Business Disputes in Electronic Transactions Policy in Indonesia

Aloysius Wisnubroto[1*], Dinda Aprilia[2]
al.wisnubroto@uajy.ac.id
[1]Faculty of Law, Universitas Atma Jaya, Yogyakarta, Indonesia
[2] Faculty of Law, Universitas Sebelas Maret Surakarta, Surakarta, Indonesia

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Abstract
Economic activities conducted through internet-based platforms are generally referred to as electronic commerce (e-commerce). E-commerce offers significant advantages, particularly in terms of efficiency and convenience for both consumers and business actors. For consumers, e-commerce provides ease of access to transactions without requiring physical meetings, while for sellers, it reduces operational costs. However, despite these advantages, e-commerce also raises potential risks, particularly concerning the protection of consumer rights, which may lead to disputes between consumers and business actors. Consequently, the need for effective and efficient mechanisms for dispute resolution in e-commerce transactions becomes imperative. Based on this background, the research problem was formulated as follows: How can business disputes in e-commerce be resolved based on the value of justice? To address this question, the researchers employed a constructivist paradigm. The research design adopted was descriptive-analytical, using a socio-legal approach. A socio-legal study integrates doctrinal legal analysis with insights from social sciences. The data utilized in this study consisted of both primary data, collected through field research and interviews, and secondary data, obtained from relevant literature and legal documents. Data analysis was carried out using qualitative descriptive techniques. The findings of the research indicate that online arbitration represents a highly appropriate mechanism for resolving e-commerce disputes. This is due to the inherent characteristics of e-commerce, which transcends geographical boundaries and allows transactions to occur globally through internet connectivity. In Indonesia, the legal framework governing e-commerce is primarily established under Law No. 11 of 2008 on Information and Electronic Transactions and Law No. 7 of 2014, particularly Chapter VIII concerning trade conducted through electronic systems. Nevertheless, the current regulation on arbitration, namely Law No. 30 of 1999, remains limited to conventional arbitration and does not adequately address the unique challenges posed by online dispute resolution.

I. Introduction

The emergence of the information society is marked by the extensive use of the Internet, which continues to expand into various aspects of human life. In this context, information has become a highly valuable and strategic economic commodity. Furthermore, the advancement of information technology exerts a profound influence on social, cultural, and economic dynamics, thereby shaping the way individuals and communities interact, conduct business, and access knowledge[1]. Information and communication technology has significantly transformed societal behavior and reshaped the development of human civilization on a global scale.[2] With the emergence of the Internet, emerging a new kind of world that had never before been known by humans, the world called the virtual world.

The emergence of the virtual world has profoundly transformed human habits, particularly through the increasing reliance on the Internet in daily life. This transformation is evident in various domains, ranging from business and banking transactions conducted electronically to broader applications in education, healthcare, teleworking, transportation, tourism, environmental management, and the entertainment industry. These activities, facilitated through electronic transactions and digital platforms, signify a shift toward a technology-driven society. Beyond creating new opportunities across multiple sectors, the advancement of information and communication technologies has also enhanced efficiency and convenience in everyday human activities, thereby reshaping social and economic interactions at a global level. Technological advancements, particularly the emergence of the Internet, have been facilitated through the use of electronic media such as computers. The computer, as a pivotal technological innovation, has contributed significantly to social change within society. Its utilization has altered patterns of human interaction, extending its influence into various aspects of life. Consequently, these transformations have given rise to new norms, values, and social structures that continue to shape contemporary civilization.[3]

In the contemporary era, the advancement of information technology, the rapid development of electronic media, and the intensification of globalization have penetrated nearly all spheres of human life. These technological progressions are particularly reflected in the emergence of the Internet,

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[1]Syamsiah Amali, ***Pemanfaatan Internet pada Pelajar di Kota Gorontalo***, Jurnal Penelitian Komunikasi danOpini Publik, Balai Pengkajian dan Pengembangan Informasi Wilayah VIII, Menado page. 17; Yetti, ***Telaah Mengenai Peranan Hukum Nasional Dalam Mengantisipasi Kejahatan Cyber Crime***, Jurnal Hukum Respublika, Vol. 2 No. 4 Tahun 2003, Fakultas Hukum Universitas Lancang Kuning, Pekanbaru, page. 167; Yourdan, ***Konvergensi Teknologi Informasi dan Komunikasi (TLK) Keterkaitannya dengan Hukum Positif***, Buletin Pos dan Telekomunikasi, Vol. 8 No. 2 Juni 2010, Pusat Penelitian dan Pengembangan Pos dan telekomunikasi, Jakarta, page. 92; Ai Rosita, ***Perubahan Paradigma Teknologi Informasi Abad 21***, Competitive, Vol. 3 No. 2, Desember 7, andunPoliteknik Pos Indonesia, page. 18; Bambang Widarno,***Efektivitas Perencanaan dan Pengembangan Sistem Informasi***, Jurnal Akuntansi Dan Sistem Teknologi Informasi Vol. 6 No. 1, April 2008, Unisri, Solo, page. 2; Aloysius R Entah, ***Perangkat Hukum Atas Kekayaan Intelektual Dalam Perspektif Etika Profesional Teknologi Informasi***, Teknologi dan Manajemen Informatika, Vol 6, edisi khusus, September 2008, Universitas Merdeka Malang, Malang, page. 8.

