practical necessity arising from the complexity of cross-border contractual relationships. Consequently, national legal regulation of ADR plays a crucial role in ensuring legal certainty and maintaining parties' confidence in international contracts.

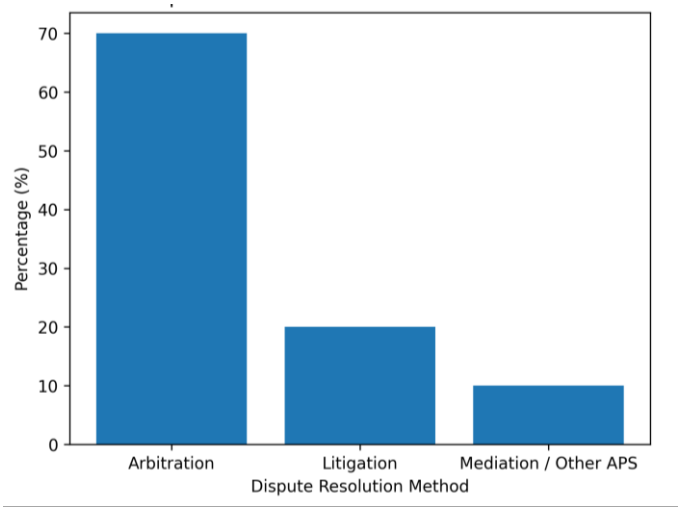

Figure 1. Trend of Dispute Resolution Methods in International Contracts

Figure 1 shows that international arbitration is the most dominant dispute resolution mechanism in international contracts, accounting for approximately 70% compared to litigation and other forms of ADR. This dominance reflects the preference of international business actors for a mechanism that is final, neutral, and readily enforceable across jurisdictions.

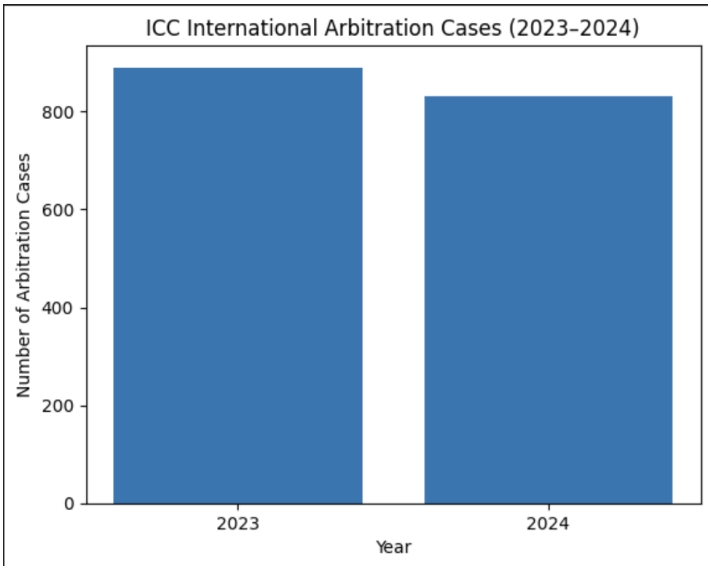

Figure 2. ICC International Arbitration Cases (2023-2024)

Figure 2 illustrates the number of international arbitration cases administered by the International Chamber of Commerce (ICC) in 2023 and 2024. In 2023, the ICC recorded approximately 890 arbitration cases, while in 2024 the number slightly decreased to around 831 cases. Despite this modest decline, the data demonstrate that international arbitration remains a highly dominant and stable dispute resolution mechanism in international contractual practice. This trend reflects the continued preference of international business actors for arbitration due to its finality, neutrality, and the relative ease of cross-border enforcement under the New York Convention of 1958.

3.2. Regulation of Alternative Dispute Resolution in International Contract Law in Indonesia

The normative analysis demonstrates that Indonesia has established a relatively comprehensive legal framework for ADR through Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. This legislation recognizes arbitration and other ADR mechanisms as legitimate and binding

means of resolving disputes outside the courts. Furthermore, Indonesia's ratification of the 1958 New York Convention reflects its commitment to the recognition and enforcement of international arbitral awards.

Nevertheless, in practice, the effectiveness of ADR in Indonesia continues to face several challenges. One significant finding in this discussion is the persistent tendency of national courts to intervene in arbitration proceedings, particularly at the stage of recognition and enforcement of foreign arbitral awards. Such intervention potentially undermines the principle of arbitral finality and creates legal uncertainty for parties to international contracts.

In addition, non-arbitral ADR mechanisms such as mediation and conciliation remain relatively underutilized in international contract disputes in Indonesia. This indicates that despite the availability of a normative framework, legal culture and the practical understanding of ADR among legal practitioners still require strengthening in order for these mechanisms to function optimally.

3.3. Regulation of Alternative Dispute Resolution in International Contract Law in Russia

Unlike Indonesia, Russia regulates ADR through a combination of procedural regulations and specific legislation governing international commercial arbitration. The analysis shows that Russia has normatively adopted international ADR standards, including the principles embodied in the 1958 New York Convention. International arbitration in Russia is widely used in contract disputes involving strategic sectors such as energy, trade, and cross-border investment.

