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Analysis of the Effectiveness of Alternative Dispute Resolution (ADR) as an Out-of-Court Solution

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This study aims to analyse the effectiveness of the role of alternative dispute resolution (ADR) as an out-of-court dispute resolution solution, identify obstacles in its implementation, and assess the alignment between normative regulations and their practical application within the Indonesian legal system.

This study's method is a normative legal study with a statutory approach, a conceptual approach, and a case approach. Data were obtained through a literature study of primary, secondary, and tertiary legal materials, and then analysed qualitatively prescriptively.

The novelty of this research is focused on the development of ADR studies that not only discuss conventional mediation but also integrate the concept of online dispute resolution (ODR) as a form of ADR digitalisation, linked to the principles of restorative justice and its relevance in resolving customary land disputes in the region.

The results of the study show that ADR has higher effectiveness compared to litigation in terms of time efficiency, cost, flexibility, and the ability to produce win-win solutions. However, the implementation of ADR still faces obstacles such as the low legal awareness of the community, the limited number of professional mediators and arbitrators, and the suboptimal execution of the agreement outcomes.

The conclusion of this research is that ADR is an effective, fast, inexpensive, and substantively just dispute resolution mechanism. However, to optimise its role in the Indonesian legal system, it is necessary to strengthen regulations, improve the quality of human resources, and develop institutions and digitalisation through ODR so that access to justice can be broader and more responsive to the needs of society.

Keywords: Alternative Dispute Resolution; Mediation; Arbitration; Online Dispute Resolution; Restorative Justice

Abstrak

Penelitian ini bertujuan untuk menganalisis efektifitas peran alternatif penyelesaian sengketa (alternative dispute resolution/ADR) sebagai solusi penyelesaian sengketa di luar pengadilan, mengidentifikasi hambatan dalam implementasinya, serta menilai kesesuaian antara pengaturan normatif dengan praktik pelaksanaannya dalam sistem hukum Indonesia.

Metode penelitian ini merupakan penelitian hukum normatif dengan pendekatan perundang-undangan (statute approach), pendekatan konseptual (conceptual approach), dan pendekatan kasus (case approach). Data diperoleh melalui studi kepustakaan terhadap bahan hukum primer, sekunder, dan tersier, kemudian dianalisis secara kualitatif preskriptif.

Kebaruan penelitian ini difokuskan pada pengembangan kajian ADR yang tidak hanya membahas mediasi konvensional, tetapi juga mengintegrasikan konsep online dispute resolution (odr) sebagai bentuk digitalisasi adr, dikaitkan dengan prinsip restorative justice serta relevansinya dalam penyelesaian sengketa tanah adat di daerah.

Hasil penelitian menunjukkan bahwa adr memiliki efektivitas yang lebih tinggi dibandingkan litigasi dalam aspek efisiensi waktu, biaya, fleksibilitas, serta kemampuan menghasilkan penyelesaian yang bersifat win-win solution. Namun demikian, implementasi adr masih menghadapi hambatan berupa rendahnya kesadaran hukum masyarakat, keterbatasan mediator dan arbiter profesional, serta belum optimalnya pelaksanaan hasil kesepakatan.

Kesimpulan dari penelitian ini yakni adr merupakan mekanisme penyelesaian sengketa yang efektif, cepat, murah, dan berorientasi pada keadilan substantif. Akan tetapi, untuk mengoptimalkan perannya dalam sistem hukum Indonesia, diperlukan penguatan regulasi, peningkatan kualitas sumber daya manusia, serta pengembangan kelembagaan dan digitalisasi melalui odr agar akses keadilan dapat lebih luas dan responsif terhadap kebutuhan masyarakat.

Kata Kunci: Alternatif Penyelesaian Sengketa; Mediasi; Arbitrase; Online Dispute Resolution; Keadilan Restoratif

1. INTRODUCTION

The judicial system in Indonesia plays a crucial role as the main pillar of law enforcement and the pursuit of substantive justice for society. However, in practical reality, the process of dispute resolution through conventional litigation often faces various classic obstacles. The lengthy process (undue delay), high litigation costs, and complicated administrative bureaucracy paint a grim picture that gradually erodes public trust in access to justice. The manifestation of this inefficiency is clearly seen in the phenomenon of case backlogs at the Supreme Court, which reached 5.2 million cases in 2023. This condition is clearly contradictory to the principles of swift, simple, and low-cost justice as mandated in Article 4, paragraph (2) of Law Number 48 of 2009 on Judicial Power.¹