[2]Ahmad M. Ramli,***Cyber Law dan HAKI dalam Sistem Hukum Indonesia***, Rafika Aditama, Jakarta, 2004, page. 1.

[3] Dikdik M. Arif Mansyurdan Elisatris Gultom, ***Cyber Law Aspek Hukum TeknologiInformasi***,RefikaAditama,Bandung,2005,page. 3.

which can be accessed and operated through various electronic devices, including computers, mobile phones, and other digital gadgets.[4] Along with the rapid advancement of technology, significant impacts can also be observed in the implementation of trading activities within society, which are experiencing accelerated growth. The integration and utilization of information systems in the business sector play a crucial role in enhancing efficiency, supporting decision-making processes, and ultimately improving overall performance.[5] One prominent aspect of global economic activity today is the extensive utilization of Internet-based media. Economic activities conducted through the Internet are commonly referred to as electronic commerce (e-commerce). E-commerce should be understood as a dynamic integration of technologies, applications, and business processes that link companies, consumers, and communities through electronic transactions and the exchange of goods, services, and information.

To remain competitive in the current information age, companies are required to undertake structural transformations within their internal foundations by developing and implementing comprehensive e-business strategies. Such strategic adaptation is essential for optimizing operational efficiency, enhancing customer engagement, and sustaining competitiveness in a digitally-driven market environment.[6] The emergence of the Internet, although still considered a relatively new industry, is characterized by continuous growth and a high degree of uncertainty. This development has reinforced the recognition of technology's crucial role in achieving corporate financial objectives through the optimization and efficiency of business processes facilitated by e-commerce. One of the primary advantages of e-commerce is its ability to provide convenience for consumers, who can conduct transactions without physical interaction, while simultaneously enabling businesses to reduce operational costs.

To anticipate and regulate the rapid development of technology and its application in commercial transactions, Indonesia enacted Law Number 11 of 2008 concerning Information and Electronic Transactions. This legislation demonstrates the government's commitment to supporting information technology development through legal infrastructure, ensuring that its use is secure and

[4]*Gadgets are a term in English (in Indonesian: gawai) which means a small electronic device that has a special function. One of the things that differentiate gadgets with other electronic devices is the element of "novelty". That is, from day to day gadgets always appear by presenting the latest technology that makes human life becomes more practical.*http://www.tekno-pedia.com/gadget, *accessed on 1* 3 January 2018 at 19.00 WIB.

[5]Rini Handayani, ***Analisis Faktor-faktor yang Mempengaruhi Minat Pemanfaatan Sistem Informasi dan Penggunaan Sistem Informasi (Studi Empiris Pada Perusahaan Manufuktur di Bursa Efek),*** Jurnal Akuntansi dan KeuanganVol. 9 No. 2 November 2007, FE Universitas Budi Luhur, Jakarta, page. 83

[6]Yulia, ***Perancangan Arsitektur E-Bisnis untuk Layanan Persewaan Video Compact Disk Berbasis Teknologi Short Massage Service***, Jurnal Informatika, Vol. 7 No. 1, Mei 2006, AMIK Labuhan Batu, Rantauprapat, page. 30; Muslichah, ***Teknologi Informasi Dalam Peningkatan Keunggulan Bersaing Pada PJP II***, ABM, Vol. 1 No. 1, Juli 1997, STIE Malangkucecwara, Malang, page. 14; Budi Agus Riswandi, ***Cybersquatters***, ***Domain Name dan Hukum Merek Indonesia***, Jurnal Hukum Respublica, Vol. 4 No. 1 Tahun 2004, FH Universitas Lancang Kuning, Pekanbaru, page. 111; Meyliana, ***Menciptakan Fleksibilitas dan Kemudahan Pengguna dengan Website Content Management System: Studi Kasus Pada Website Binus School Simprug***, Jurnal Piranti Warta, Vol 11 No. 3, Agustus 2008, page. 406.

consistent with the country's religious and socio-cultural values.

The all-digital nature of Internet technology provides an effective and efficient platform for strategic promotion, as it has the capacity to reach global legal jurisdictions. However, alongside these advantages, several factors pose risks to consumer rights. Notably, marketed products may be unfit for consumption or fail to correspond to the business actor's promotion, leading to frequent violations of consumer rights. For less vigilant parties, the existence of the Consumer Protection Act is often considered sufficient to safeguard consumers engaging in online transactions. Nevertheless, the ongoing development of e-commerce necessitates stronger and more adaptive legal mechanisms to ensure comprehensive consumer protection.[7]

Economic activities conducted through Internet-based or e-commerce platforms offer significant benefits to consumers, primarily by providing greater access to a variety of goods and services. However, these activities also carry inherent risks, as consumers may be exposed to potential violations of their rights in online transactions. Therefore, the legal protection of consumers in e-commerce transactions is of critical importance to ensure fairness, accountability, and the mitigation of risks associated with digital commerce.

