SRIWIJAYA CRIMEN AND LEGAL STUDIES
FACULTY OF LAW UNIVERSITAS SRIWIJAYA
Jalan Srijaya Negara, Palembang, 30139, Indonesia
Email: scls@fh.unsri.ac.id
http://journal.fh.unsri.ac.id/index.php/SCLS/index
E-ISSN: 2987-7350 P-ISSN: 2986-6367

IMPLEMENTATION OF PANCASILA VALUES IN ALTERNATIVE DISPUTE RESOLUTION IN THE FORM OF NEGOTIATIONS

Rohaini[1], Ria Wierma Putri[2], Pingkan Retno Andini[3]

[1] *Faculty of Law, Universitas Lampung, Indonesia, E-mail: rohaini.arifien81@gmail.com*
[2] *Faculty of Law, Universitas Lampung, Indonesia, E-mail: ria.wierma@fh.unila.ac.id*
[3] *Prospective Judge, Pangkal Pinang District Court, Indonesia, E-mail: pingkanra20@gmail.com*

Article

Keywords:

Business Law, Alternative Dispute Resolution, Negotiations

DOI:
10.28946/scls.v2i1.3749

Abstract

Courts that accommodate dispute resolution are still not optimal in implementing fair decisions for the parties. Not only has it not created justice, but it has not been able to resolve the dispute quickly. In the end, there was a backlog of cases, so the simple, fast, low-cost justice principle was difficult to realize. Alternative Dispute Resolution is one of the efforts that can be implemented to assist the court in reducing the number of cases piling up, one of which is in the form of negotiations as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In principle, negotiations are concerned with implementing the Principle of Deliberation and Consensus as implied in the Preamble to the 1945 Constitution as stipulated in the Alternative Dispute Resolution Act. The problematic legal issues in its implementation are compiled in this article, analyzing the weaknesses of Negotiation as an Alternative for Resolving Business Law Disputes in Indonesia as well as the context for the Implementation of Pancasila Values. The type of research used is normative juridical with descriptive research type. The results that will be discussed explain the technical weaknesses of Alternative Dispute Resolution through Negotiations, which are generally linked to business law events in Indonesia in applying Pancasila values, especially the values of Humanity and Deliberation to Consensus. This writing concludes that Alternative Dispute Resolution must continue to be pursued in resolving disputes and in minimizing the weaknesses of the process, including opinions are submitted systematically, politely, and creatively, looking for common ground wisely, viewing the other party as family to create a family atmosphere, and accommodating Pancasila values as a guide to implementing written law

This is an Open Access Research distributed under the term of the Creative Commons Attribution-ShareAlike 4.0 International License (https://creativecommons.org/licenses/by-sa/4.0/), which permits unrestricted use, distribution, and reproduction in any medium, provided the original works are appropriately cited.

A. INTRODUCTION

Business activities are currently proliferating in the field of trading goods and services. Business actors continue to set up international and national business units on small, medium, and large scales to make a profit. This condition can positively impact national economic development, such as increasing employment opportunities and improving community welfare. On the other hand, the development of business activities can also negatively affect business actors because of the intense competition between business actors, which increasingly leads to unfair methods that can lead to disputes between business actors.

Apart from that, business developments also impact the dispute-resolution process. Because resolving disputes through litigation is no longer considered efficient in terms of time and money spent. Disputing business actors then look for alternative dispute resolution for business continuity and cooperation. Lili Rasjidi and I.B. Wysa Putra believe that law can be used to create protection that is not only adaptive and flexible but also predictive and anticipatory.[1] Apart from that, moral law pays attention to human values; laws built with humanitarian principles protect the perpetrators or perpetrators and aspects of justice for victims, and society also needs to receive the same protection.[2] The facts that we can briefly describe relate to the inadequate performance of the courts in implementing their function as a dispute resolution institution, among others:[3]

1) Dispute resolution through litigation is very slow,
2) Expensive court costs,
3) The judiciary is generally unresponsive,
4) The court decision does not solve the problem,
5) Generalist abilities of the judges.