Disputes Can Be Resolved Through Litigation (In Court) or Non-Litigation (Out of Court). Resolving Disputes Through Litigation Involves Examining the Dispute Before a Judge in the Judicial Institution. Both public and private disputes, litigation, or court proceedings, are the most common methods of dispute resolution. Describing that the community's need for justice and welfare continues to increase over time.² As a result, dispute resolution through litigation becomes less effective and is considered too lengthy and expensive. When such things happen, seekers of justice begin to look for other ways to resolve disputes besides the formal judicial process. This method is called Non-Litigation Dispute Resolution.³ Alternative

¹ Sistem Peradilan and Tata Usaha, "Locus: Jurnal Konsep Ilmu Hukum Peran Hakim Dalam Mewujudkan Due Process of Law Pada Sistem Peradilan Tata Usaha Negara Di Indonesia," *Locus* 5, no. 1 (2025), <https://doi.org/10.56128/jkih.v5i1.434>.

² Cintia Dwi Puspita Wahab Aznul Hidayat, Zaenal Arifin, Rajab Lestaluhu, "Implementing Living Law under Article 2 of the Indonesian Criminal Code: The Maya Indigenous Community in Raja Ampat," *Vifada Assumption Journal of Law* 2, no. 2 (2026): 52–61, <https://doi.org/10.70184/nwzphm18>.

³ Puspitasari Gustami dan Devi Siti Hamzah Marpaung, "Comparison Of Dispute Resolution Processes Through Court And Out Of Court Mediation In Indonesia," *Jurnal Hukum Lex Generalis* 5, no. 4 (2024): 1–13,

Dispute Resolution (ADR) processes emerged in response to the limitations of the formal judicial system. Mediation, arbitration, conciliation, negotiation, and expert evaluation are some non-litigation mechanisms used in ADR. Although each mechanism has unique features, they all aim to resolve conflicts peacefully, quickly, effectively, and in accordance with the needs and interests of each party. ADR is more flexible, engaging, and solution-oriented than the litigation process. The parties in the Alternative Dispute Resolution (ADR) process are the main actors in the resolution process, and they do not merely participate as passive objects.

Although ADR offers a quick and effective solution, its implementation is challenging because society continues to view the courts as the only legitimate way to obtain justice. A 2024 study by the Supreme Court showed that only 35 percent of people are aware of mandatory mediation. This means that there are still 60 percent of civil disputes in court. This is due to a shortage of certified mediators (only 12,000 nationwide instead of the 25,000 needed), especially in remote areas. Mediation still faces many challenges in Indonesia, despite being recognised as one of the effective methods. The main obstacles in the development of ADR are the lack of public understanding of its benefits and the limited number of professional mediators. Therefore, it is very important to conduct thorough research on the function of ADR mediation as an effective method for resolving non-litigation disputes to make the dispute resolution process more equitable.⁴

As a normative foundation, the strengthening of ADR in Indonesia has also gained a clear legal footing through Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which recognises arbitration, mediation, conciliation, negotiation, and expert assessment as legitimate mechanisms outside the court, and is reinforced in judicial practice through Supreme Court Regulation Number 1 of 2016 on Court Mediation Procedures, which mandates mediation before the examination of the main civil case proceeds. This regulatory framework shows that ADR is not merely a theoretical alternative, but has been integrated into the positive legal system as part of efforts to realise a simple, fast, and low-cost judiciary. However, the existence of norms has not fully aligned with effectiveness in the field, necessitating a more in-depth study to assess the extent to which the role of ADR, particularly mediation, can truly meet the needs for fair, participatory, and responsive dispute resolution in line with societal dynamics.⁵

Analysis of the Effectiveness of the Role of Alternative Dispute Resolution (ADR) as an Out-of-Court Solution Has Become an Important Issue in the Dispute Resolution Process in Indonesia. In the context of the role of Alternative Dispute Resolution (ADR), several studies have highlighted the importance of improving legal literacy among the public, strengthening

<https://jhlrg.rewangrencang.com>.

⁴ Fadiah Hazirah et al., "Efektivitas Alternative Dispute Resolution Dalam Penyelesaian Sengketa Konsumen Atas Penyalahgunaan Data Pribadi Oleh Perusahaan," *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 5, no. 1 (2025): 100–108.

