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## Statistical Analysis of Time and Cost Efficiency of Construction Dispute Resolution Through Mediation Compared to Arbitration

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**Abstract:** Non-litigation conflicts can be settled in a number of ways, including through arbitration and mediation. "A method for testing a particular theory by examining the relationship between variables" is the quantitative approach that is employed. The study's findings indicate that the time frames for arbitrating and mediating disputes differ; specifically, the arbitration ruling must be rendered no later than 30 days following the conclusion of the dispute examination. The cost of using the mediation room is not included in the price of using mediation to settle issues in court. This period may be extended, nevertheless, by the arbitration panel or the lone arbitrator. After the mediator is chosen, the mediation procedure can take up to 40 working days, and the arbitration ruling is final and binding on the parties. A maximum extension of 14 working days may be made to this time frame. In the event that mediation produces a written agreement, the parties are required to draft and sign it. The fees for arbitrating disputes differ based on the arbitration organization and the amount of the claim; they could include Registration cost: The registration cost for the arbitration request, Cost of administration: The arbitration administration charge is determined using a tariff scale. Arbitrator's fee: The cost of hiring arbitrators is determined using a tariff scale. along with The cost of hearing: The parties, respondent, or applicant bear the pro rata costs of the arbitration hearing.

**Keyword:** Dispute Resolution, Litigation, Arbitration, Mediation.

### INTRODUCTION

In a partnership, there is a high probability that a disagreement may arise. The breach of the legal rights of one party can give rise to a dispute between the parties involved. The resolution of a dispute can be accomplished through the use of litigation or by extrajudicial arbitration. A non-litigation approach. The two are differentiated from one another by the means by which they are put into action (Caniago, 2022). However, the process of non-litigation or out-of-court dispute resolution is known as Alternative Dispute Resolution (ADR) and Arbitration. The litigation procedure must adhere to the procedural law that has been established, and it takes a significant amount of time. The final conclusion is decided by the panel of judges, and it is a win-lose deal (Caniago, 2022). In spite of the fact that the litigation

route has a weakness, as was indicated earlier, the court is the most common method of dispute resolution in Indonesia. This is despite the fact that the litigation route tends to be the most common method of dispute resolution. As a result of its lose-lose, unresponsive, and time-intensive nature, it is accessible to the general population and has the potential to spark new problems. Legal remedies can then be presented to a higher court as part of this litigation procedure in order to challenge the decision that was given down by the judge (Hadi Ismanto, 2019).

Among the various alternative dispute resolutions available, Arbitration can be applied to business matters. The dispute is resolved by a judge that the disputing parties appoint and appoint themselves, with the understanding that the decision taken by the judge is a final and binding decision for both parties to resolve it. Arbitration is a form of justice that is organized and based on the will and good faith of the disputing parties which allows the dispute to be resolved by a judge. The broad explanation of Law Number 30 of 1999 about Arbitration and Alternative Dispute Resolution can also be used to draw the conclusion that arbitration provides a number of benefits, several advantages of dispute resolution through arbitration can be read compared to judicial institutions (Rahmatsyah, 2023).

In the civil law dimension, various parties involved in a dispute can carry out their dispute resolution by using legal channels through litigation in court or non-litigation outside the court (alternative dispute resolution). Non-litigation is one of several ways in resolving disputes, an alternative is through mediation. Mediation is a step in an effort to resolve a dispute by using negotiation procedures to obtain a mutual agreement assisted by a mediator (Kadek Candra Nanda Devi & Julia Mahadewi, 2022).

Dispute resolution can be accomplished through either the use of litigation or by approaches that do not involve litigation. Dispute resolution through litigation is a method that involves the intervention of the courts in order to resolve disputes. A procedure of conflict settlement that takes place outside of the judicial system is known as non-litigation resolution, which is also sometimes referred to as alternative dispute resolution. One of the many methods that may be utilized to settle disagreements that do not involve litigation is through the process of mediation. Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 about Mediation Procedures in Court (hereinafter referred to as PERMA No. 1/2016) is the new regulation that replaces Supreme Court Regulation Number 1 of 2008. This regulation regulates the provisions necessary for mediation. When it comes to the resolution of disputes, the mediation procedure is the first step that must be taken. A violation of the provisions of Article 130 HIR and/or Article 154 Rbg occurs when the dispute resolution procedure is not followed, which results in the decision being rendered invalid and unenforceable. Mediating is a method of resolving disputes through a negotiating process in order to reach an agreement between the parties involved, with the assistance of a Mediator, as stated in PERMA No. 1/2016. Unless both parties express a desire for the mediation process to be open, the nature of the mediation process is always closed (Wahyuningsih & Nendra Asa Deyau, 2024).