Disputes or conflicts in various business activities are generally undesirable, as they can cause harm to all parties involved, regardless of whether they are in a legally or morally right position. The emergence of disputes is a common phenomenon, reflecting the inherent complexity of human interactions and business transactions. Consequently, disputes have become an inseparable aspect of social and economic life.

While the occurrence of business disputes should ideally be avoided to preserve organizational reputation and maintain positive relationships, such conflicts are sometimes unavoidable. They may arise due to misunderstandings, violations of legal provisions, unfulfilled commitments, conflicting interests, or financial losses incurred by one or more parties. Effective dispute resolution mechanisms are therefore essential to mitigate potential harm and sustain trust in business relationships.[8]

In e-commerce, a legal relationship exists between the seller and the buyer, which entails mutual rights and obligations. Such legal relationships are fundamentally governed by statutory provisions and customary practices, collectively referred to as legal relations. Civil law, in particular, regulates the rights and duties of individuals engaged in legal relations, encompassing both written legislation and unwritten customary law that is recognized within society.

Article 1313 of the Civil Code states that, *"An agreement is a work in which one or more parties commit themselves to one or more persons."* This provision emphasizes the binding nature of agreements, wherein parties mutually commit to certain obligations. In the context of this study, such agreements are

[7]Iman Sjahputra, ***Perlindungan Konsumen Dalam Transaksi Elektronik***, Alumni,Bandung,2010, page. 3.
[8]Sanusi Bintang, Dahlan, ***Pokok-Pokok Hukum Ekonomi dan Bisnis***, Citra Aditya Bakti, Bandung, 2000, page.113.

manifested in the form of sales and purchase contracts conducted through Internet-based e-commerce platforms.

However, some scholars have criticized the clarity of this definition, arguing that the article is overly broad. According to these experts, nearly every act could be interpreted as an agreement, since the article primarily refers to actions without specifying the context or scope. Consequently, these scholars propose alternative interpretations that more precisely define agreements, particularly in relation to contractual obligations and the transactional nature of modern commerce, including e-commerce.

According to Subekti, the formulation of the agreement is as follows that: "The agreement is a legal event between two or more parties on the basis of an agreement to cause a legal effect".[9] According to Sudikno Mertokusumo[10], An agreement constitutes a legal relationship between two or more parties, established on the basis of mutual consent with the intention of generating legal consequences. In other words, the parties voluntarily agree to set forth rules, rights, and obligations that are binding and must be adhered to and implemented. The primary function of an agreement is to create legal consequences by establishing rights and duties, so that any breach of the agreement will result in corresponding legal consequences or sanctions for the party at fault.

The content of Internet-based sales and purchase agreements in e-commerce exhibits differences in terms of expression or declaration of intent; however, the fundamental elements of these agreements generally remain consistent. Essentially, e-commerce agreements involve similar parties—business actors and consumers—engaged in transactional activities analogous to conventional trade, with the primary distinction being the digital medium through which transactions are conducted. Legal protection within these agreements primarily focuses on safeguarding consumer rights. Notably, consumers are entitled to guarantees such as the return or exchange of goods if the delivered products do not conform to the order, as stipulated in Article 19 of Law No. 8 of 1999 concerning Consumer Protection. Regarding compensation, this law mandates that business actors are responsible for providing redress for damage, harm, or loss incurred by consumers arising from the consumption of goods or services produced or traded by the business actor.

In terms of electronic evidence, Indonesian law continues to base its provisions on the Civil Code. Nevertheless, certain regulations acknowledge and support the use of electronic documents as valid evidence. Examples include: (a) the recognition of online trading within stock exchange activities, and (b) the regulation of microfilm as a storage medium for company documents, which has been designated as authentic written evidence under Law No. 8 of 1997 concerning Company Documents. Despite these provisions, existing regulations are insufficient to fully accommodate the unique characteristics of cyberspace and the specific needs of e-commerce transactions.[11]

[9]Subekti,***HukumPerjanjian***,Intermasa,Jakarta, 2002,page.1.
[10]SudiknoMertokusumo,***MengenalHukum(SuatuPengantar)***, Liberti,Yogyakarta,1986, page.97-98
[11]AhmadM.Ramli,dkk.,***MenujuKepastianHukumdiBidangInformasidanTransaksiElektronik*****,**DepartemenKomunik

Responsibility of the parties in the sale and purchase transactions through the internet media. The parties' responsibilities in electronic sell and purchase transactions are carried out by the parties concerned, although the parties do not meet directly with each other in the transaction, but the transaction is connected via the Internet. In sell and purchase electronically, the parties involved are: First, the seller or merchant that offers a product through the Internet as a business actor; Secondly, the buyer is everyone not prohibited by law, which receives an offer from the seller or the business actor and willing to conduct sale and purchase transactions of products offered by the seller, Third, the bank as the channel of funds from buyers or consumers to sellers or business actors/merchants. Since the sale and purchase transactions are made electronically, sellers and buyers do not meet face to face, because they are on different locations so that payment can be made through intermediaries in this case that is Bank, Fourth, provider as provider of Internet access service.[12]

Consumers sometimes face challenges in understanding how to conduct transactions over the Internet, as online trading methods differ significantly from conventional market transactions, where buyers and sellers interact directly. In traditional commerce, consumers can inspect and negotiate goods in person, whereas Internet-based transactions do not provide such direct interaction, making the process fundamentally different from conventional trade.