⁵ Edo Arya Prabowo, "Studi Literatur : Efektivitas Mediasi Sebagai Alternatif Penyelesaian Sengketa Bisnis Di Luar Pengadilan," *Jurnal Ilmu Hukum Dan Tata Negara* 1, no. 4 (2023): 277–87, <https://doi.org/10.55606/birokrasi.v1i4.756>.

the capacity and number of certified mediators, and providing consistent institutional support so that ADR mechanisms, particularly mediation, can function optimally as effective means of dispute resolution outside the court. Previous research has shown that Alternative Dispute Resolution (ADR) plays a strategic role as a mechanism for dispute resolution outside the court within the Indonesian legal system. The study by Kamelia Yunita Sari and Sidi Anyar Wiraguna (2024) emphasises that the success of ADR implementation is greatly influenced by the low legal literacy of the community, the limited number and uneven quality of certified mediators, and the suboptimal institutional support in implementing the ADR regulatory framework based on Law Number 30 of 1999 and Supreme Court Regulation Number 1 of 2016.⁶ In line with that, Muhammad Faisal Aziz's research highlights that mediation, as one form of ADR, has advantages in terms of time efficiency, cost, and flexibility, especially regarding the parties' compliance with the agreement and the limitations of professional mediators. From both studies, it is evident that the focus of the research still tends to place ADR within the general scope and conventional mediation. Unlike previous research, this study offers a new perspective by expanding the study to the integration of Online Dispute Resolution (ODR), as a form of ADR digitalisation, linking it with the principles of restorative justice, and placing it in the context of resolving customary land disputes in the region. This provides a new contribution both conceptually and practically in the development of non-litigation dispute resolution systems in Indonesia.⁷

Recent research highlights the urgency of this study, stemming from the real gap between the normative recognition of Alternative Dispute Resolution (ADR) in the Indonesian legal system and its effectiveness in practice. Although ADR has a strong legal basis through Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution and is reinforced by the obligation of mediation in Supreme Court Regulation Number 1 of 2016 on Mediation Procedures in Court, practice shows that society still views litigation as the only legitimate path to obtain justice. This condition leads to a backlog of cases in the courts, a lengthy and costly dispute resolution process, and the suboptimal utilisation of ADR mechanisms, which are inherently faster, more flexible, participatory, and solution-oriented.⁸ The limited number of certified mediators, the low public understanding of ADR, and the uneven implementation in various regions further underscore the importance of comprehensive scientific studies. Therefore, this research aims to analyse the effectiveness of the role of ADR, particularly mediation, as a mechanism for resolving disputes outside the court, identify the factors hindering its implementation, assess the alignment between the normative framework and practices in society, and formulate strategic recommendations to optimise the use of ADR as

⁶ Sidi Ahyar Wiraguna Kamelia Yunita Sari, "Analisis Efektivitas Peran Alternatif Penyelesaian," In *Sibatik Journal*, 2026, <https://doi.org/10.54443/Sibatik.V5i2.4226>.

⁷ Rohaini Muhammad Faisal Aziz, Hamzah, "Efektivitas Penyelesaian Sengketa Melalui Mediasi Sebagai Alternatif Di Luar Pengadilan Dalam Sistem Hukum Indonesia," *Al-Zayn* 3, no. 6 (2023): 3026–2925, <https://doi.org/10.61104/alz.v3i5.2770>.

⁸ Rahmat Wailisahalong, Wahab Aznul Hidayat, and Sahertian Marthin, "Studi Komparasi Antara Overmacht Dengan Noodweer Perpektif," *Judge: Jurnal Hukum* 05, no. 03 (2024): 21–34.

a quick, cost-effective, and just alternative dispute resolution. This condition shows that resolving disputes outside of court cannot rely solely on the existence of norms, but requires a more integrative, participatory, and contextual approach so that ADR can truly meet the practical justice needs of the community.