However, the Supreme Court itself continues to strive for all these things to minimize obstacles and increase performance optimization every year, for example, by launching the Court Excellence program. The International Framework for Court Excellence is a quality management system designed to help courts improve their performance. This system is a comprehensive approach to achieving superior courts. This framework is a continuous improvement methodology that guides the court's journey towards court excellence by ensuring the court actively and continuously reviews its performance while seeking ways to improve its performance.

One of the Supreme Court's big leaps was the implementation of SIPP. This application is an administration system that provides case information for internal and external court parties. This SIPP application helps the court to carry out its primary duties and functions in receiving, examining, deciding and resolving cases more effectively and efficiently. With this application, the reporting system becomes more straightforward and electronically based. This application makes it easier for justice seekers to access information about the process or course of a case.[4]

Apart from resolving disputes using court litigation and arbitration, Article 1 paragraph (10) of Law no. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution explains that Alternative Dispute Resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside of court

---

[1] Sujana Donandi and Etty Susilowati, "Arti Penting Perjanjian Tertulis Antara Pemilik Dan Pengguna Karya Seni Fotografi Untuk Kepentingan Promosi Komersial," *Law Reform* 11, no. 1 (2015): 43, https://doi.org/10.14710/lr.v11i1.15753.

[2] Edy Prasetyo and Sigit Herman Binaji, "Kedudukan Penyelesaian Non Litigasi Dalam Hukum Pidana Pada Kasus Kecelakaan Lalu Lintas Yang Mengakibatkan Korban Jiwa Studi Kasus Di Wilayah Hukum Kabupaten Klaten," *Kajian Hasil Penelitian Hukum* 4, no. 1 (2020): 468, https://doi.org/10.37159/jmih.v4i1.1218.

[3] Rehngena Purba, "PENYELESAIAN SENGKETA ALTERNATIF MELALUI MEDIASI," n.d., 43.

[4] Ishmah Purnawati, "PEMBARUAN PERADILAN SEBAGAI IKHTIAR MEWUJUDKAN COURT EXCELLENCE," Mahkamah Agung Republik Indonesia, 2021.

using consultation, negotiation, mediation, conciliation or expert assessment but it is not explained further understanding of each of these alternatives.[5]

Alternative Dispute Resolution outside of court has several advantages over settlement through court, one is that the third party who mediates in the Alternative Dispute Resolution chosen by the disputing parties is an expert in their field, so they understand the issues in dispute. The element of specialization plays an important role in this mechanism, and expertise guarantees trust.[6]

Several types of dispute-resolution efforts are known. An international dispute can be resolved through violence or peaceful means. Violent actions can include war, non-war armed action, retortion, reprisal, peaceful blockade, embargo, or intervention. Meanwhile, peaceful means can be pursued through courts in the form of international arbitration or international courts or through out-of-court channels, which can take the form of negotiation, mediation, good services, conciliation, investigations, fact-finding, regional settlement, or through the United Nations. Peaceful dispute resolution is regulated in several international arrangements, including the Hague Convention of 1899/1907, the Briad Kellogg Pact of 1928, and the UN Charter.[7]

According to Prof. Dr. Komar Kantaatmadja, in general, it can be said that dispute resolution can be classified into three groups:[8]

1) Settlement of disputes using negotiation, either in the form of direct negotiations (negotiation simpliciter) or with the participation of third parties (mediation and conciliation)
2) Settlement of disputes using litigation, both national and international,
3) Settlement of disputes using arbitration, both ad hoc and institutional.

One of the alternative dispute resolution methods that has long been known and is widely used in the business world is negotiation. Negotiation is a fact of life or everyday life. Everyone negotiates to get what they want from others.[9]

Negotiation comes from English negotiation, which means negotiation. In everyday language, negotiation is equivalent to negotiating, deliberating, or coming to an agreement.[10] In this article, the author will explain several things that must be considered, such as that there are still weaknesses in negotiation in the non-litigation process of resolving business legal disputes.

The problem raised as a legal issue in this article is what are the weaknesses of Negotiation as an Alternative for Resolving Business Law Disputes in Indonesia, the scope of which is to analyze one of the legal settlement procedures outside of court, namely negotiation, and the weaknesses of the process, so that it can be implemented to resolve other cases.

