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Comparison of Online Dispute Resolution for Business Disputes in Indonesia and The United States

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Abstract

This article examines the regulatory comparison and legal framework of Online Dispute Resolution (ODR) in Indonesia and the United States, highlighting key differences in regulatory integration, technological infrastructure, and institutional synergy. The main problem identified is the fragmentation of ODR regulations in Indonesia, which lacks a comprehensive legal framework and faces significant challenges in ensuring legal certainty, effective enforcement, and public trust, especially among micro, small, and medium-sized enterprises. This study aims to analyze the weaknesses and strengths of ODR systems in both countries and formulate strategic recommendations for developing a credible and adaptive ODR ecosystem in Indonesia. Employing a normative legal research method with a statute and analytical comparative approach, the study explores the regulatory basis, implementation models, and best practices from both jurisdictions. The findings show that the United States has successfully developed an integrated legal structure for ODR, supported by federal acts, technological innovations, and multi-stakeholder collaboration, which ensures enforcement and data protection. In contrast, Indonesia's ODR implementation is still hindered by sectoral regulations, limited digital literacy, and the absence of standard accreditation for online mediators and arbitrators. The analysis concludes that Indonesia urgently needs an integrated ODR law that includes clear definitions, standard operating procedures, accreditation requirements, and mechanisms for the recognition and enforcement of ODR decisions in the national judiciary. By adopting best practices from the United States, particularly regarding cross-sector integration, technological adaptation, and decision enforceability, Indonesia can strengthen its ODR framework to support fair, efficient, and reliable business dispute resolution in the digital era.

KEYWORDS *Online Dispute Resolution, Business Disputes, Comparative Law*

Introduction

The evolution of digital infrastructure over the last ten years has fundamentally altered conflict mediation methodologies, predominantly within commercial environments. Consequently, Online Dispute Resolution (ODR) has surfaced as a novel framework for corporate dispute adjudication, presenting a substitute mechanism characterized by its rapidity, efficacy, and complete circumvention of spatial limitations. Conceptually, ODR functions as the natural evolutionary trajectory of conventional Alternative Dispute Resolution (ADR) paradigms, namely, negotiation, mediation, and arbitration. The fundamental distinction resides in the transposition of these traditional adjudicatory frameworks into digitally mediated environments.[1]

[1] Colin Rule, "Online Dispute Resolution and the Future of Justice," *Annual Review of Law and Social Science* 16, no. 1 (October 2020): 277–92, https://doi.org/10.1146/annurev-lawsocsci-101518-043049.

The adjudication of commercial conflicts necessitates frameworks characterized by both celerity and stringent confidentiality. In response to these operational imperatives, the contemporary legal landscape is witnessing the progressive advancement and integration of ODR systems, functioning concurrently with, and augmenting, established conventional alternative dispute resolution practices. There are several approaches to resolving disputes online, which may vary from one country to another. Fundamentally, the architectural framework of Online Dispute Resolution (ODR) is anchored in three principal conciliatory and adjudicatory categories: negotiation, mediation, and arbitration. Within this overarching classification, the practical application of ODR manifests through several distinct typologies, specifically encompassing online settlement mechanisms, internet-based mediation, virtual arbitration, and digital platforms dedicated to the resolution of consumer grievances.[2]

Aligning with the UNCITRAL Technical Notes on Online Dispute Resolution, this perspective conceptualizes the ODR framework as a tripartite procedural continuum. The initial phase is characterized by direct bilateral negotiation, where disputants autonomously strive for consensus. In the event of an impasse, the procedure advances to a secondary, facilitated settlement phase—encompassing conciliation or mediation—wherein an impartial third party intervenes to guide the resolution process. Ultimately, the terminal stage exhibits procedural flexibility, explicitly tailored to the disputants' mutual consent; this concluding phase may manifest either as adjudicative arbitration culminating in a binding resolution or as the provision of a non-binding advisory recommendation by a neutral entity.[3]