2. METHOD

The Study Focuses on the Consistency, Synchronization, and Adequacy of Legal Provisions Governing ADR as a Non-Litigious Dispute Resolution Mechanism within the Indonesian Legal System. The approaches used include the statutory approach through an analysis of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution and Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court; the conceptual (Conceptual Approach) by examining the concepts of legal effectiveness, justice, efficiency, and the participation of the parties in ADR, as well as a case-based approach (Case Approach) through an analysis of mediation and arbitration practices to observe the application of legal norms. The legal materials used consist of primary legal sources, such as laws and regulations, Supreme Court regulations, and court decisions related to mediation and arbitration; secondary legal sources, such as books, academic journals, previous research findings, and expert opinions; and tertiary legal sources, such as legal dictionaries and encyclopedias. Legal materials were collected through library research and then analyzed using a prescriptive qualitative approach to assess the alignment of ADR norms with the principles of simple, swift, and cost-effective adjudication; evaluate the effectiveness of ADR regulations based on their consistency and regulatory support; and formulate normative recommendations for optimizing the role of ADR. Further analysis focused on the normative framework of ADR within the Indonesian legal system, the integration between out-of-court ADR mechanisms and in-court mediation, and an evaluation of the adequacy of ADR regulations in addressing the need for effective and fair dispute resolution.

3. DISCUSSION

3.1. The Application of Alternative Dispute Resolution (ADR) in the Indonesian Legal System

Alternative Dispute Resolution (ADR) is often translated as an alternative to litigation, but it is also frequently interpreted as an alternative to adjudication. Choosing one of these two definitions has different implications. If the first definition (alternative to litigation) is used as a reference, then all out-of-court dispute resolution mechanisms, including arbitration, are part of ADR. However, if the second definition of ADR as an alternative to adjudication is adopted, then dispute resolution mechanisms are consensual or cooperative in nature, such as negotiation, mediation, and conciliation.⁹

According to Suyud Margono, ADR is an alternative dispute resolution method conducted outside the regular court system. Negotiation, mediation, and arbitration are some of the methods that can be used to resolve disputes. Frans Hendra Winarta refers to APS

⁹ Anis, "Penerapan Alternatif Penyelesaian Sengketa (Adr) Dalam Penyelesaian Sengketa Di Indonesia: Fokus Pada Efisiensi Dan Keseimbangan," *Jurnal Kajian Ilmiah Interdisipliner* 8, No. 9 (2024): 60–65.

(Alternative Dispute Resolution) as “a mechanism for resolving disputes outside the court system based on an agreement between the parties, thereby avoiding dispute resolution through litigation in court.” The alternative dispute resolution (ADR) model is grounded in Indonesian cultural values and is viewed from both sociological and empirical perspectives. Indonesia, with its many different ethnic groups and cultures, has long been familiar with various dispute resolution mechanisms that prioritize peace, deliberation, and consensus. Social harmony is the primary goal in community life, as reflected in the fundamental principles of ADR. Long-standing social practices in various indigenous communities across Indonesia include the peaceful resolution of conflicts.¹⁰

The communal and family-oriented values of Indonesian society support the development of a culture of consensus-building through deliberation in conflict resolution. Conflict resolution that does not sever social relationships, but rather strengthens bonds of brotherhood, is a priority for society in social life. As a result, dispute resolution processes based on deliberation protect social cohesion and justice. This consensus-based dispute resolution model has different names and formats across various regions in Indonesia, depending on local customs. For example, on the island of Java, the term “rembugan” is used, which emphasizes the importance of talking to one another to find the best solution. In West Java, the term “badami” is used to reach a peaceful agreement, and in Aceh, dispute resolution is called “peudame ureung,” which reflects the concept of peace in Acehnese society.

Meanwhile, in the East Nusa Tenggara region, particularly on Flores, the method of dispute resolution is known as “lamaholot,” a deliberative process led by traditional or community leaders. The Karo Batak people of North Sumatra use the term “rungkun,” which refers to the principle of cooperation to achieve the best possible resolution for the disputing parties. In North Sulawesi, the philosophy of “torang samua basudara,” meaning “we are all brothers and sisters,” serves as the foundation for peaceful conflict resolution. The concept of “paruman” is used in Bali to resolve conflicts by bringing together various segments of society in a traditional gathering.¹¹ The diversity of terms and practices related to consensus-based dispute resolution demonstrates that ADR is not a new concept for the Indonesian people; on the contrary, this consensus-based dispute resolution model has become an integral part of the nation’s social and cultural identity. In addition to being effective in resolving disputes, this model is also more widely accepted by the public because it aligns with local values that promote harmony and unity. As a result, ADR plays a vital role in the Indonesian legal system, particularly in meeting the public’s need for dispute resolution mechanisms that are faster, more flexible, and less confrontational than formal court proceedings.¹²

According to Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution,

¹⁰ Bina Era Dany Muhammad Rois Al Hafis Nasution, Azhari AR, “Penyelesaian Sengketa Bisnis Melalui Arbitrase Di Era Digital,” *Al-Hikmah* 5, no. 3 (2024): 400–419.

