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Online Arbitration as an Alternative to Business Dispute Resolution for Small Nominal Claims (A Comparative Study of the Indonesian National Arbitration Body (BANI) with the Singapore International Arbitration Center (SIAC))

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ABSTRACT: Globalization has increased the number and complexity of business disputes, including small-value disputes often faced by business actors, especially in the MSME and e-commerce sectors. The Small Claim Court (SCC) mechanism in Indonesia offers fast and cheap dispute resolution but has not been able to address the need for confidentiality. On the other hand, arbitration has the advantage of confidentiality and legal certainty, but the cost and duration of settlement are still the main obstacles for small nominal claims. A comparative study between the Indonesian National Arbitration Board (BANI) and the Singapore International Arbitration Center (SIAC) shows that SIAC has adopted a more adaptive, efficient, and affordable Online Small Claim Arbitration (OSCA) mechanism. At the same time, BANI does not yet have specific regulations related to online arbitration for small claims. This research uses an empirical normative method to examine the effectiveness of OSCA as an alternative to small-value business dispute resolution in Indonesia. The results confirm the need for regulatory updates and the development of specialized online arbitration mechanisms for small claims to provide efficient, confidential, and affordable solutions for businesses in Indonesia

KEYWORDS: online arbitration, small claim arbitration, BANI, SIAC, business dispute resolution

I. INTRODUCTION

The increasingly rapid and widespread globalization affects all sectors, including business. The rapid and widespread trade activities are directly proportional to the increasing number of trade disputes that must be resolved [1]. This phenomenon shows that the development and dynamics in the business sector naturally encourage the emergence of disputes as an integral element of the business world. This condition is a logical consequence of the increasing complexity of business interactions involving many parties with various interests, so the potential for disputes is even higher and demands an effective dispute resolution system that is adaptive to the times.

This increase in the number of business disputes is occurring in various jurisdictions. Data from the International Chamber of Commerce (ICC) shows an increase in cases registered yearly, with 870 cases registered in 2023, 695 cases in 2022, and 840 cases in 2021 [2]. The increasing trend of trade disputes is no exception in Indonesia. Trade disputes are very diverse in terms of nominal value, ranging from small-value cases to very large-value cases involving state interests. Disputes with small claims value often arise in daily trade practices, especially in the *e-commerce* and Micro, Small and Medium Enterprises (MSMEs) sectors. These disputes can range from cases of debt and credit, goods not as ordered, damage to goods, default, failure to pay installments, etc. Although the value of losses is relatively low, such disputes still impact consumer confidence, business continuity, and the reputation of business actors. The main challenge in resolving small value disputes lies in the imbalance between the cost of litigation and the value of the claim, where often the cost of litigation can exceed the value of the subject matter of the dispute, causing the parties to object to taking the case to formal channels.

As stated in Article 4, paragraph (2) of Law No. 48 of 2009 on Judicial Power, the goal of the judiciary in Indonesia is to create a simple, fast, and low-cost judicial system. This article is one of the factors underlying the creation of an efficient, fast, and low-cost small nominal dispute resolution mechanism in the form of a Small Claim Court (SCC), which is regulated in Supreme Court Regulation (Perma) No. 2 of 2015 jo. Supreme Court Regulation No. 4 of 2019. SCC is a trial mechanism for the settlement of small-value civil disputes with a maximum claim value of up to 500 million through the court with a simple and informal process. This mechanism exists to provide easier access to justice for the community and small businesses, while reducing the accumulation of cases in court. This is considered an appropriate solution for cases with small value disputes, because ordinary courts may require lengthy procedural formalities and more expensive court fees, which are not commensurate with the value of the dispute.

However, the SCC is not always an option for business actors due to its public nature and publicly accessible decisions. Business actors tend to switch to resolving disputes through non-litigation channels, or what can be called Alternative Dispute Resolution (ADR) by considering several advantages that are not obtained through litigation channels such as the SCC. This non-litigation pathway has various types of dispute resolution mechanisms, of which one alternative is now widely chosen in the context of commercial transactions, which is arbitration [3]. One of the main characteristics of arbitration is the binding nature of the award and its enforceability through the applicable legal system. The nature of the award produced by arbitration is generally final and binding, thus providing legal certainty for the parties to the dispute [4]. In addition, the arbitration process also emphasizes the principle of autonomy of the parties, which means that it allows the parties to determine the applicable law, the arbitration forum, and other procedural aspects [4].