B. RESEARCH METHODS

The type of research used is normative juridical with descriptive research type. The normative juridical research method is library legal research that examines library materials or secondary data. [11] The data obtained is in the form of primary and secondary data, consisting of statutory regulations, agreements, and other supporting legal materials. Data processing will

[5] Ashok Kumar, *International Alternative Dispute Resolution System* (New Delhi India: K.K. Publications, 2021).
[6] Andi Ardillah Albar, "DINAMIKA MEKANISME ALTERNATIF PENYELESAIAN SENGKETA DALAM KONTEKS HUKUM BISNIS INTERNASIONAL," *Jurnal Hukum Kenotariatan* 1, no. 1 (2019).
[7] Revy S. M Korah, "Mediasi Merupakan Salah Satu Alternatif Penyelesaian Masalah Dalam Sengketa Perdagangan Internasional," *Jurnal Hukum UNSRAT* 21, no. 3 (2013): 33–42.
[8] Haula Adolf, *Arbitrase Komersial Internasional* (Jakarta: PT. Raja Grafindo Persada, 2002).
[9] Suyud Margono, *Alternative Dispute Resolution Dan Arbitrase: Proses Pelembagaan Dan Aspek Hukum* (Jakarta: Ghalia Indonesia, 2004).
[10] Bambang Sutiyoso, *Penyelesaian Sengketa Bisnis* (Yogyakarta: Citra Media, 2006).
[11] Soerjono Soekanto dan Sri Mahmudji, "Penelitian Hukum Normatif, Suatu Tinjauan Singkat", Jakarta: Raja Grafindo Persada, 2003, p. 13.

consist of stages of data examination, data collection classification, and preparation according to the problems discussed and analyzed qualitatively.

C. ANALYSIS AND DISCUSSION

In general, dispute resolution is carried out through litigation through the courts. Courts are not the only way to resolve disputes through litigation; arbitration is an option in the litigation route. Dispute resolution through litigation involves a panel or party deciding the case. In court they are called judges, while in arbitration they are called arbitrators. However, the judiciary's role and function are currently considered ineffective and inefficient for business actors. Courts are overburdened, slow, waste time, expensive, and less responsive to the public interest. Or it is considered too formalistic and too technical.[12] If dispute resolution through court is pursued, this resolution is solely a last resort (*ultimatum remedium*) after other alternative dispute resolutions are deemed to have failed.[13] The process of resolving cases is long, complicated, and expensive, and it is always borne by the judges. So criticism and harassment of the judiciary emerged with expressions such as:[14]

a) KUHAP (Give Money After the Case)
b) KUHAP (Giving Money to Judge Surrender)
c) What is being fought over is the cat, but what must be sold is the ox. Cats can't. Cows are lost.
d) Like looking for lost matchsticks at night. He was looking for a match, but he ran out of matches to look for one.
e) Those who win become charcoal; those who lose become ashes.

Apart from resolving disputes through court litigation and arbitration, Article 1 paragraph (10) of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution explains that Alternative Dispute Resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside of court using consultation, negotiation, mediation, conciliation or expert assessment but it is not explained further. Further understanding of each of these alternatives.

In fact, some use of phrases that are not further explained in the law will lead to inconsistencies in implementing non-litigation dispute resolution in the future. This is like what happened with the Federal Arbitration Act's (FAA), which caused different perceptions, overlapped and created too much complexity in the legal system.[15] Apart from that, what needs to be considered in settling through arbitration is a comprehensive concept in the form of the arbitrability concept. This concerns whether a type of dispute can or cannot be settled by arbitration.[16]

Pancasila, as a guideline for Indonesian law, must also be involved and implement its provisions in all forms of regulations that are applied, in this case, alternative dispute resolution through negotiation with attention to human values, deliberation, consensus, and unity. This is very in line with the values of Pancasila, especially the perception of "Indonesian Unity" and "People's Democracy led by Wisdom/Representation".[17]

---

[12] Margono, *Alternative Dispute Resolution Dan Arbitrase: Proses Pelembagaan Dan Aspek Hukum*.
[13] Ibid.
[14] Purba, "PENYELESAIAN SENGKETA ALTERNATIF MELALUI MEDIASI."
[15] Joshua Long, "ODD ONE OUT : INCONSISTENCY IN THE FEDERAL ARBITRATION ACT ' S JURISDICTIONAL LANGUAGE O DD O NE O UT : I NCONSISTENCY IN THE F EDERAL A RBITRATION A CT ' S" 2024, no. 1 (2024).
[16] Bas van Zelst and Naimeh Masumy, "The Concept of Arbitrability under the New York Convention: The Quest for Comprehensive Reform," *Journal of International Arbitration*, 2024, 345–70.
[17] Mrs Sulistiowati et al., "The Values of Pancasila in Business Activities in Indonesia (Case Studies of Limited Liability Company and Cooperation)," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 28, no. 1 (2016): 107, https://doi.org/10.22146/jmh.15869.