From a theoretical perspective, ODR is based on several key doctrines in procedural law, such as access to justice and the principle of legal effectiveness. These doctrines emphasize that legal processes must be accessible to every individual without physical, financial, or geographical barriers. In this regard, ODR is considered to fulfill these principles more effectively than conventional methods.[4]

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2 Winner Sitorus, "Online Dispute Resolution: The Conceptualization of Business Dispute Resolution Model in Indonesia ," *Hasanuddin Civil and Bussiness Law Review* 1, no. 1 SE-Articles (January 2024): 34–41.

3 Danang Wahyu Setyo Adi, "Analisis Penyelesaian Sengketa Laut China Selatan Oleh Badan Arbitrase Internasional," *Jurnal Hukum Lex Generalis* 1, no. 3 (2020): 39–51.

4 Henrique da Silveira Zanin and Pedro Henrique Dias Alves Bernardes, "Technology and Access to Justice during the Pandemic: Online Dispute Resolution Development in Brazil and Japan," *Revista Tecnologia e Sociedade* 18, no. 50 (2022): 1–18.

The theory of procedural justice further clarifies that the legitimacy of a legal decision largely depends on the perception of fairness in the process carried out. Procedural justice includes transparency, participation, and equality in the presentation of arguments and evidence by the parties.[5] The theory of legal legitimacy also emphasizes that transparent and equitable procedures are the main foundation of public trust in the dispute resolution system.[6] On a global scale, the foundational principles of ODR are buttressed by key regulatory instruments, most notably the UNCITRAL ODR Guide, alongside the Model Laws governing Electronic Commerce and Electronic Signatures. Collectively, these transnational legal frameworks establish universal procedural benchmarks for digital dispute mediation, authenticate the legal standing of electronic records and cryptographic signatures, and safeguard the fundamental rights of disputants to equitable and impartial hearings.

Several previous studies have discussed the implementation of ODR in various jurisdictions. For example, research by Pratiwi et al. (2020) highlights the challenges in implementing e-court in Indonesia, which reflect administrative and technological barriers that remain significant obstacles.[7] Another study by Niravita (2020) highlights issues of social injustice in the context of the industrial revolution 4.0, which implicitly emphasizes the urgency of ODR as a fair and equitable mechanism.[8] The study by Yulianto (2021) also asserts that strong cybersecurity policies are a primary prerequisite for the development of reliable and secure ODR platforms.[9]

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5 Steve Leben, "Exploring the Overlap Between Procedural-Justice Principles and Emotion Regulation in the Courtroom," *Oñati Socio-Legal Series* 9, no. 5 (December 2019): 852–64, https://doi.org/10.35295/osls.iisl/0000-0000-0000-1068.

6 Olga Ivanchenko, "Legitimacy Of Law As Its Justification And Recognition," *Baltic Journal of Economic Studies* 8, no. 4 (November 30, 2022): 77–83, https://doi.org/10.30525/2256-0742/2022-8-4-77-83.

7 Sahira Jati Pratiwi, Steven Steven, and Adinda Destaloka Putri Permatasari, "The Application of E-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems," *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (2020): 39–56, https://doi.org/10.15294/ijals.v2i1.37718.

8 Aprila Niravita, "Social Injustice in the Industrial Revolution 4.0," *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (2020): 164, https://doi.org/10.15294/ijals.v1i2.36509.

9 Nurfaika Ishak, "Guarantee of Information and Communication Technology Application Security in Indonesia: Regulations and Challenges?," *Audito Comparative Law Journal (ACLJ)* 4, no. 2 (May 2023): 108–17, https://doi.org/10.22219/aclj.v4i2.26098.

The main limitation of previous research lies in the lack of comparative studies on the regulation and practice of ODR in developing countries such as Indonesia compared to developed countries like the United States. In fact, such comparative studies are important for identifying the weaknesses and strengths of each legal system and technological infrastructure.