Other advantages of arbitration are that it can be a relatively faster procedure because it does not require formalities as in court, the costs required are relatively measurable and predictable, and the most important is the principle of *confidentiality* [5]. The confidentiality principle stipulated in Article 27 of Law No. 30/1999 on Arbitration and Alternative Dispute Resolution means that the arbitration process and information related to it, including documents, conclusions, and awards, can only be known by the parties involved and the arbitrators. The purpose of applying this principle is to protect the parties' reputation and business relationship, safeguard sensitive or strategic information, avoid public or media pressure during the dispute resolution process, and support efficiency and a neutral atmosphere in the litigation process [1].

However, despite its advantages, arbitration has several significant disadvantages, particularly in terms of the duration of the process and costs. Data from several arbitration institutions show that resolving disputes through arbitration generally takes a considerable amount of time, although it is generally no longer than litigation. For example, at the London Court of International Arbitration (LCIA) the median duration of arbitration is 20 months [6], at the International Chamber of Commerce (ICC) the median duration of arbitration is 22 months [7]. Even in relatively fast arbitration institutions such as the Singapore International Arbitration Center (SIAC), the median duration of arbitration is 11.7 months [7].

Besides the long duration, the cost of arbitration is also one of its disadvantages. For example, in LCIA, the median cost is about USD 117,653 [8], in SIAC it costs about USD 29,567 [9], then in Hong Kong International Arbitration Center (HKIAC) the median cost is about USD 62,537 [9]. The fees vary depending on the value of the dispute and the arbitral institution used. The complexity of the case and the number of arbitrators involved also play a role in increasing the cost.

Legally, there is no prohibition for parties to settle small value disputes through arbitration, provided that there is a written arbitration agreement as stipulated in Article 5 paragraph (1) of the ADR Law. However, in Indonesia, arbitration is rarely used for small claims for several reasons. First, the cost of arbitration is often disproportionate to the value of the claim, especially considering that arbitration institutions such as the Indonesian National Arbitration Board (BANI) or the National Sharia Arbitration body (BASYARNAS) do not yet have special simplified procedures for low-value disputes. Secondly, the Small Claim Court (SCC) mechanism in the district court offers a faster alternative with a maximum 25 working days' process and is inexpensive.

The Singapore International Arbitration Centre (SIAC) is a Singapore-based non-profit international arbitration institution that provides arbitration administration services to parties worldwide [10]. It was established on July 1, 1991, and is recognized as one of the leading arbitral institutions in Asia and the world with a reputation as a neutral, independent, and efficient forum for resolving international business disputes [11]. SIAC uses the SIAC Rules, the Arbitration Act of Singapore, and UNCITRAL as its legal foundation [12]. SIAC regularly updates its regulations, such as the 6th Edition of the SIAC Rules in 2016 and the 7th Edition in 2025, to provide an effective, efficient, and easy-to-understand procedural framework that meets the parties' needs. One form of adaptivity of the SIAC Rules is providing an arbitration mechanism for low-value disputes, with expedited enforcement and the appointment of a sole arbitrator [13]. Moreover, this mechanism already has rules and practices regarding online arbitration [12]. The combination of these mechanisms is designed to make arbitration procedures cheaper and more efficient than standard arbitration or litigation in court.

SIAC's adaptivity by formulating such a mechanism is in line with the author's expectation for the implementation of low-claim value arbitration that is cheap and efficient. In Indonesia, implementing similar arbitration has not been fully regulated in positive law. Regarding online implementation, BANI has adopted electronic hearings based on the parties' agreement, as stipulated in BANI's internal regulations. BANI Regulation 2025 also introduces several accelerated procedures, such as emergency arbitration for the resolution of cases requiring immediate decisions. However, the rules have not explicitly differentiated between arbitration for small and large claim values, and have not provided a special mechanism for online arbitration dedicated to small claim arbitration as implemented at SIAC. On the regulatory side, Law No. 30/1999 has not specifically regulated online or small claim arbitration. As a result, the implementation of online arbitration and the handling of small claims still rely heavily on the agreement of the parties and the internal policies of arbitration institutions such as BANI, without any special arrangements that accommodate the needs of online small claim arbitration in Indonesia.