The time for dispute resolution through mediation and arbitration is different, namely the period for mediation in court is 22 days, while outside the court is 30 days. The period for mediation can be extended for a maximum of 14 working days after the end of 40 working days, while for the verification process it is 20 (twenty) working days. Furthermore, based on the LAPS SJK regulations, the dispute resolution period for mediation is 30 (thirty) days from when the parties agree to mediate at the LAPS SJK. While for arbitration, the settlement period is 180 (one hundred and eighty) days from when the sole arbitrator is appointed or the arbitration panel is formed. However, this period can be extended based on matters as stipulated in the LAPS SJK regulations (Tasmin, 2019).

The fees that are necessary to resolve issues through arbitration are increasing in tandem with the growing popularity of arbitration. Using arbitration as a method of conflict resolution is a costly process. Even if the expenditures that are incurred to resolve disputes through

arbitration are more expensive than the amount that is being disputed, problem resolution through arbitration can exceed millions of dollars. Therefore, the parties who will resolve the disagreement through arbitration are required to prepare substantial fees for the resolution of the dispute, as well as expenses for auditing and services provided by attorneys (Tesalonika C. M. Hombokau, 2024). This very existence one could argue that the use of direct arbitration as a means of resolving conflicts is less effective than other methods of conflict resolution since it is costly to resolve issues through nonlitigation arbitration channels, and there are still weaknesses in arbitration decisions that cannot be executed. In "Perma No.1 of 2016" there are various new provisions that have differences with the previous Perma which are used as an effort to provide increased effectiveness and optimization of mediation in court. In addition, the issuance of this Perma is expected to provide more opportunities for various parties who have disputes so that their disputes can be resolved peacefully, and can provide more access for various parties to obtain a resolution of their disputes with a just and satisfactory final result.

## **METHOD**

The method used is a quantitative method, namely "a method for testing a particular theory by examining the relationship between variables. These variables are measured so that they can be analyzed based on statistical procedures" The use of quantitative methods is because the author wants to find generalizations in the phenomena raised in this study(Wajdi et al., 2024). The investigation is considered to be in a value-free framework, where the researcher is a key instrument, from sampling data sources carried out by purposive and snowball methods, triangulation collection techniques, and data analysis is either inductive or qualitative. Quantitative research is research that focuses on measuring and analyzing causal relationships between various variables, rather than the way in which the variables are measured (Wajdi et al., 2024).

In this study, the Likert scale is used to quantify the factors causing the dispute. The Likert scale is a scale that can be used to measure the opinion of a population regarding the phenomenon of disputes that occur. A questionnaire survey was chosen to collect data from the court(Wajdi et al., 2024).

The purposive sampling method was used in this study to avoid bias from the research results, respondents were selected based on criteria that were in accordance with the objectives of this study, namely: experienced in construction dispute resolution through mediation compared to arbitration (Zulfikar et al., 2024).

In this study, the Likert scale was used to quantify the factors causing the dispute. The Likert scale is a scale that can be used to measure the opinion of a population regarding the phenomenon of disputes that occur. The questionnaire survey was chosen to collect data from users of dispute resolution through mediation and arbitration. The data collected from the questionnaire was tabulated, then processed. To facilitate data processing, researchers In this study, the data processing method used a computer with SPSS (Statistical Package For Social Sciences) software version 26. SPSS so that the results are faster and more precise(Fadilla et al., 2021).

## **RESULTS AND DISCUSSION**

### **Validity and Reliability Test Results**

#### **Validity Test**

The validity test is a useful tool for determining how accurately the measuring instrument that is being used can describe what the questionnaire is measuring. A significance test is used to determine whether or not the r value that was calculated is significant. This test compares the overall correlation with the value that is found in the r product moment table. If

the correlation is greater than  $r_{(\alpha, (df-2))}$  and the value is positive, then the assertion under consideration can be considered genuine.