The settlement of disputes arising from e-commerce transactions is not always fully regulated under the Consumer Protection Act. Similar to conventional transactions, e-commerce transactions establish mutual rights and obligations between business actors and consumers. However, the fulfillment of these rights and obligations is not always straightforward, and conflicts may arise due to misunderstandings, misrepresentations, or failures in transaction execution. This highlights the need for effective legal frameworks and mechanisms specifically designed to address disputes in the context of digital commerce..[13]

Potential disputes between business actors and consumers may arise in e-commerce transactions. When both the business actors and consumers are located within the territory of the Republic of Indonesia, dispute resolution can be conducted in accordance with the provisions of the Consumer Protection Act (UUPK). However, challenges emerge when business actors operate from outside the territory of Indonesia while the consumer is an Indonesian citizen.

In such cases, it is essential to select effective and efficient methods for dispute resolution. One viable approach is the use of alternative dispute resolution (ADR), which is generally more efficient than litigation through the courts. Nevertheless, the government must also consider the practical expectations of dispute resolution within the business sector. Existing regulations should therefore accommodate and incorporate provisions for alternative dispute resolution mechanisms, including

asidanInformatikaRepublikIndonesia,Jakarta, 2007,page.56

[12]EdmonMakarim, ***KompilasiHukumTelematika***,RajaGravindoPersada,Jakarta, 2004,page.365

[13]Darmodiharjo,Dardji,***Pokok-PokokFilsafatHukum*,Apa*danBagaimanaFilsafatHukumIndonesia***,GramediaPustakaUtama,Jakarta,2006, page.46.

arbitration, negotiation, mediation, or conciliation, to ensure that disputes are resolved in a fair, timely, and legally enforceable manner.[14] Based on the background of the issues described above, the research problem can be formulated as follows: How can business disputes in electronic transactions (e-commerce) be resolved in accordance with the principles of justice?

2. Research Method

The The researcher employed a constructivist paradigm in this study. This paradigm was chosen based on the understanding that law is a social construct shaped by diverse human experiences and societal contexts. In this framework, knowledge is transactional and subjective, emerging from the interactions between the researcher and the object of study. The constructivist approach emphasizes the creation of meaning through relational and interpretive processes. Methodologically, the study applies hermeneutic and dialectical techniques to analyze and interpret findings. Through ongoing interaction and dialogue between the investigator and the research subjects, constructs are co-created, interpreted, and understood within their social and experiential contexts.[15] The type of research used in this research was descriptive-analytical research, which among others has the characteristics of: (1) focusing on the analysis of existing problems in the present; (2) and the data collected was first compiled, explained, and then analyzed.[16] The approach method used was socio legal research. The study of socio legal research is a study that "combines" the study of doctrinal law with social studies. This integration is based on the belief that the rule of law never works in a vacuum area. The data analysis used was descriptive qualitative.

3. Results and Discussion

The development of online business in the current era is progressing at an unprecedented pace. The widespread accessibility of the Internet, even in remote areas, has significantly facilitated the acquisition of detailed information. Over time, Internet usage has evolved beyond merely “seeking information” to encompass various service-oriented applications. A notable example is Go-Jek’s Go-Food service, which allows users to order food conveniently through an online platform.

Technological advancements have simplified daily activities, including shopping. At present, numerous online shopping companies offer diverse services accompanied by various promotions. Internet users can select the service that best meets their needs, guided by factors such as price competitiveness, quality of service, security, and other attributes provided by e-commerce platforms.

[14]Mirsidik, ***Penetapan Kebijakan Penyelesaian Sengketa dalam Rangka Optimalisasi Investasi***, Jurnal Hukum Pro Justitia, Vol. 26 No. 2, April 2008, FH Unpar, Bandung, page. 162.
[15] E. G. Guba dan Y. S. Lincoln, 2011, ***Kontroversi Paradigmatik, Kontradiksi dan Arus Perpaduan Baru***, dalam Norman K. Denzin dan Y. S. Lincoln, ***Tha Sage Handbook Of Qualitative Research***,Edisi Ketiga, dialihbahasakan oleh Dariyatno, Pustaka Pelajar, Yogyakarta,page. 207.
[16]Winarno Surachmad, ***Dasar dan Teknik Research: Pengertian Metodologi Ilmiah***, Tarsito, Bandung, 1973, page. 39.