Based on the explanation related to the increase in business activities and disputes that cannot be separated, and the dispute resolution mechanism in the form of arbitration in Indonesia whose regulation and application are still not effective in carrying out a cheap and fast arbitration process, as well as the needs of business people for dispute resolution that is confidential or not open to the public, the author formulates several ideas related to the implementation of SIAC's online small claim arbitration mechanism for arbitration regulations in Indonesia.

II. RESEARCH METHODS

This research uses normative empirical research methods. Empirical normative research is a method or procedure used to solve research problems by examining secondary data first and then continuing by researching primary data in the field [14]. Primary data is obtained directly from research subjects by wearing measurement tools or data collection tools directly on the subject as a source of information sought [15]. Meanwhile, what is meant by secondary data is data that quotes from other sources, not directly obtained from the research subject [15]. Empirical approach, namely legal research by approaching existing facts by conducting observations and field research, then reviewed and examined based on the relevant laws and regulations as a reference for solving problems [16]. The research was conducted by searching for data directly in the field and conducting interviews with informants relevant to the problem under study in order to obtain primary data.

III. DISCUSSION

A. online small claim arbitration and its effectiveness in indonesia

Conventional arbitration fees are often disproportionate in small claims disputes. The Queen Mary University of London study (2018) confirmed that only 11% of respondents consider small claims worthy of arbitration, as the costs involved are disproportionate to the value of the dispute [17]. The same is true in Indonesia, where the minimum fee for arbitration at BANI is IDR 20 million and the fee for claims under IDR 1 billion is 10% [18]. These costs are considered very large for MSMEs, as subjects that often deal with small claim value disputes. This encourages business actors to look for solutions that cannot only resolve their problems, but also at a cost that is not burdensome. One mechanism that can answer these problems is the Online Small Claim Arbitration (OSCA) mechanism.

Online Small Claim Arbitration (OSCA) is an online small value dispute resolution mechanism that combines traditional arbitration principles with digital technology to create a faster, more efficient, and affordable process. The concept emerged as a response to the limitations of the conventional court system, which often takes a long time and costs much money in resolving small-value business disputes [19]. In the modern business, OSCA offers 24/7 accessibility through electronic devices such as mobile phones, tablets, or computers, making the dispute resolution process more convenient, accessible, and cost-effective. The system allows parties to upload evidence, participate in virtual proceedings, and receive legally binding awards without being physically present at a court or arbitral institution.

The Indonesian legal system has not explicitly regulated small claim arbitration as a special mechanism for small-value disputes. The Indonesian National Arbitration Board (BANI), as one of the national arbitration institutions widely chosen by businesses, has not yet regulated the separation of small and large claims in its internal Rules. This absence of a specific legal umbrella for small claim arbitration results in weak incentives for businesses to choose arbitration in low-value disputes.

As a result, many small claims cases are decided by using the Small Claims Court (SCC) as an alternative. With a claim limit of IDR 500 million and a maximum process of 25 working days, the SCC is considered to be the latest mechanism that small businesses and MSMEs can use to resolve their disputes. However, some consequences must be faced when choosing this mechanism, namely that the confidentiality of all matters related to the case is not guaranteed, which is crucial for business actors.

Regarding online arbitration, the Indonesian National Arbitration Board (BANI) has regulated the BANI Arbitration Rules & Procedures 2025. This reaffirms the issuance of BANI Decree No. 20.015/V/SK-BANI/HU in 2020 during the COVID-19 pandemic era. Although the Decree was issued as a solution so that the arbitration process could continue during the Covid-19 pandemic as a form of responding to emergency conditions due to disasters and exceptional circumstances, this provision continues to apply. It becomes the legal and procedural basis for BANI to conduct electronic arbitration. Thus, the implementation of this online arbitration is flexible and based on the parties' agreement. This shows that the practice of online arbitration by BANI has been implemented for a long time, even though the provisions related to this practice were only officially incorporated into the BANI Rules in 2025.

In general, the substance related to online arbitration procedures in BANI Rules 2025 is almost the same Decree In the Decree, the entire flow of the trial, starting from the organization (from case registration, submission of documents, to the conduct of the hearing), submission of documents (request for arbitration, answer, replication, duplicates, evidence, to decision documents), communication between parties, payment of fees (bank transfers or digital payment channels), to the preparation of decisions is carried out online. The difference is that these procedures and technical arrangements are explained in more detail and structured in the BANI Rules 2025.