Pancasila as a state ideology has characteristics, one of which the author cites, is that it embodies a spiritual principle, a world view, a view of life, a way of life, a way of life that is maintained, developed, practiced, preserved for the next generation, fought for and defended with a willingness to make sacrifices.[18] Historically, Indonesian society's culture upholds a consensus approach. Dispute resolution in Indonesia is developed through traditional decision-making mechanisms and customary dispute resolution.[19]

According to Roeslan Saleh, the function of Pancasila as the source of all sources of law means that Pancasila is positioned as the ideology of Indonesian law, a collection of values that must be behind all Indonesian law. These principles must be followed as a guide in making legal choices in Indonesia and as a statement of the spiritual values and desires of the Indonesian people as well as in its laws.[20]

Human values mean recognizing human dignity and fair treatment of fellow humans, as well as understanding civilized humans who have the power of creativity, feeling, initiative and belief.

Unity, people's values, and justice values. Pancasila as an ideology can be said to be a philosophy or outlook on life for the entire Indonesian nation that serves as a guideline and reference in activities in all fields and a tool to unify the nation.

Each of these Pancasila values can be described as follows: the value of national unity, meaning that the unity of Indonesia is the unity of the nation that occupies the territory of Indonesia. The Indonesian nation is a united nation that occupies Indonesia's territory. Recognition of Bhinneka Tunggal Ika (ethnicity) and national culture provides direction in fostering national unity.[21]

Triggers for disputes are "misunderstandings, differences in interpretation, unclear regulations, dissatisfaction, offense, suspicion, inappropriate, fraudulent or dishonest actions, arbitrariness or injustice, and the occurrence of unexpected circumstances and developments in science and technology."[22]

Local wisdom, known clearly as customary law (local wisdom), is the habit of local people that has been patterned and believed to be true so that they become values that live and develop in Indonesian society (inner order/living law). This brief cultural reason for the existence and development of ADR in Indonesia seems more substantial than the reason for the inefficiency of handling disputes.

As a country that has the Pancasila ideology, we can call Indonesia a Pancasila legal country that has several values, namely harmony in the relationship between the government and the people, a proportional functional relationship between state powers, the principle of deliberative dispute resolution and the judiciary is the last resort if deliberation fails. The fundamental values contained in Pancasila are transformed into legal ideals and legal principles, which are then formulated in the concept of Indonesian national law to realize the values of justice protecting the entire Indonesian nation and all of Indonesia's bloodshed.

---

[18] Chandra Setiawan, "Manifestasi Pancasila Melalui Trisakti Sebagai Pedoman Mewujudkan Amanat Penderitaan Rakyat," *Jurnal Pembumian Pancasila* 2 (2022).

[19] I Gusti Ayu Made Yustina Mahayuni, "Alternatif Penegakan Hukum Pidana Melalui Musyawarah Mufakat Dalam Sistem Peradilan Pidana Indonesia," *Acta Comitas* 4, no. 3 (2019): 397, https://doi.org/10.24843/ac.2019.v04.i03.p05.

[20] Syaiful Khoiri Harahap, "Penerapan Nilai-Nilai Pancasila Dalam Penolakan Putusan Arbitrase Internasional," *Jurnal Bina Mulia Hukum* 7, no. 1 (2022): 75, https://doi.org/10.23920/jbmh.v7i1.707.

[21] Erik Meza Nusantara, "Relevansi Nilai-Nilai Pancasila Dalam Pemberlakuan Putusan Arbitrase Internasional Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 6, no. 1 (2024): 10, https://doi.org/10.14710/jphi.v6i1.1-17.