¹¹ Dahliani Hadi Tuasikal, “Civil Dispute Resolution through Non-Litigation: A Legal Study and Its Implementation in Indonesia,” *Journal of Dual Legal Systems* 2, no. 1 (2025): 46–69, <https://doi.org/10.58824/jdls.v2i1.322>.

¹² Nisfawati Laili Jalilah Baiq Ratna Mulhimmah, *Alternatif Penyelesaian Sengketa Berbasis Kearifan Lokal* (Mataram: CV.Alfa Press, 2023).hlm. 16-18.

arbitration, mediation, conciliation, negotiation, and consultation are methods of dispute resolution outside of court. Arbitration involves a third party to resolve a case. In the resolution process, the arbitrator acts as a neutral third party to adjudicate the case. The decision is made by both parties consciously, voluntarily, and without coercion from the other party. To adjudicate the case, the third party must consist of individuals with expertise in the relevant field. The arbitration process takes three to six months. Arbitration offers many advantages, including privacy, low costs, and competent arbitrators. One drawback of arbitration is its semi-formal nature; negotiations can drag on, focus may be lost, there is no right to appeal, and ongoing tension and emotional stress may arise.¹³ The sources of arbitration law in Indonesia are as follows: a. Law No. 14 of 1970 on the Fundamentals of Judicial Power, in the explanatory notes to Article 3. b. The Civil Code, in Article 1338(1). c. Article 377 of the HIR or Article 705 of the RBg. d. Articles 615–651 of the Rv. e. Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (APS).

There are two types of arbitration, as follows: a). Ad hoc (voluntary) arbitration. Ad hoc arbitration is established after a dispute arises and is temporary in nature, not permanent. Once the dispute is resolved, this arbitration ends and can be dissolved. b). Institutional arbitration (permanent): Institutional arbitration is the opposite of ad hoc arbitration. Institutional arbitration is conducted in an organized manner. This form of arbitration continues regardless of whether there are disputes to be resolved. An institution is responsible for this arbitration. In business dispute resolution, mediation is a process of resolution carried out through voluntary consensus-building involving a third party. The disputing parties choose to have a mediator in the mediation process. The final outcome of a successful mediation process is a settlement agreement. Conciliation is a conflict resolution process that requires the intervention of a third party. A conciliator is a third party who assists in resolving the dispute. One of the conciliator's responsibilities is to develop and formulate steps for resolving the dispute. The conciliator must then actively communicate with the parties and convey the results of these formulations to them.¹⁴

Negotiation is a dispute resolution process that involves two-way communication to reach an agreement. This process can be used by anyone who wants to resolve any issue, whether it is a personal or business matter. In the negotiation process, bargaining takes place that benefits one party or both parties. Good communication between the parties is the key to the success of the negotiation process. Meanwhile, consultation occurs when someone is facing a problem but cannot resolve it on their own and needs input from others to solve it. Consultation is a two-way process involving a consultant and a client. A consultant is someone who offers advice on how to resolve the problem currently faced by their client. Meanwhile, a client is someone who needs advice on how to resolve a problem.¹⁵ Alternative dispute

¹³ Gunawan Widjaja, "Peningkatan Efektivitas Penyelesaian Sengketa Medis Melalui Alternatif Non-Litigasi (Mediasi Dan Arbitrase) Pasca Penerapan Uu No. 17 Tahun 2023," *Journal of Community Dedication* 4, no. 4 (2025): 95–105, <https://felifa.net/index.php/Jurcomded>.

¹⁴ Anik Entriani, "Arbitrase Dalam Sistem Hukum," *An-Nisbah* 3, no. 2 (2023): 278–93.