B. The Idea of Implementing SIAC Rules' Online Small Claim Arbitration in Indonesia

III.B.1. Comparison of BANI and SIAC Structure in Handling OSCA

The Indonesian National Arbitration Board (BANI) and the Singapore International Arbitration Center (SIAC) are two arbitration institutions that have different approaches to handling business disputes. BANI has long been recognized as the leading arbitration institution in Indonesia, handling commercial and non-commercial disputes. Although BANI has experience resolving disputes through arbitration, its structure and procedures are still more conventional, often involving face-to-face meetings between the disputing parties. This process can take longer and require higher costs, which can hinder small businesses. SIAC, on the other hand, has adopted a more modern and efficient dispute resolution system, including in OSCA cases. SIAC is also more flexible in handling international disputes due to its internationally standardized regulatory framework, which provides more flexibility for parties from different countries.

SIAC has developed a mature OSCA framework through SIAC Rules 2025, with three main pillars: (1) *Streamlined Procedure* for claims below SGD 1 million, (2) automatic appointment of a sole arbitrator within 3 days, and (3) 3-month award time limit from tribunal establishment [13]. The three pillars offer several approaches that are more effective and efficient than traditional arbitration. The approach can be described as follows: *First*, with both parties agreeing to apply the *Streamlined Procedure*, the entire arbitration process is conducted online, from registration of claims, submission of evidence, to delivery of the decision, without face-to-face meetings. *Second*, the dispute will be handled by a single arbitrator jointly appointed by the parties within 3 days of notification from the SIAC Secretariat that the Streamlined Procedure applies. If the parties cannot reach agreement, the President of SIAC will appoint the sole arbitrator as soon as practicable. *Third*, the arbitrator will organize a case management conference within 5 days from the tribunal's establishment date. The proceedings will be decided based on written submissions and supporting documentary evidence, without requests for production of documents or submission of fact witness or expert witness evidence, unless the arbitrator determines otherwise. *Fourth*, the final award will be made within 3 months from the date of establishment of the tribunal, unless the register extends the time for the final award. The entire process demonstrates SIAC's commitment to efficiency and speed in resolving small disputes.

In contrast, BANI does not yet have a specific procedure for OSCA in BANI Rules 2025. Although BANI Rules 2025 and Decree No. 20.015/V/SK-BANI/HU have provided for online arbitration, BANI's digital infrastructure and procedural framework are still limited, not as comprehensive as that offered by SIAC [20]. There is no unified *e-filing* or document management platform, so the process still relies on email and hybrid meetings. In contrast, SIAC integrates technology through the SIAC Gateway, a platform that supports *e-filing*, electronic payments, and centralized case management. In addition, BANI Rules 2025 still do not regulate the division of arbitration of small and large claims, unlike SIAC, which has distinguished small claim disputes worth less than SGD 1 million.

III.B.2. Benefits and impacts of OSCA in terms of economy, business, and society

The implementation of Online Small Claim Arbitration in Indonesia has the potential to provide multi-dimensional benefits. From an economic perspective, OSCA has the potential to save the parties trillions of dollars that have been allocated to litigation costs [21]. Not only from the lower arbitration fees but also from the savings in transportation costs, accommodation, and time usually spent attending physical hearings. According to data from The Priority Sector Lenders Association of India (PSL Association), Online Dispute Resolution can cut time by up to 80% of the time taken to resolve disputes through litigation [21].

For the business sector, especially MSMEs, access to a fast and affordable dispute resolution mechanism can increase confidence in business transactions and expand market reach. In addition, OSCA's 24/7 access via mobile devices allows SMEs in remote areas to resolve disputes without leaving the business premises. Thus, MSMEs that were previously reluctant to engage in large-value transactions due to concerns about costly and time-consuming dispute resolution will have better legal protection.

From a social perspective, Online Small Claim Arbitration can improve access to justice for the wider community, including those in remote areas or with limited mobility. It can also reduce the burden on district courts and speed up the overall dispute resolution process [22]. In addition, virtualizing the arbitration process provides the added benefit of reducing the risk of exposure to infectious diseases, which is of particular concern in the wake of the COVID-19 pandemic. The ability to participate from the comfort and safety of one's own home reduces health risks while increasing the efficiency of the process [19].