In Indonesia, although ODR has begun to develop, its implementation is still scattered across sectoral regulations. The practical operationalization of Online Dispute Resolution (ODR) continues to encounter substantial impediments, most notably the inadequate digital literacy prevalent among Micro, Small, and Medium Enterprises (MSMEs). These empirical complexities are fundamentally exacerbated by the current regulatory landscape; although Law Number 1 of 2024 (the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions) and Government Regulation Number 71 of 2019 (concerning the Operation of Electronic Systems and Transactions) furnish a generalized legal substrate, they have yet to achieve comprehensive systemic integration. Furthermore, Minister of Trade Regulation Number 50 of 2020 concerning Licensing, Advertising, Guidance, and Supervision of Business Actors in Electronic Commerce (Minister of Trade Regulation Number 50 of 2020), which regulates online mediation in consumer disputes, is still limited in ensuring the enforceability of decisions. This situation leads to legal uncertainty for business actors, especially in the execution of online dispute resolution outcomes.

This phenomenon is exacerbated by the fact that integration between ODR mechanisms and the formal judiciary remains minimal. Despite the institutionalization of the e-Court architecture by the Indonesian Supreme Court—formally enacted via Supreme Court Regulation Number 7 of 2022, which serves as an amendment to the foundational Supreme Court Regulation Number 1 of 2019 concerning Electronic Judicial Proceedings and Case Administration (Perma Number 7 of 2022),[10] a critical examination reveals that this regulatory instrument is fundamentally incompatible with the standards established by the UNCITRAL Technical Notes on Online Dispute Resolution. The UNCITRAL framework requires, as a minimum threshold, that ODR decisions produced through private online mechanisms possess a

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[10] Herina Wati, Tan Kamello, and Marlia Sastro, "The Development of Procedural Law Through the E-Court System After Pandemic in Indonesia," *Veteran Law Review* 6, no. SpecialIssues (April 2023): 15–27, https://doi.org/10.35586/velrev.v6iSpecialIssues.4957.

clear pathway to judicial recognition and enforcement within the national legal system. However, Perma Number 1 of 2019, as amended by Perma Number 7 of 2022, is circumscribed in its normative scope exclusively to court-administered electronic proceedings and does not provide any legal mechanism for the recognition or enforcement of decisions issued by private ODR platforms. This structural incompatibility produces a critical legal vacuum: ODR decisions rendered through commercial platforms such as Tokopedia Care or Shopee Resolution Center lack a legally defined enforcement gateway into the formal judiciary, rendering them effectively non-binding in the absence of voluntary compliance by the losing party. From the perspective of legal certainty, this gap directly undermines the normative integrity of Indonesia's dispute resolution framework, as the enforceability of a legal outcome constitutes a foundational element of procedural justice. This unresolved incompatibility therefore creates significant and systemic procedural justice barriers that the current regulatory architecture is structurally incapable of resolving without comprehensive legislative intervention.

In contrast, the United States demonstrates a much more mature regulatory readiness, supported by the Federal Arbitration Act (FAA), the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), and the Uniform Electronic Transactions Act (UETA).[11] Studies on ODR in the United States, such as the one conducted by Raphael (2013), reveal that this regulatory maturity supports the effective implementation of mechanisms such as blind bidding and AI-assisted triage. However, although the US has advantages in regulation and technology, legal issues related to data ethics and the digital divide in rural areas remain significant challenges.[12] Research by Rahmatika (2021) implicitly states that data protection and privacy are crucial issues that need to be considered in the development of ODR across various jurisdictions.[13]

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11 Larry D. Foster, II and Lawrence J. Trautman, "Alternative Dispute Resolution In Brief," *SSRN Electronic Journal* 5, no. 2 (October 2023): 11–25, https://doi.org/10.2139/ssrn.4383603.