¹⁵ Rezie Dava Amar and Rani Apriani Candra Hayatul Iman, "Negosiasi Sebagai Alternatif Penyelesaian Sengketa

resolution (ADR) can be used if a settlement has been reached in which both parties to the dispute agree to avoid or end the dispute. Settlement means the end of hostilities. Peace means being free from hostility, non-hostile, reconciled, safe, and tranquil. To make peace means to reconcile and negotiate to resolve differences. To reconcile or make peace means to resolve hostilities and reach an agreement.¹⁶

3.2. Analysis of the Effectiveness and Challenges of Alternative Dispute Resolution (ADR) as an Out-of-Court Solution

Various instruments, such as Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, have been used to regulate ADR and mediation in Indonesia. The implementation of mediation still faces major challenges, such as unqualified mediators, a lack of understanding among the parties, and institutions that are not yet fully prepared. This is the case despite the existence of regulations. One of the main advantages of mediation as an alternative dispute resolution (ADR) method is its ability to resolve conflicts more quickly, flexibly, and at a lower cost compared to formal litigation. Mediation "offers advantages in terms of active participation, flexibility, and efficiency in terms of time and cost." This indicates that mediation has the potential to shift dispute resolution from a confrontational and bureaucratic approach toward negotiation and the restoration of relationships between the parties. Nevertheless, mediation in practice has not always been effective. According to a study conducted at the Sorong District Court on land disputes, mediation "has not yet demonstrated optimal effectiveness" because in some cases the process failed to reach an agreement, causing the cases to proceed to the litigation stage. One of the factors cited is the complex nature of the cases, particularly disputes involving customary land, overlapping ownership claims, the involvement of many parties, and imbalances in bargaining power among the parties, which make it difficult for mediators to find common ground and facilitate the reaching of an amicable settlement.¹⁷

ADR has historically been in line with the traditions of consensus-based deliberation and mutual cooperation in Indonesian customary law, which emphasize social balance.

ADR transforms these concepts into contemporary formal institutions. Some forms of its application include negotiation (direct settlement between the parties), mediation (assistance from a neutral mediator), conciliation (third-party recommendations), and arbitration (binding decisions by an arbitrator). In this context, many professional institutions have emerged. Some of these include the National Arbitration Board (BANI), which handles commercial, joint venture, and construction disputes; the Alternative Dispute Resolution Institution for the

Bisnis Di Indonesia," *Jurnal Ilmiah Wahana Pendidikan* 10, no. 24 (2024): 506–15, <https://jurnal.peneliti.net/index.php/JIWP/article/view/9304>.

¹⁶ Watni Marpaung, "Penyelesaian Sengketa Dalam Hukum Positif Dan Hukum Islam," *Jurnal Al-Ahwal As-Syakhsyah* 10, no. 02 (2022): 55–61.

¹⁷ Mukharom Tumanda Tamba, "Efektivitas Peran Mediator Dalam Penyelesaian Sengketa Non Litigasi Dalam Bidang Bisnis Maupun Hukum," *Jimpa* 3, no. 2 (2023): 445–60, <https://doi.org/https/10.36908/jimpa>.

Financial Services Sector (LAPS SJK), which handles consumer disputes involving financial institutions; and the Consumer Dispute Resolution Board (BPSK).¹⁸

It is well known that ADR is more efficient in terms of time and cost. Litigation in court takes years due to the multi-tiered system, ranging from the court of first instance to the Supreme Court. In addition, the costs associated with litigation, including attorneys' fees and case administration costs, are also very high. In contrast, a faster and less expensive resolution can be achieved through ADR. For example, disputes can be resolved through mediation at a lower cost than litigation. The ultimate goal of dispute resolution is substantive justice. Generally, litigation outcomes are a zero-sum game. This often fails to satisfy the parties involved, particularly in cases involving sensitive personal data disputes. Article 4(2) of Law No. 48 of 2009 on the Judiciary establishes the criteria for effective ADR, which include substantive justice, cost-efficiency, and speed. The speed of resolution is superior: mediation must be completed within 30 business days (PERMA No. 1 of 2016), often achieved within 2–3 business weeks, compared to litigation, which can take months or even years. Since there are no base costs for the case, witnesses, or complex administration, cost efficiency is extremely high. Arbitration costs are 30% lower than litigation, according to the 2023 BANI report. Unlike adversarial litigation, substantive justice is achieved through participatory agreements that restore socioeconomic relationships. Data from the Supreme Court following PERMA No. 1 of 2016 shows that mediation has successfully resolved more than 40% of civil disputes.¹⁹