The e-commerce ecosystem in Indonesia continues to expand, with a growing number of users who are increasingly widespread and loyal. However, as the industry grows, it faces intensified challenges, as captured by the adage, "the higher the tree, the stronger the wind," reflecting the increasing pressures on businesses to maintain operational stability and achieve customer satisfaction. To meet these objectives, e-commerce actors in Indonesia must navigate various challenges effectively. According to the Chairman of the Indonesian E-Commerce Association (idEA), Aulia E. Marinto[17], During the implementation of the Indonesia E-Commerce Summit & Expo (IESE) 2017, the Chairman of the Indonesian E-Commerce Association (idEA) highlighted several key challenges faced by the e-commerce industry. These include ensuring the security of online transactions, addressing logistical constraints, and managing other operational complexities. However, he emphasized that the most fundamental challenge lies in the need for coordinated and synchronized efforts among all stakeholders, including industry players and e-commerce actors, to achieve optimal outcomes and sustainable growth in the sector.

Aulia also expressed optimism regarding the significant prospects and opportunities within Indonesia's e-commerce sector, suggesting that it is plausible for the country to emerge as a leading global player, potentially following trajectories similar to those of China or India in the e-commerce industry.[18] However, behind some of the great plans followed by e-commerce in Indonesia, some of them have found obstacles. Currently, the development of e-commerce and the digital economy in Indonesia is being increasingly intensified. E-commerce platforms and Small and Medium Enterprises (SMEs) are engaging in innovative activities that contribute to economic growth and job creation. Major Indonesian e-commerce companies, such as Go-Jek and Tokopedia, have demonstrated their capacity to generate employment opportunities, ranging from SME merchants to Go-Jek drivers.

Go-Jek, for instance, has evolved from a conventional motorcycle taxi service into a lifestyle platform, implementing integrated payment systems such as Go-Pay in collaboration with banks, thereby facilitating digital transactions and promoting the advancement of Indonesia's digital economy. Economic activities conducted through Internet-based or e-commerce platforms provide significant benefits to consumers by offering greater choices for obtaining goods and services. However, these activities also carry risks, as violations of consumer rights may occur in online transactions. This underscores the importance of providing adequate legal protection for consumers engaged in e-commerce.

Disputes in business activities, although generally undesirable, are an inevitable aspect of human and commercial interactions. Such disputes may result in harm to one or more parties, regardless of whether they are legally or morally in the right. Consequently, the emergence of disputes has become an intrinsic element of economic life, highlighting the need for effective mechanisms for resolution

[17]https://www.kompasiana.com/kompasiananews/perusahaan-e-commerce-dan-tantangannya-di-pasar-indonesia_5923fcaa549773c856a076ab, downloaded on 28 March 2018 at 21.30 WIB.
[18]***Ibid.***

and consumer protection.[19] Consequently, disputes are an inseparable aspect of human and business life. Ideally, business disputes should be avoided in order to preserve organizational reputation and maintain positive relationships. Nevertheless, disputes are sometimes unavoidable, arising from factors such as misunderstandings, violations of legal provisions, unfulfilled commitments, conflicting interests, or losses incurred by one or more parties. This highlights the importance of implementing effective dispute prevention and resolution mechanisms to mitigate potential harm and sustain trust in business interactions. [20]

In e-commerce, a legal relationship exists between the seller and the buyer, giving rise to mutual rights and obligations. Such legal relationships are fundamentally regulated by legal provisions and are recognized as part of the broader civil law framework. Civil law governs the rights and duties of individuals engaged in legal relations, encompassing both written legislation and unwritten customary law that is recognized within society. Article 1313 of the Civil Code states, *"An agreement is an act by which one or more parties commit themselves to one or more persons."* This provision emphasizes the binding nature of agreements, wherein parties mutually commit to certain obligations. In the context of this study, such agreements are exemplified by sales and purchase contracts conducted through Internet-based e-commerce platforms.

However, in online trading, consumers often face challenges in understanding transaction procedures, which differ substantially from conventional market transactions where buyers and sellers meet directly. Unlike traditional trade, where consumers can inspect and negotiate goods in person, Internet-based commerce lacks this direct interaction, creating a unique set of complexities. Furthermore, the Consumer Protection Act does not fully address dispute resolution in e-commerce transactions. Similar to conventional transactions, e-commerce transactions generate mutual rights and obligations between business actors and consumers, but the fulfillment of these rights and duties is often not straightforward. This situation underscores the need for specific legal mechanisms and protections to ensure the effective and equitable resolution of disputes in the digital marketplace.[21] Disputes between business actors and consumers are an inherent possibility in e-commerce transactions. When both the business actor and the consumer are located within the territory of the Republic of Indonesia, dispute resolution can be conducted in accordance with the provisions of the Consumer Protection Act (UUPK). However, challenges arise when the business actor operates from outside Indonesia while the consumer is an Indonesian citizen. In such cases, it is essential to select effective and efficient methods of dispute resolution. One viable solution is the use of alternative dispute resolution (ADR), which is generally considered more efficient than litigation through formal courts.