III.B.3. Challenges in implementing OSCA in Indonesia

However, these potential benefits coexist with challenges in implementation. Efforts to implement OSCA in Indonesia are likely to face several significant challenges. *First*, Indonesia's legal framework has not fully accommodated online arbitration mechanisms. Law No. 30/1999 on Arbitration and Alternative Dispute Resolution does not explicitly regulate online arbitration, including recognition and enforcement of online arbitration awards. Mechanisms related to online arbitration are only regulated to the extent of the rules of arbitration institutions, such as the BANI Rules 2025. *Second*, the limited technological infrastructure and uneven internet connectivity in all parts of Indonesia can cause unequal access to online arbitration services. The Director General of Post and Information Technology (Dirjen PPI) of the Ministry of Communications and Information Technology, Wayan Toni, stated that internet speed in Indonesia is still lagging and is in the bottom three in Southeast Asia [23]. Some regions with unstable internet connections will experience difficulties participating in virtual proceedings or uploading evidence documents.

Third, the capacity and readiness of arbitrators in Indonesia to use digital technology still vary. Not all arbitrators have the same ability to operate online arbitration platforms or manage virtual proceedings effectively [24]. A comprehensive training program is needed to improve the digital competence of arbitrators. *Fourth*, public awareness and understanding of online arbitration mechanisms are still low, especially among MSME players. Many businesses are unaware of the benefits of online arbitration services and how to access them for their business dispute resolution.

III.B.4. Policy Recommendations Related to OSCA in Indonesia

The following are several strategic recommendations that need to be considered regarding the implementation of the OSCA system to be effective in Indonesia:

- First, update the arbitration regulatory framework to explicitly accommodate online arbitration, including the recognition of electronic documents, digital signatures, and virtual proceedings. This can be done by revising Law No. 30/1999 to accommodate: (a) determining the nominal limit to be declared as a small claims dispute, with low administrative costs, (b) the validity of digital evidence and virtual proceedings, and (c) mechanisms for the execution of electronic awards.
- Second, the national digital infrastructure can be strengthened through the development of an online arbitration platform that is integrated, secure, and easy for all parties to use. An efficient case management system and a user-friendly interface should support this platform.
- Third, capacity building of arbitrators through comprehensive training programs on digital technology and virtual trial management. BANI could collaborate with international institutions such as SIAC or other international arbitration institutions to support knowledge transfer programs covering digital case management and virtual hearing techniques, as well as best practices in the management of online arbitration.
- Fourth, broad public socialization and education on the benefits and procedures of online arbitration, primarily targeted at MSMEs and small business groups. This program can be conducted through webinars, workshops, and educational materials distributed through business associations and digital platforms.
- Finally, a phased implementation that starts with pilot projects in areas with sufficient digital infrastructure, before expanding to the rest of Indonesia. This phased approach allows for system customization based on feedback from early adopters and continuous improvement.

By implementing these recommendations, Indonesia can develop an Online Small Claim Arbitration system that is efficient, affordable, and suited to the specific needs of Indonesia's business and legal ecosystem. This system has the potential to be a catalyst for improving the investment climate and economic growth in the digital era, especially in the MSME sector which is the backbone of the national economy.

IV. CONCLUSIONS

Based on the analysis of small-value business dispute resolution mechanisms in Indonesia, it can be concluded that the need for an efficient, fast, and low-cost dispute resolution system is increasingly urgent, along with the increasing number and complexity of business disputes, especially in the MSME and e-commerce sectors. The Small Claim Court (SCC) mechanism has indeed provided a more straightforward and cheaper alternative to conventional litigation, but it still has weaknesses regarding case confidentiality. On the other hand, arbitration offers the advantages of confidentiality, legal certainty, and procedural flexibility. However, the relatively high cost and duration of settlement make it less desirable for small nominal claims. The comparative study shows that the Singapore International Arbitration Center (SIAC) has implemented a more adaptive, efficient, and affordable Online Small Claim Arbitration (OSCA) mechanism, especially for low-value disputes. Meanwhile, although the Indonesian National Arbitration Board (BANI) has adopted online arbitration, it does not yet have specific rules that accommodate the needs of online small claim arbitration. This lack of specific regulations has caused small claims arbitration in Indonesia to not be optimized as an efficient and confidential alternative to small business dispute resolution.

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