**Table 1. Validity Test**

Arbitration (X1)			
Statement No.	Rcount	Rtable	Description
1	0.493	0.3809	Valid
2	0.512	0.3809	Valid
3	0.450	0.3809	Valid
4	0.637	0.3809	Valid
5	0.630	0.3809	Valid
6	0.614	0.3809	Valid
7	0.695	0.3809	Valid
8	0.599	0.3809	Valid
9	0.577	0.3809	Valid
Mediation (X2)			
Statement No.	Rcount	Rtable	Description
1	0.440	0.3809	Valid
2	0.693	0.3809	Valid
3	0.504	0.3809	Valid
4	0.736	0.3809	Valid
5	0.469	0.3809	Valid
6	0.459	0.3809	Valid
7	0.516	0.3809	Valid
8	0.481	0.3809	Valid
9	0.682	0.3809	Valid

The table above shows that the number of statement items from the two research variables is 18 statement items. The  $r_{(0.05, (25))}$  value used is 0.3809 so that all statement items can be declared valid and there is no need to eliminate the questionnaire statements.

### Reliability Test

Reliability test is conducted to determine how reliable and trustworthy a measuring instrument is. Reliability test is conducted using Cronbach Alpha coefficient. Variable is considered reliable if Cronbach Alpha coefficient is greater than or equal to 0.60

**Table 2. Reliability Test**

Research Variables	Cronbach Alpha
Arbitration (X1)	0.723
Mediation (X2)	0.707

The table above shows that all research instruments are said to be reliable and have met the requirements for use in research.

### Simple Regression Analysis Results

**Table 3. Test of Determination Coefficient (R square)**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.491 <sup>a</sup>	.241	.210	3.25408

According to the data presented in the table above, the R-squared value is 0.241, which indicates that the arbitration variable has the ability to impact the mediation variable by 0.241, which is equivalent to 24.1%. The remaining 24.1% is influenced by other factors the model is unable to explain.

**Tabel 4. Uji F**

	Model	Sum of Squares	df	Mean Square	F	Sig.
1	Regression	83.940	1	83.940	7.927	.009 <sup>b</sup>
	Residual	264.726	25	10.589		
	Total	348.667	26			

Based on the table above, it can be concluded that the sig. value is  $0.009 < 0.05$ , so arbitration simultaneously influences mediation as a form of dispute resolution.

**Table 5. t-test**

	Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	24.241	4.888		4.960	.000
	Arbitrase	.377	.134	.491	2.816	.009

Taking into consideration the table that was presented earlier, the regression equation can be arranged as follows:

$A = 24.241 \text{ plus } 0.377 \text{ times}$

If Y (mediation) is found to have a value of 24.241, and the independent variable is found to have a value of 0, then the value of  $\beta_0$  is present. If all of the other independent variables have a constant value, then if there is a one-unit rise in X1 (arbitration), then there will be a 0.377-times increase in X2 (mediation). Based on the data shown in the table above, it can be stated that arbitration has a partial impact on the resolution of disputes. The significance value of arbitration is 0.009, which is less than the threshold of 0.05.

**Table 6. RII Arbitration Analysis**

Item	RII
X1	0.726
X2	0.896
X3	0.674
X4	0.793
X5	0.859
X6	0.844
X7	0.778
X8	0.778
X9	0.889

Based on the table above, the most influential in arbitration is the simpler procedure (X2)

**Table 7. RII Mediation Analysis**

Item	RII
Y1	0.889
Y2	0.800
Y3	0.778
Y4	0.770
Y5	0.874
Y6	0.933
Y7	0.859

Y8	0.867
Y9	0.807

Based on the table above, the most influential factor in mediation in dispute resolution is (Y6).

A neutral third party who does not have the authority to make decisions that assist the disputing parties in reaching a settlement (solution) that is acceptable to both sides is involved in the mediation process. This occurs in an effort to resolve conflict by involving a third party who is impartial. If the mediator is a member of the social system of the disputed parties, has a long-standing relationship with the disputing parties, has an interest in the outcome of the discussions, or wants to present a positive impression, then the mediation is referred to as emergent mediation during the mediation process, for example as a solid friend (Rizkiana, 2021).

The time for resolving disputes through mediation can vary, depending on the type of mediation and whether the mediation results in an agreement or not:

1. Mediation in court: The time period for mediation in court is 22 days.
2. Mediation outside the court: The time period for mediation outside the court is 30 days.
3. Divorce mediation: The time period for divorce mediation is a maximum of 40 days, and can be extended for a maximum of 14 working days by agreement of the parties.
4. Mediation after notification of an interim decision: The time period for mediation after notification of an interim decision is a maximum of 30 days.