[22] Fry Anditya Rahayu Putri Rusadi and Pujiyono Pujiyono, "Optimalisasi Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Tindak Pidana Di Luar Pengadilan," *Jurnal Ilmu Hukum* 10, no. 1 (2021): 153, https://doi.org/10.30652/jih.v10i1.8088.

The Pancasila legal state contains collective, personal, and religious characteristics. The implementation of these characteristics is balance, harmony, and harmony. State law is a human value, so one's dignity is maintained, and state law must be adjusted if it disturbs the harmony of life. Indonesia, as a state of rule of law from the Pancasila perspective, requires the willingness of all components of the nation to foster a culture of deliberation.[23] So, Indonesian legal culture is Pancasila Law[24] Following Pancasila legal culture, every existing dispute is made as much as possible to be resolved by deliberation first. Deliberation is the main characteristic of the Indonesian people's way of life, a characteristic of Indonesian customary law. One of the patterns of customary law is deliberation and consensus.

The Indonesian people's view of life-based on Pancasila kinship is referred to in the development of mental legal theory. Development law theory has three main components: structure, culture, and substance. Third, the law is seen as an important system for the people of Indonesia and other countries that are currently developing. Development law theory essentially describes the core role of law as a means of social transformation.[25]

Winarta defines negotiation as resolving disputes between parties without going through court proceedings to reach a mutual agreement based on more harmonious and creative cooperation.[26] One of the alternative dispute resolution methods that has long been known and is widely used in the business world is negotiation. Negotiation is a fact of life or everyday life. Everyone negotiates to get what they want from others, reaching a consensus in the fourth principle of Pancasila, which states "People led by wisdom in representative deliberation".

The main characteristics of negotiation are as follows:

1) Always involve people, whether as individuals, representatives of organizations or companies, alone or in groups.
2) Has a threat of occurring or contains a conflict that occurs from the beginning until an agreement is reached at the end of the negotiation.
3) Using methods of exchanging things, either in the form of bargaining or bartering.
4) Almost always face to-face, using spoken language, body movements and facial expressions.
5) Negotiations usually involve things in the future or something that has not happened yet, and we want to happen.
6) The end of negotiations is an agreement reached by both parties, even if the agreement is, for example, both parties agree to disagree.

Deliberation prioritizes togetherness and family values in resolving every problem. So that every decision can embrace all opinions and not only prioritize one's own interests. So, in carrying out dispute resolution, you must have several skills, including understanding disputes, disputes, and diputes contexts, dispute resolution processes, and emerging issues.[27]

With the rise of business activities, avoiding disputes between the parties involved is impossible. Disputes arise due to various reasons and underlying problems, mainly due to

[23] Yohanes Jeriko et al., "Internalisasi Nilai-Nilai Pancasila Sebagai Profesi Hukum Mediator Dalam Rangka Membangun Integritas" 7, no. 1 (2023): 925.
[24] Kurniati, "Peluang Dan Kendala Pengembangan Arbitrase Sebagai Alternatif Penyelesaian Sengketa," *Doctrinal* 4, no. 1 (2019): 943.
[25] G Pratama and R Melati, "Regional Expansion in Indonesia: Perspectives on Development Law Theory," *Sriwijaya Crimen and Legal Studies* 1, no. 1 (2023): 1–8, https://doi.org/10.28946/scls.v1i1.2610.
[26] Frans Hendra Winata, *Hukum Penyelesaian Sengketa: Arbitrase Nasional Indonesia Dan Internasional* (Jakarta: Sinar Grafika, 2012).
[27] Michael L Moffit and Robert C Bordone, *Handbook Dispute Resolution, Harvard Law School*, 2005.

conflicts of interest between parties involved in various kinds of business or trade activities, called business disputes.[28]

Considerations that can be agreed upon by the parties to achieve mutually beneficial conditions/reach a consensus based on the author's observations at least meet the following conditions:

a. It is a reasonable estimate of fair compensation.
b. The amount of compensation must be reasonable whether viewed when the agreement is made or when the breach of contract occurs.
c. It is compensation if determining the amount in the agreement was a good-faith effort to carry out a correct estimate.[29]

In its implementation, negotiations often do not produce an agreement due to several weaknesses that occur due to the negotiator's incompetence or the lack of good faith of the disputing parties, which in detail can be arranged in several points as follows:

a. Negotiator Obstacles:

1. Reaction

When we are stressed, as human beings, we tend to react emotionally to retaliate against the attack. Our reaction can result in negotiations ending without reaching any decision. For this reason, our attitude as negotiators must be to separate ourselves from emotions so that we can think clearly and neutrally.