Mediation is one of the most popular forms of ADR because it is more flexible and emphasizes reaching a mutually beneficial agreement. Mediation is a method of dispute resolution in which the mediator acts as a neutral third party who helps both parties reach an agreement without ruling on the case, as a judge would. Parties in dispute are often in a situation fraught with tension and conflicting interests; mediation is considered more suitable for protecting their interests and resolving their conflicts. In mediation, the parties can express their positions, concerns, and demands directly and informally, while the neutral mediator helps facilitate constructive discussions. Thus, ADR offers a greater chance of reaching a win-win solution because this approach prioritizes collaboration and compromise, where the parties focus on shared interests and a peaceful resolution rather than simply winning their arguments.²⁰

Conversely, there are several practical advantages to ADR mediation over litigation. The parties can maintain good relations throughout the mediation process. This is particularly important in cases of recurring consumer-business disputes. Mediation also prioritizes

¹⁸ Talitha Kamilah and Sidi Ahyar Wiraguna, "Perkembangan Alternatif Penyelesaian Sengketa (ADR) Dalam Perspektif Hukum Acara Perdata Modern," *Terang* 2, no. 4 (2025): 174–86, <https://doi.org/10.62383/terang.v2i4.1460>.

¹⁹ Satria Kusuma, "Sepanjang Tahun 2025, MA Selesaikan Ribuan Perkara Melalui Mediasi Hingga Keadilan Restoratif", Mahkamah Agung Republik Indonesia, 10 Februari 2026, mahkamahagung.go.id, (diakses pada 26 April 2026).

²⁰ Hendri Abdul Qohar Praniko Imam Sagita, "Analisis Yuridis Penyelesaian Sengketa Internal DPRD Kabupaten Bandung Melalui Pendekatan Alternative Dispute Resolution," *Jurnal Ilmu Pendidikan Dan Sains Islam Interdisipiner* 5, no. 1 (2026): 183–94, <https://doi.org/10.59944/jipsi.v5i1.742>.

confidentiality, ensuring that the details of the dispute remain private, which can protect the business's reputation or prevent further trauma to the consumer. Compared to litigation, which can drag on for years, mediation is also more cost-effective and results in a shorter resolution time. These advantages align with the principles of consumer protection set forth in the Consumer Protection Law (UUPK), namely providing easy, swift, and affordable access to the courts. From a legal theory perspective, the use of mediation as an ADR method aligns with the principles of restorative justice, meaning that dispute resolution focuses not only on imposing penalties or awarding compensation but also on restoring relationships and the well-being of the parties. Restoration in consumer dispute cases may include recognition of consumer rights, an apology from the company, or service improvements. This differs from litigation, which typically focuses on winning or losing. As a result, mediation is considered more humane and responsive to customer needs.²¹

It is entirely possible to achieve better legal protection by utilizing ADR as a means of mediating consumer disputes in Indonesia. However, to achieve this, regulations, institutional frameworks, and human resource capacity must be strengthened. The government must encourage the public to better understand consumer rights and ADR mechanisms, expand the reach of the BPSK, and ensure the quality of mediators. These efforts will determine the extent to which mediation can serve as an effective tool for delivering substantive justice to Indonesian consumers. Although ADR has been established and recommended as an effective method for resolving consumer disputes, several obstacles hinder the full optimization of this mechanism. The public's level of legal awareness is the primary obstacle. Many consumers continue to believe that disputes can only be resolved through litigation.²²

In addition, there are also issues regarding legal certainty regarding the implementation of mediation outcomes. Supreme Court Regulation No. 1 of 2016 stipulates that mediation outcomes agreed upon by the parties may be formalized into a settlement agreement that is enforceable in court. However, in practice, violations of the terms of the agreement still frequently occur due to the lack of a consistent enforcement mechanism, meaning that the intended legal force is not always effectively enforced. This situation demonstrates that the legal certainty of ADR will be suboptimal unless accompanied by clear oversight and enforcement mechanisms for all disputing parties. Strengthening the role of the courts as the institution that validates and oversees the implementation of mediation outcomes is a crucial step toward providing more tangible legal certainty for the disputing parties. Despite these challenges, ADR mechanisms still hold significant potential to evolve as a vital tool for dispute resolution. In the digital age, the use of technology-based mediation, or Online Dispute Resolution (ODR), can serve as a faster, more efficient, and more accessible alternative for

²¹ Endang Hadrian, *Penyelesaian Sengketa Melalui Perdamaian Pada Sistem Peradilan Perdata Sebagai Penyelesaian Rasa Keadilan Di Indonesia* (Depok: Rajawali Pers, 2022), hlm.177-178.