Perma No. 1 of 2016 includes a comprehensive and unambiguous statement regarding the application of mediation expenses. It is specified in Perma No. 1 of 2016 that the expense of settling disputes through mediation in court is not paid for the use of the mediation room. This is in reference to the fees associated with the mediation process. There are, however, some costs associated with mediation, such as the costs of summoning the parties, the costs of travel, the costs of meetings, and the fees of experts. The cost of the services provided by a mediator who is not a judge is compensated either jointly or according to the agreement reached by the parties. Should the mediation process be successful, the cost of the summons will be borne jointly by the parties or according to the agreement reached between them. Should the mediation process be unsuccessful, the cost of the summons is charged to the losing party (Nancy M.Rezeki Saragih, 2021).

Mediation is an obligation that must be offered to the parties to the case. If the parties to the case refuse mediation, there are no legal consequences whatsoever for their case.

The parties are required to put the agreement into paper and have both parties sign it if the mediation process ends in an agreement. The court has the authority to give the agreement the status of a peace deed. There is a possibility that the judge will proceed with the investigation of the case in accordance with the provisions of the law in the event that mediation does not result in an agreement (Revita Nurahmasari, 2021). Some reasons why mediation is the most profitable alternative dispute resolution include:

1. When compared to arbitration and the courts, mediation as an alternative dispute resolution has the potential to be a more cost-effective and time-efficient method of resolving disputes. This is because mediation is a form of alternative dispute resolution.
2. With regard to the extent of the conversation, mediation has the capacity to allow for a more complete, all-encompassing, and adaptable discussion of the problem agenda.
3. The component of developing good connections, where mediation that is based on cooperative resolution methods is extremely ideal for those who emphatically emphasize the significance of good ties between individuals (relationships), whether they have already taken place or will take place in the future.
4. Through mediation, the parties will be able to concentrate on their actual interests;
5. Mediation raises awareness of the strengths and weaknesses of each party's position;



6. It enables the identification of hidden objects or difficulties related to the dispute that were not previously realized; and seven, mediation helps to resolve the dispute.
7. Mediation allows the parties to exercise influence over the whole process as well as the outcomes of the mediation.(Septian Eka Putra, 2021).

In order to reap the benefits of mediation, it is common for this process to conclude in an agreement between the parties involved. The benefits of mediation can still be experienced, despite the fact that there are instances in which mediation can be unsuccessful. Due to the fact that mediation first defines the situation and then narrows down the points that are being contested, this effect occurs. A successful mediation process results in the production of a dispute resolution agreement that, once signed, will be legally binding and can be enforced in the same manner as an agreement or contract (Anwar & Wahyu Sururie, 2021). There is a need in Indonesia that the agreement that is reached through mediation must be stated in written form. Not only does this apply to mediation that takes place in court, but it also applies to mediation that takes place outside of court. One of the provisions of Supreme Court Regulation Number 1 of 2008, Article 17 paragraph (1) The written agreement that has been agreed upon by the parties must be registered with the district court no later than thirty days after the agreement was signed, as stated in Article 6 paragraph (7) of Law Number 30 of 2009. This is the case even if the mediation process is carried out outside of the courtroom. The judge has the authority to ratify the agreement as a peace document in the event that the mediation process is carried out in court. It is defined as a deed that contains the contents of a peace agreement and a judge's judgment that reinforces the peace agreement, and it is not subject to regular or extraordinary legal remedies. This definition can be found in Article 1 point 2 of Supreme Court Regulation Number 1 of 2008, which was issued in 2008 (Rahmah, 2019).

One kind of conflict resolution that takes place outside of the court system is arbitration. A written arbitration agreement must be signed by the parties who intend to resolve the disagreement through arbitration. This agreement must be made either before the dispute happens or after the conflict has already occurred. A number of benefits associated with arbitration were taken into consideration while deciding to use arbitration as a venue for the resolution of disputes outside of the court system, namely the parties can choose their own arbitrators so that the quality of the decision will be more guaranteed, the decision making is faster, there is confidentiality of the arbitration decision and the relationship between the parties will be maintained (Roselyn et al., 2020). Given the various advantages of arbitration as an alternative dispute resolution, in the future the use of this arbitration forum must be optimized by the parties in dispute. In addition to enjoying the various advantages of arbitration, choosing an arbitration forum is certainly a significant help in helping to reduce the burden of cases that are so many in court. Arbitration is an alternative dispute resolution that has several advantages, such as: The parties can choose their own arbitrator, Decision making is faster, Arbitration decisions are confidential, The relationship between the parties is maintained(Sudiarawan et al., 2024).