2. Emotion

Negative emotions from the other party's negotiator are either uncooperative or always defending their position without wanting to listen to the other party. The attitude of the other party's negotiator usually has the principle that in negotiations, there is always a party that is "eaten" and a party that is "eating".

3. Position

Other party negotiators who insist on their position often provoke us to reject their position. Such an attitude can worsen the situation because the other party's negotiators may further defend their position. The solution is to take an approach by asking why they want to maintain that position so that the parties can understand the intentions and desires of each party and find a middle ground.

4. Dissatisfaction of the Parties

The agreed negotiation results sometimes do not lead to mutual satisfaction. For this reason, before reaching an agreement, the parties should be sure that the other party's negotiator is confident in the agreement that will be made. There are two important things to overcome their dissatisfaction: identifying and fulfilling their interests and fundamental human needs. Basic human needs are reflected in the triangle of satisfaction theory, which consists of substantive, psychological, and procedural needs.

b. Obstacles for Disputing Parties

1. Ego

The parties only care about themselves and impose their will. This characteristic is the biggest obstacle in conducting deliberations. Indovidualism has diminished the sense of kinship, which is the noble value of deliberation.

2. Bad Behavior

[28] Sutiyoso, *Penyelesaian Sengketa Bisnis*.

[29] Litari Elisa Putri, Hamzah, and Yulia Kusuma Wardani, "Tanggung Jawab Perusahaan Jasa Perjalanan (Travel Agency) Terhadap Konsumennya (Studi Pada PT Arie Tours Dan Travel Cabang Bandar Lampung)", Pactum Law Journal," *Pactum Law Journal* 1 no 2 (2018): 118.

This obstacle can make the deliberation process worse. The value of deliberation in Eastern culture does not like disrespectful actions. Disrespectful behavior and bad language can include interrupting the other party's conversation, using a high tone and threatening others.

The success of the negotiation process, according to Prof. Dr. Erman Rajagukguk, S.H., LL.M., Ph.D that is:[30]

1. Don't propose something that, if it were proposed to us, we would not accept. If we don't accept it, let alone other parties to accept it. Our goal in negotiations must be to find a solution that is acceptable to both parties. This means we will not accept an offer that is bad for us and the other party, and vice versa.
2. In negotiations, neither party wants to be forced. Make both parties jointly control the negotiation (sharing of control) and continue communicating. Communication means we have to answer what the other party offers. Positive feedback, if we agree. Negative input if we disagree.
3. In negotiations, we need patience. But that doesn't mean it's long-winded. Say it immediately if we don't agree or welcome it warmly if we agree with the proposal. This step speeds up the resolution of disputes to an agreement.
4. We never know what the other party will do or how we will respond. We must be relaxed and flexible to capture creative thoughts that can help us resolve disputes. We must remain optimistic and confident. One day, there will be a common ground.

Dispute resolution has many factors when applied. Disputes are developed, perceived, and managed in culturally embedded and socially constructed ways. [31] Understanding culture is key to effective conflict resolution and peacebuilding.[32] Indonesia adopted a mediation system that was annexed by the Japanese court in 2008. However, on the other hand, the focus on interest-based mediation in Indonesia's certification training for mediators that the court-annexed is in contrast to deliberation for consensus, which is the customary way of resolving disputes, which is much more nuanced. Directives focus on compromise to maintain harmony rather than rights, common interests, or consensus. [33]

Although the litigation process in the Court is often considered to be lagging behind the dispute resolution process, the results of the dispute resolution process must still be registered in the Court so that they have legal validity and the decision can be implemented or is executory. [34]