[19]http://marullohtekindustri.blogspot.co.id/2012/06/penyelesaian-sengketa-perusahaan-secara.html , accessed on 28 Feb 2018 at 21.20 WIB.
[20]Sanusi Bintang, Dahlan, ***Pokok-Pokok Hukum Ekonomi dan Bisnis***, Citra Aditya Bakti, Bandung, 2000, page.113.
[21]Darmodiharjo,Dardji,***Pokok-PokokFilsafatHukum*,Apa*danBagaimanaFilsafatHukumIndonesia***,GramediaPustakaUtama,Jakarta, 2006, page.46.

Given the continual growth of e-commerce in Indonesia, the potential for disputes is increasing, making it a critical issue for government attention. The use of Internet technology in online trading necessitates regulatory frameworks that are adaptive to contemporary developments, particularly in the resolution of disputes that arise in digital transactions.

As noted by Gary Goodpaster in *Review of the Settlement of Dispute* in the book *Arbitration in Indonesia*:[22] "Every society has a variety of ways to gain consensus in the proceedings or to resolve disputes and conflicts. The way in which a particular dispute clearly has consequences for both conflicting parties and the community in the broadest sense. Because of these consequences is to channel certain disputes to the most appropriate dispute resolution mechanism for them. "

This indicates that in resolving conflicts, there are various approaches available to individuals or society, each carrying different legal and practical consequences. Currently, dispute resolution has increasingly shifted toward non-litigation mechanisms, commonly referred to as Alternative Dispute Resolution (ADR). In countries such as the United States and Australia, nearly 90 percent of business-related disputes are resolved through ADR rather than formal court litigation. Similarly, in Indonesia, the use of ADR for dispute resolution has begun to emerge, particularly among business actors, although its adoption remains limited.[23]

Alternative Dispute Resolution (ADR) is a foreign term that requires an appropriate Indonesian equivalent. Several terms have been introduced in various forums by different parties, including *Pilihan Penyelesaian Sengketa* (PPS), *Mekanisme Alternatif Penyelesaian Sengketa* (MAPS), non-court dispute resolution options, and cooperative dispute settlement mechanisms. ADR can be defined in two ways: as an alternative to litigation or as an alternative to adjudication, with each definition carrying different implications. When understood as an alternative to litigation, ADR encompasses the entire dispute resolution process outside the court system, including arbitration. Conversely, when ADR is defined as an alternative to adjudication, it focuses on consensual or cooperative dispute resolution mechanisms, such as negotiation, mediation, and conciliation.

Based on the development of ADR in the United States, the term generally refers to ADR as an alternative to adjudication. This approach is preferred because traditional adjudication outcomes, whether through courts or arbitration, often produce "win-lose" results, whereas ADR emphasizes "win-win" solutions, achieving mutually acceptable outcomes with greater efficiency and satisfaction for all parties involved.[24] The term ADR may give the impression that consensus-based dispute resolution mechanisms can only be conducted outside the court (*out-of-court*). However, in practice, ADR is increasingly being integrated within court systems (*court-annexed* or *court-connected* ADR). The

[22]Gunawan Widjaya&Ahmad Yani, ***Hukum Arbitrase*,**RajaGrafindoPersada, Jakarta, 2000, page.3.
[23] Joni Emerzon, ***Hukum Bisnis Indonesia***, Kajian Hukum dan Bisnis Fakultas Hukum Universitas Sriwijaya, Palembang,2002, page .494.
[24]SuyudMargono,***ADRdanArbitrase*(*ProsesPerkembangandanAspekHukum*)**, GhaliaIndonesia, Jakarta,2000, page.34.

various definitions of ADR are informed by psychological and strategic considerations, aiming to garner support for settlement through ADR from the judiciary.

ADR is often viewed as a response to the perceived limitations of courts in providing timely and accessible justice to the public. Nevertheless, the introduction and use of ADR within the judicial system can sometimes provoke resistance or concerns from courts, particularly regarding their authority and role in dispute resolution. This highlights the need for careful institutional design and legal regulation to ensure that ADR complements rather than undermines the formal court system.[25] Altschul quoted by H. Priyatna Abdurrasyid in his book "Arbitration and Alternative Dispute Settlement" said that ADR is "atrialofacase beforeaprivate tribunal agreedto bythepartiessoastosave legal costs, avoid publicity, and avoid lengthy trial delays". Altschul said that the alternative dispute resolution is a dispute resolution by a private assembly agreed by the parties with the objective of saving the cost of the case, negating publicity and abolishing the ruthless examination, while Phillp D.Bostwick (going private with the judicial system: 1995) Alternative Dispute Resolution (ADR) is: "A set of experience and objective law (*A set of practices and legal techniques that aim*):[26]

a. Resolving lawsuits on the ground to judge the leverage of the parties (To permit legal dispute to be resolved out of the courtsforthe benefit of alldisputants)
b. Reduce the cost of conventional litigation and unusual time retention (To reduce the cost of conventional litigation and the delay to which it isordinarily subjected).
c. Prevent the occurrence of legal disputes that are usually filed in court (Toprevent legal disputesthat wouldotherwiselikely bebrought tothe courts) ".