²² Asep Suherman Nadine Alysa Azura, Dhiyaa Husniyyah, Fourega Gamelia Lubis, "Pengaruh Penerapan Alternative Dispute Resolution (Adr) Melalui Mediasi Terhadap Efektivitas Perlindungan Hak Konsumen Di Indonesia," *Jurnal Kajian Hukum Dan Kebijakan Publik* 3, no. 1 (2025): 59–66, <https://jurnal.kopusindo.com/index.php/jkhkp>.

disputing parties, thereby expanding the scope of dispute resolution beyond the litigation process.²³

ADR faces challenges from the government, the public, and institutions despite having a strong legal foundation. First, there is a lack of legal awareness among the public, who view ADR as lacking credibility, even though mediation settlement agreements have the same legal force as court judgments. Second, there are few professional arbitrators and mediators who possess both ethical and technical competence. Digitizing ADR platforms to provide access to remote areas and harmonizing institutional frameworks among BANI, BPSK, LAPS SJK, and court-based mediation are strategic solutions. Strengthening ADR as a tool for substantive justice requires improving human resources through certified mediator training and legal awareness campaigns.²⁴

Online mediation mechanisms, or Online Dispute Resolution (ODR), can be helpful in the digital age by breaking down geographical barriers and offering even greater time efficiency. The integration of technology into ADR allows consumers and businesses to negotiate through secure virtual platforms, so that cross-regional e-commerce disputes can be resolved without the need for face-to-face meetings. This not only improves accessibility for people in remote areas but also aligns with the fast-paced, transparent nature of the digital economy, which requires immediate dispute resolution to maintain market confidence.²⁵

4. CONCLUSION

Berdasarkan hasil penelitian, dapat disimpulkan bahwa Alternatif Penyelesaian Sengketa (ADR) merupakan mekanisme penyelesaian sengketa di luar pengadilan yang mencakup negosiasi, mediasi, konsiliasi, arbitrase, dan konsultasi, yang keberadaannya telah diakui dalam sistem hukum Indonesia serta sejalan dengan nilai-nilai musyawarah, mufakat, dan perdamaian yang hidup dalam masyarakat. Dalam penerapannya, ADR terbukti lebih efektif dibandingkan litigasi karena menawarkan proses yang lebih cepat, fleksibel, efisien dari segi biaya, serta mampu menghasilkan penyelesaian yang berorientasi pada kepentingan bersama (*win-win solution*) dan menjaga hubungan baik antar pihak yang bersengketa. Namun, efektivitas ADR dalam praktik masih menghadapi berbagai hambatan, seperti rendahnya kesadaran hukum masyarakat, keterbatasan mediator dan arbiter yang profesional, serta belum optimalnya pelaksanaan hasil kesepakatan. Oleh karena itu, diperlukan penguatan regulasi, peningkatan kualitas sumber daya manusia, dan optimalisasi kelembagaan ADR agar mekanisme ini dapat berfungsi lebih maksimal dalam mewujudkan kepastian hukum, keadilan substantif, dan akses penyelesaian sengketa yang lebih luas bagi masyarakat.

²³ Rohaini. Kiki Juwita, Hamzah, "Penerapan Online Dispute Resolution (ODR) Sebagai Alternatif Penyelesaian Sengketa Modern E-Commerce Di Indonesia," *Jurnal Ilmu Sosial & Hukum* 3, no. 6 (2025): 8873–78, <https://doi.org/10.61104/alz.v3i6.2790>.

²⁴ Diana Setiawati Frensiska Ardhiyaningrum, "Hambatan Dan Peluang Efektivitas Alternative Dispute Resolution (ADR) Dalam Penyelesaian Sengketa Bisnis Di Indonesia Berdasarkan Undang- Undang Nomor 30 Tahun 1999," *Jembatan Hukum* 1, no. 4 (2024): 138–53, <https://doi.org/10.62383/jembatan.v1i4.1132>.

²⁵ Yohan Yonata, "Online Dispute Resolution (Odr) Sebagai Alternatif Penyelesaian Sengketa Bisnis Di Indonesia," *Jurnal Kajian Ilmu Hukum Dan Politik* 3, No. 3 (2025): 1–11, <https://doi.org/10.51903>.

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