D. CONCLUSION

The backlog of cases in court means that other parties who want to take their cases to court must think again. Besides taking a long time/process, the costs incurred later will not be small. This is very disturbing for business actors who, in this case, are classified as litigants in business disputes. During the judicial process, the time used will interfere with running routine business activities. Dispute resolution has many factors when applied. Disputes are developed, perceived, and managed in culturally embedded and socially constructed ways. Human values define the recognition of human dignity, fair treatment of fellow humans, and the understanding of civilized humans with the power of creativity, feeling, initiative, and belief. Unity, People's values, and Justice's values. Pancasila as an ideology can be said to be a

[30] Erman Rajagukguk, *Penyelesaian Sengketa Alternatif* (Depok: Universitas Indonesia, 2005).
[31] Maria Federica Moscati and Michael Palmer, *Comparative Dispute Resolution* (Cheltenham UK: Edward Elgar Publishing Limited, 2020).
[32] Stepahanie P. Stobbe, *Conflict Resolution in Asia: Mediation and Other Cultural Models*, ed. Lexington Books (USA, n.d.).
[33] Ibid.
[34] M Yahya Harahap, *Arbitrase* (Jakarta: Sinar Grafika, 2006).

philosophy or way of life for the entire Indonesian nation that applies as a guide and reference in activities in all fields and as a tool to unify the nation, especially its implementation in resolving cases outside of court.

One alternative form of dispute resolution is negotiation, which is an effort to resolve disputes between parties without going through court proceedings to reach a mutual agreement based on more harmonious and creative cooperation. However, it does not rule out the possibility that all efforts to resolve disputes will experience obstacles.

Solutions that can be taken to minimize these weaknesses include presenting opinions systematically, politely, and creatively, seeking common ground wisely, and viewing other parties as a family to create a family atmosphere. Everyone negotiates to get what they want from other people. Consensus in Pancasila, which transforms proportional functional relationships between state powers, the principle of resolving disputes by deliberation, and the judiciary is the last resort if deliberation fails.

REFERENCES

Adolf, Haula. *Arbitrase Komersial Internasional*. Jakarta: PT. Raja Grafindo Persada, 2002.

Albar, Andi Ardillah. "DINAMIKA MEKANISME ALTERNATIF PENYELESAIAN SENGKETA DALAM KONTEKS HUKUM BISNIS INTERNASIONAL." *Jurnal Hukum Kenotariatan* 1, no. 1 (2019).

Donandi, Sujana, and Etty Susilowati. "Arti Penting Perjanjian Tertulis Antara Pemilik Dan Pengguna Karya Seni Fotografi Untuk Kepentingan Promosi Komersial." *Law Reform* 11, no. 1 (2015): 43. https://doi.org/10.14710/lr.v11i1.15753.

Harahap, M Yahya. *Arbitrase*. Jakarta: Sinar Grafika, 2006.

Harahap, Syaiful Khoiri. "Penerapan Nilai-Nilai Pancasila Dalam Penolakan Putusan Arbitrase Internasional." *Jurnal Bina Mulia Hukum* 7, no. 1 (2022): 75. https://doi.org/10.23920/jbmh.v7i1.707.

Jeriko, Yohanes, Giovanni Rama, Adi Saputra, Sunadynatha Selvin, Matthew Chandra, Fakultas Hukum, and Universitas Tarumanagara. "Internalisasi Nilai-Nilai Pancasila Sebagai Profesi Hukum Mediator Dalam Rangka Membangun Integritas" 7, no. 1 (2023): 925.

Korah, Revy S. M. "Mediasi Merupakan Salah Satu Alternatif Penyelesaian Masalah Dalam Sengketa Perdagangan Internasional." *Jurnal Hukum UNSRAT* 21, no. 3 (2013): 33–42.

Kumar, Ashok. *International Alternative Dispute Resolution System*. New Delhi India: K.K. Publications, 2021.

Kurniati. "Peluang Dan Kendala Pengembangan Arbitrase Sebagai Alternatif Penyelesaian Sengketa." *Doctrinal* 4, no. 1 (2019): 943.

Long, Joshua. "ODD ONE OUT : INCONSISTENCY IN THE FEDERAL ARBITRATION ACT ' S JURISDICTIONAL LANGUAGE O DD O NE O UT : I NCONSISTENCY IN THE F EDERAL A RBITRATION A CT ' S" 2024, no. 1 (2024).