Jacqueline M.Noan-Haley quoted by JoniEmirzon in his book "Indonesian business law explains that ADR" isumbrellaterm which refers general toalternativestocourt adjudication ofdisputesuchan negotiation, mediation, arbitration, minitrial and summaryjury trial ".[27] Jacqueline M. Nolan-Haley emphasizes that the term *alternative dispute settlement* is generally used as a protective concept referring to methods that serve as alternatives to court adjudication for resolving conflicts. However, her definition does not specifically address conciliation as a distinct form of alternative dispute resolution. This distinction highlights the importance of clarifying the scope and types of ADR mechanisms, particularly in differentiating between formal judicial alternatives and consensual or cooperative approaches such as mediation and conciliation.

Blacks Law Dictionary explains ADR is: The term refers to procedures for resolving disputes by means other than traditional litigation, such as arbitration, mediation, or mini-trials. These procedures are generally less costly and more expeditious, making them increasingly popular in a variety of contexts, including commercial and labor disputes, divorce proceedings, motor vehicle

[25]***Ibid.,***page.36.
[26]Priyatna Abdurrasyid, ***Arbitrase &Alternatif Penyelesaian Sengketa***, FikahatiAneskadanBANI, Jakarta,2002, page. 15.
[27] JacquelineM.Nolan-Haley,***AlternativeDisputeResolutionInArbitrationNushell***, Minn:West PblishingCo,ST.Paul, 1992, page.1-2.

and medical malpractice claims, as well as other conflicts that would otherwise require formal court litigation. Their efficiency and cost-effectiveness have contributed to their widespread adoption as alternative mechanisms for dispute resolution.[28]

According to Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, an Alternative Dispute Settlement (ADS) is defined as a dispute resolution mechanism or institution conducted through procedures agreed upon by the parties. These procedures may include settlement within the courts through consultation, mediation, conciliation, or expert judgment (Article 1, Number 10). From this definition, it can be concluded that ADR or APS is a process in which the disputing parties are actively involved in resolving their dispute, often with the assistance of a neutral third party. Alternative dispute settlement provides various flexible mechanisms, either individually or in combination, tailored to the nature of the dispute with the aim of achieving a final resolution.

These mechanisms can be informal, suitable for private disputes, or jointly structured by the parties to address more technical and complex issues. By appropriately understanding the nature and implications of disputes, a neutral third party can assist in facilitating resolution through ADR mechanisms, or the parties themselves can design a process that best suits the characteristics of their conflict, thereby enabling an effective and mutually acceptable settlement.[29]

In Indonesia, trade disputes are commonly resolved through either litigation or non-litigation mechanisms. However, litigation is often perceived as time-consuming and costly. Consequently, disputing parties increasingly prefer non-litigation methods, such as arbitration. Traditional arbitration, though effective in conventional contexts, is considered less suitable for resolving disputes arising from online or e-commerce transactions due to the unique characteristics of digital trade, including cross-border elements, electronic communication, and the need for rapid resolution. This has highlighted the necessity for adapting dispute resolution mechanisms to the digital era, ensuring that they are efficient, flexible, and capable of addressing the specific challenges posed by e-commerce.[30]

Online arbitration has emerged as a form of alternative dispute resolution (ADR) increasingly adopted in several developed countries as a solution for resolving online disputes. Fundamentally, online arbitration operates similarly to conventional arbitration, with the key distinction being that the process is conducted via the Internet and utilizes websites as the primary medium. While cross-border e-commerce disputes within a single country may not present significant challenges, disputes involving parties from different countries pose considerable concerns related to time and cost.

Online arbitration is particularly suitable for resolving e-commerce disputes, as the nature of digital

[28]HenryCampbell,***BalckLawDictioary***,6th edition, MinnWest publishingCo,St.Paul, 1990, page.78.
[29]Priyatna Abdurrasyid,***Op.Cit,***page. 2.
[30]https://www.kompasiana.com/rukly/penyelesaiam-sengketa-e-commerce-di-indonesia-belum-mengikuti-perkembangan-zaman_591869a8587b61d20dbf7044 ., accessed on 23 March 2018 at 19.00 WIB.

trade is not constrained by geographical distance, allowing participants to connect and resolve conflicts through an Internet connection. In Indonesia, the legal framework for electronic transactions is established under Law No. 11 of 2008 concerning Information and Electronic Transactions and Law No. 7 of 2014, specifically in Chapter VIII, which governs trade through electronic systems.

Given this context, the government has an opportunity to develop specific regulations governing online arbitration, complementing or updating Law No. 30 of 1999, which currently regulates conventional arbitration. The existing law, while effective for traditional arbitration, does not adequately accommodate the technological advancements and modern nature of online dispute resolution. Therefore, appropriate legal frameworks and mechanisms are urgently required to facilitate efficient, transparent, and technologically aligned resolution of e-commerce disputes..[31] Regarding the complexity of contractual relationships in the business world, particularly in relation to fairness in commercial contracts, it is insufficient to rely solely on classical notions of justice. The analysis of justice in contractual agreements must integrate both the concept of equal exchange (*achievement-contra-achievement*), as understood within the framework of commutative justice, and the principle of distributive justice as a foundation for contractual relations.