The regulation regarding alternative dispute resolution in positive law in Indonesia can be distinguished between general regulation and specific regulation. Conflict settlement can be carried out by the disputing parties themselves, with or without the involvement of a third party, the formation of alternative kinds of conflict resolution institutions is a defining characteristic of general regulation. The existence of special regulation is characterized by the existence of a certain mechanism, namely dispute resolution through a certain body or institution stipulated by law by referring to its general and specific regulations, then the alternative model of dispute resolution in Indonesian legislation can also be distinguished into two, namely dispute resolution by the disputing parties with or without involving a third party and dispute resolution through a certain body or institution that has been mentioned and stipulated in the law(Baharuddin, 2024).

The costs of resolving disputes through arbitration vary depending on the arbitral institution and the value of the claim, and may include:

1. Registration fees: Fees for registering an arbitration request
2. Administration fees: Arbitration administration fees calculated based on a tariff scale
3. Arbitrator honorarium: Honorarium for arbitrators calculated based on a tariff scale
4. Hearing fees: Arbitration hearing fees borne by the applicant, respondent, or parties on a pro rata basis.

The following are examples of dispute resolution costs through arbitration in several institutions:

1. LAPS SJK : The registration fee for an arbitration application is IDR 2.5 million, and the administration fee and arbitrator's honorarium are calculated based on the tariff scale.
2. The applicant, the respondent, or the parties shall be responsible for paying the costs of the arbitration hearing on a pro rata basis. The registration fee for the arbitration is IDR 1 million.
3. BANI Arbitration : Center Arbitration fees include administration, examination and arbitrator fees, plus VAT in accordance with the provisions.

When disagreements are resolved through the use of an arbitration institution, the outcome will be a decision handed down by the arbitration process. In accordance with Law Number 30 of 1999, upon conclusion of the dispute examination by the arbitrator, the arbitrator or arbitration panel is required to immediately issue a decision regarding the arbitration, and the deadline for this judgment is thirty days. In the event that a dispute hearing is finished, the time limit for resolving arbitration disputes is thirty days. The arbitration panel or the lone arbitrator may, however, decide to extend this period of time if they so want. The resolution of civil disputes through arbitration is a procedure that takes place outside of the public courts. An arbitration agreement needs to be written down and signed by both parties involved in the dispute before it can be resolved through arbitration. The award of the arbitration has the ability to bind, to provide evidence, and to put into effect. Within a period of thirty days following the pronouncement of the arbitration award, the award must be registered with the clerk of the District Court. The award of arbitration cannot be enforced if it is not recorded (Ainun Fadillah & Amalia Putri, 2021).

Arbitration and mediation are two dispute resolution methods that have some similarities in that they are alternative dispute resolution methods without going to court, and aim to help resolve conflicts through negotiation. Both are also confidential, so they can maintain business relationships. There is also a dispute resolution method that combines mediation and arbitration, namely the Med-Arb method. In this method, the arbitrator will offer the parties to mediate. If the mediation is successful, the results of the mediation will be made as an arbitration decision.

Settlement can be done in addition to in court also outside of the court through the use of mediation, arbitration, or cross-process/Mediation-Arbitration; can be done outside of the court through a cross-process or "mediation-arbitration;" the memorandum of understanding that is prepared by the mediator in the med-arb process is specifically made based on the agreement of the parties, and it will commit the parties to the arbitration process as a final and binding arbitration decision, becoming a means of resolving disputes/conflicts that meet the principles of legal certainty, the principle of benefit and the principle of justice(Hendra & Nefri, 2024).

## CONCLUSION

The time for resolving disputes through arbitration and mediation is different, namely the arbitration decision must be made within a maximum of 30 days from the completion of the dispute examination. The cost of resolving disputes through mediation in court is not charged for the use of the mediation room. However, the arbitration panel or sole arbitrator can



extend this time. After the mediator has been chosen, the mediation procedure can last for a maximum of forty working days. On the other hand, the result reached through arbitration is final and binding on both parties. It is possible to prolong this time for a maximum of fourteen days that count as working days. If the parties are able to reach a consensus through mediation, they are required to put their agreement in writing and the parties must sign it. According to the arbitration institution and the amount of the claim, the cost of settling conflicts through arbitration can vary, and it may include the following: The cost of registration: The expense incurred in the process of registering the request for arbitration, Charges for administration: It is determined by the tariff scale how much the cost of administration of arbitration will be. The honorarium for arbitrators is determined not only by the tariff scale but also by the amount of the honorarium. Cost of the hearing: The applicant, respondent, or parties are responsible for paying the charge for the arbitration hearing on a pro-rata basis.

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