Mahayuni, I Gusti Ayu Made Yustina. "Alternatif Penegakan Hukum Pidana Melalui Musyawarah Mufakat Dalam Sistem Peradilan Pidana Indonesia." *Acta Comitas* 4, no. 3 (2019): 397. https://doi.org/10.24843/ac.2019.v04.i03.p05.

Margono, Suyud. *Alternative Dispute Resolution Dan Arbitrase: Proses Pelembagaan Dan Aspek Hukum*. Jakarta: Ghalia Indonesia, 2004.

Moffit, Michael L, and Robert C Bordone. *Handbook Dispute Resolution, Harvard Law School*, 2005.

Moscati, Maria Federica, and Michael Palmer. *Comparative Dispute Resolution*. Cheltenham UK: Edward Elgar Publishing Limited, 2020.

Nusantara, Erik Meza. "Relevansi Nilai-Nilai Pancasila Dalam Pemberlakuan Putusan Arbitrase Internasional Di Indonesia." *Jurnal Pembangunan Hukum Indonesia* 6, no. 1 (2024): 10. https://doi.org/10.14710/jphi.v6i1.1-17.

Prasetyo, Edy, and Sigit Herman Binaji. "Kedudukan Penyelesaian Non Litigasi Dalam Hukum Pidana Pada Kasus Kecelakaan Lalu Lintas Yang Mengakibatkan Korban Jiwa Studi Kasus Di Wilayah Hukum Kabupaten Klaten." *Kajian Hasil Penelitian Hukum* 4, no. 1 (2020): 468. https://doi.org/10.37159/jmih.v4i1.1218.

Pratama, G, and R Melati. "Regional Expansion in Indonesia: Perspectives on Development Law Theory." *Sriwijaya Crimen and Legal Studies* 1, no. 1 (2023): 1–8. https://doi.org/10.28946/scls.v1i1.2610.

Purba, Rehngena. "PENYELESAIAN SENGKETA ALTERNATIF MELALUI MEDIASI," n.d., 43.

Purnawati, Ishmah. "PEMBARUAN PERADILAN SEBAGAI IKHTIAR MEWUJUDKAN COURT EXCELLENCE." Mahkamah Agung Republik Indonesia, 2021.

Putri, Litari Elisa, Hamzah, and Yulia Kusuma Wardani. "Tanggung Jawab Perusahaan Jasa Perjalanan (Travel Agency) Terhadap Konsumennya (Studi Pada PT Arie Tours Dan

Travel Cabang Bandar Lampung)", Pactum Law Journal." *Pactum Law Journal* 1 no 2 (2018): 118.

Putri Rusadi, Fry Anditya Rahayu, and Pujiyono Pujiyono. "Optimalisasi Mediasi Penal Sebagai Alternatif Penyelesaian Perkara Tindak Pidana Di Luar Pengadilan." *Jurnal Ilmu Hukum* 10, no. 1 (2021): 153. https://doi.org/10.30652/jih.v10i1.8088.

Rajagukguk, Erman. *Penyelesaian Sengketa Alternatif*. Depok: Universitas Indonesia, 2005.

Setiawan, Chandra. "Manifestasi Pancasila Melalui Trisakti Sebagai Pedoman Mewujudkan Amanat Penderitaan Rakyat." *Jurnal Pembumian Pancasila* 2 (2022).

Stobbe, Stepahanie P. *Conflict Resolution in Asia: Mediation and Other Cultural Models*. Edited by Lexington Books. USA, n.d.

Sulistiowati, Mrs, Mr Nurhasan Ismail, Mr Paripurna, and Mr Sulastriyono. "The Values of Pancasila in Business Activities in Indonesia (Case Studies of Limited Liability Company and Cooperation)." *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 28, no. 1 (2016): 107. https://doi.org/10.22146/jmh.15869.

Sutiyoso, Bambang. *Penyelesaian Sengketa Bisnis*. Yogyakarta: Citra Media, 2006.

Winata, Frans Hendra. *Hukum Penyelesaian Sengketa: Arbitrase Nasional Indonesia Dan Internasional*. Jakarta: Sinar Grafika, 2012.

Zelst, Bas van, and Naimeh Masumy. "The Concept of Arbitrability under the New York Convention: The Quest for Comprehensive Reform." *Journal of International Arbitration*, 2024, 345–70.