Understanding fairness in commercial contracts requires a comprehensive approach rather than a monistic perspective. In commutative justice, the basis of relationships between parties, including contracts, should not be interpreted solely as equality, as such an approach may lead to injustice when significant imbalances exist between contracting parties. Commutative justice inherently contains a principle of proportional distribution. Similarly, the concept of proportionality in distributive justice, commonly applied in the relationship between the state and its citizens, can be adapted to inform the perspective on contractual relationships between private parties.
Justice is one of the primary objectives of law, alongside legal certainty and legal utility. The essence of law is grounded in the principles of justice and moral authority. The concept of justice is inseparable from the law, as every legal norm, whether clearly articulated or implicitly understood, ultimately reflects concerns of fairness and ethical integrity.[32]. Kahar Masyhur states what he called fair:[33]

a. Fair is putting something in its place.
b. Fair is accepting rights without more and granting the rights of others without less.
c. It is fair to grant the right of every entitled to a fuller without less between the rightful fellow, in the same circumstances, and the punishment of the wicked or unlawful, in accordance with his error and offense.

One of the prevalence life of Indonesian society from time to timeresolves various disputes by

[31] ***Ibid.***
[32] Satjipto Rahardjo, ***Ilmu Hukum***, Alumni, Bandung, 1982, page. 45.
[33] Kahar Masyhur, ***Membina Moral dan Akhlaq***, Kalam Mulia, Jakarta, 1985, page. 71.

restoring brotherhood and friendship. In modern legal language it is known "WIN WIN SOLUTION" and this is the essential or essential objective of Arbitration, Mediation, or other means of resolving disputes outside the judicial process.

In general, arbitration, mediation, and other forms of dispute resolution outside of formal court proceedings provide parties with the opportunity to have their disputes examined by experts in the relevant field. These mechanisms offer relatively swift resolution, moderate costs, and the ability to resolve conflicts confidentially, thereby protecting the reputation of the involved parties. The primary objective of arbitration, mediation, and other non-litigation dispute resolution methods is to achieve a settlement rather than merely rendering a judgment on the case.

Online arbitration, as an alternative dispute resolution mechanism, is not explicitly regulated under the current Indonesian legal framework, as Law Number 30 of 1999 and Law Number 11 of 2008 do not specifically address online arbitration procedures. Nevertheless, online arbitration can be applied in Indonesia as it aligns with the principles of existing legislation, particularly Law Number 30 of 1999 and Law Number 11 of 2008, and is not in conflict with these laws.

Online arbitration offers several advantages, including the maintenance of party confidentiality, the promotion of ethical business practices, legal certainty, expedited timelines, cost efficiency, simplicity, access to expert arbitrators, and the preservation of harmonious relationships among the parties. However, the absence of comprehensive procedural support presents challenges, such as the lack of integrated websites with database applications to accommodate arbitration applications, lists of qualified arbitrators, and necessary procedural regulations. Furthermore, adequate security measures, encryption technology, real-time audiovisual communication platforms, and content management systems tailored for arbitrators are essential to ensure the effectiveness of online arbitration.

Although online arbitration holds significant potential for the future, its implementation is not without challenges. These barriers include regulatory limitations, security concerns, infrastructure deficiencies, and sociocultural factors, including customs and institutional practices. Overcoming these obstacles requires the development of new laws specifically governing online arbitration, supported by robust telecommunications infrastructure, secure systems, and competent institutions capable of managing online arbitration cases efficiently.

4. Conclusion

The advancement of technology has significantly facilitated everyday activities, including shopping. At present, numerous online shopping platforms provide a variety of services and promotional offers, allowing consumers to choose based on factors such as price, service quality, and security. The continuous growth of e-commerce in Indonesia increases the likelihood of disputes, making it imperative for the government to establish regulations that are in line with contemporary technological developments for resolving such conflicts effectively. Online arbitration has emerged as an alternative dispute resolution mechanism in several developed countries. Fundamentally, online arbitration operates similarly to conventional arbitration, but the proceedings are conducted via the Internet, using websites as the primary medium. While disputes confined within a single country may present minimal challenges, cross-border e-commerce disputes can pose significant difficulties in terms of time and cost.

Online arbitration is particularly suitable for resolving e-commerce disputes because it overcomes geographical limitations, allowing parties to connect and resolve conflicts using only an Internet connection. In Indonesia, the legal framework governing electronic transactions is established under Law No. 11 of 2008 concerning Information and Electronic Transactions and Law No. 7 of 2014, specifically Chapter VIII, which regulates trade through electronic systems.

This presents an opportunity for the government to develop specific regulations for online arbitration, complementing or updating Law No. 30 of 1999, which currently regulates conventional arbitration. The existing law, while effective for traditional arbitration, does not fully accommodate the technological advancements and modern nature of online dispute resolution. Therefore, it is essential to implement appropriate legal frameworks and mechanisms to ensure efficient, transparent, and technologically aligned resolution of e-commerce disputes.

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