However, the discussion reveals that the effectiveness of ADR in Russia is significantly influenced by the characteristics of its legal system and national legal policy. The relatively strong role of the state within the Russian legal system affects the level of judicial independence and the consistency of ADR enforcement. In certain cases, non-legal factors have influenced the resolution of international contract disputes, raising concerns regarding legal certainty for foreign investors.

Despite these challenges, Russia remains an active jurisdiction in the resolution of international contract disputes through arbitration. This demonstrates that ADR continues to be regarded as a relevant and necessary mechanism, although its implementation requires stronger guarantees of independence and transparency.

3.4. Comparative Analysis of ADR Regulation between Russia and Indonesia

The comparative analysis indicates that both Russia and Indonesia have normatively recognized and adopted ADR as a dispute resolution mechanism in international contracts. The primary similarity between the two countries lies in their recognition of international arbitration and their status as parties to the 1958 New York Convention. This reflects a degree of harmonization between national legal systems and international ADR standards.

However, significant differences emerge in terms of implementation. Indonesia faces challenges related to inconsistencies in national court decisions and the weak application of the pro-arbitration principle, while Russia encounters issues stemming from state dominance and the influence of political considerations on ADR enforcement. These differences demonstrate that the effectiveness of ADR is determined not only by written legal norms but also by legal culture and institutional practices within each country.

Accordingly, the comparative findings emphasize that strengthening ADR in international contract law cannot be achieved solely through regulatory harmonization, but also requires institutional reform and capacity building among judicial and legal enforcement authorities.

3.5. Legal Implications of ADR for Legal Certainty in International Contracts

Based on the results and discussion above, it can be concluded that ADR has significant implications for legal certainty in international contracts. Effective ADR mechanisms are capable of providing dispute resolution that is efficient, timely, and predictable, thereby enhancing the confidence of business actors engaged in cross-border transactions.

However, where the regulation and implementation of ADR are inconsistent, legal uncertainty may persist despite the formal adoption of international standards. Therefore, both Russia and Indonesia must strengthen their commitment to international ADR principles, particularly by ensuring the finality of arbitral awards and limiting undue intervention by national courts.

4. CONCLUSION AND RECOMMENDATIONS

4.1. Conclusion

Based on the results and discussion, it can be concluded that Alternative Dispute Resolution (ADR) plays a strategic role in the settlement of international contract disputes. Developments in international contractual practice demonstrate that international arbitration has become the most dominant form of ADR, primarily due to its final and binding nature, as well as the relative ease of cross-border enforcement under the regime of the 1958 New York Convention.

Normatively, both Indonesia and Russia have incorporated ADR regulations into their national legal systems and recognize international arbitration as a mechanism for resolving international contract disputes. This similarity reflects a degree of harmonization between national legal frameworks and international legal standards. Nevertheless, this study finds significant differences in the implementation of ADR in the two countries. Indonesia faces challenges related to inconsistent court decisions and the limited application of the pro-arbitration principle, while Russia encounters issues associated with state dominance and the influence of political considerations on the enforcement of ADR.

This research emphasizes that the effectiveness of ADR in international contract law is determined not only by the existence of written legal norms but also by legal culture, judicial independence, and the consistency of law enforcement practices. Accordingly, although the ADR frameworks in Russia and Indonesia are largely aligned with international standards, further strengthening of their implementation is required to ensure legal certainty in the resolution of international contract disputes.

4.2. Recommendations

Based on the above conclusions, this study offers the following recommendations:

For Policymakers, it is necessary to strengthen commitment to the pro-arbitration principle by limiting national court intervention in arbitration proceedings, particularly at the stage of recognition and enforcement of international arbitral awards. Regulatory harmonization should be accompanied by consistent application at the practical level.

For Law Enforcement Authorities and Legal Practitioners, enhancing knowledge and professional capacity in relation to ADR, especially international arbitration, is essential to ensure that international contract law is applied in a manner that provides optimal legal certainty and protection for the parties.

For International Business Actors, it is recommended that ADR clauses be drafted clearly and comprehensively in international contracts, including the selection of the arbitral forum, the applicable law, and enforcement mechanisms, in order to minimize the potential for future disputes.

For Future Research, it is suggested that empirical studies be developed to examine the effectiveness of ADR through analyses of court decisions or interviews with arbitration practitioners, thereby complementing normative findings and providing a more comprehensive understanding of ADR practices in international contracts.

Ethical Approval

Not applicable.

Informed Consent Statement

Not applicable.

Confidentiality Statement

Not applicable.

Authors' Contributions

GAF conceptualized the study, conducted comparative legal analysis, and drafted the manuscript. A and NAS contributed to statutory research, literature review, and manuscript revision. All authors have read and approved the final manuscript.

Disclosure Statement

The author declares no conflict of interest related to this research.

Data Availability Statement

All data supporting the findings of this study are derived from publicly available legal materials, including legislation, academic publications, and official regulations of international and national sports organizations. No additional datasets were generated or analyzed.

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