12 Dimple Patil, "Artificial Intelligence In Financial Services: Advancements In Fraud Detection, Risk Management, And Algorithmic Trading Optimization," 2025, https://doi.org/10.2139/ssrn.5057412.

13 Maslihati Nur Hidayati, Suartini, and Mardiana Saraswati, "Menggagas Penyelesaian Sengketa Online (Online Dispute Resolution) Pada Kegiatan Transaksi Elektronik Di Indonesia," *Sang Pencerah: Jurnal Ilmiah Universitas Muhammadiyah Buton* 10, no. 1 (February 2024): 225–44, https://doi.org/10.35326/pencerah.v10i1.4523.

The urgency of this research lies in the need to address regulatory fragmentation and limitations in digital infrastructure in Indonesia, which have so far hindered the effective implementation of ODR. The significance of this research lies in its contribution to providing strategic recommendations based on international comparisons to strengthen ODR governance in Indonesia.

This research offers novelty by conducting an in-depth and comprehensive analysis of the differences in the legal frameworks and technological infrastructure of ODR between Indonesia and the United States. In addition, this study demonstrates scientific merit by combining the theoretical approaches of procedural justice and law and economics to understand the effectiveness and efficiency of ODR. The main legal issues examined in this research are the need for an integrated regulation that unifies various sectoral rules in Indonesia, as well as the mechanisms for the recognition and enforcement of ODR decisions by formal courts. These gaps create legal uncertainty that diminishes the effectiveness of online dispute resolution mechanisms.

In this context, this research aims to identify existing regulatory gaps, propose appropriate legal constructs based on a comparative analysis approach with practices in the United States, and provide policy recommendations oriented towards strengthening procedural justice, legal effectiveness, and personal data protection. Thus, this research is expected to make a significant contribution to building a fair, efficient, and reliable ODR system, while also positioning Indonesia more favorably in facing global challenges related to business dispute resolution in the digital era.

This study employs normative legal research as its foundational methodological framework, combined with a statute approach and a comparative legal approach. The choice of normative legal research is epistemologically grounded in the nature of the research problem itself: the central question of this study, whether Indonesia's ODR regulatory framework is structurally adequate and how it compares to the United States model, is fundamentally a question of normative architecture rather than empirical behavior. Accordingly, the study does not involve primary empirical data collection through surveys or field observation, but proceeds through systematic doctrinal analysis of legal texts and authoritative secondary literature, which is the methodologically appropriate approach for identifying regulatory gaps, evaluating legal certainty, and constructing comparative normative frameworks in the field of alternative dispute resolution and private international law.

The statute approach is operationalized through the systematic identification, reading, and critical evaluation of all binding legal instruments governing ODR in each jurisdiction. For Indonesia, the primary legal materials examined comprise: Law Number 1 of 2024 concerning Electronic Information and Transactions; Government Regulation Number 71 of 2019 on the Operation of Electronic Systems and Transactions; Minister of Trade Regulation Number 50 of 2020 on Electronic Commerce; Supreme Court Regulation Number 3 of 2018 on the Administration of Court Cases Electronically; Supreme Court Regulation Number 1 of 2019 on Case Administration and Trials in Courts Electronically; Supreme Court Regulation Number 7 of 2022 as the amendment thereof; and Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, which is examined as the principal instrument governing the enforceability of dispute resolution outcomes within Indonesia's formal legal system. For the United States, the primary legal materials examined comprise: the Federal Arbitration Act (FAA, 9 U.S.C.); the Electronic Signatures in Global and National Commerce Act (E-SIGN Act, 15 U.S.C. § 7001 et seq.); the Uniform Electronic Transactions Act (UETA); and the California Consumer Privacy Act (CCPA, Cal. Civ. Code § 1798.100 et seq.) as a state-level instrument addressing the data protection dimension of ODR. At the international level, the UNCITRAL Technical Notes on Online Dispute Resolution (2016) serve as the primary benchmark instrument against which both domestic frameworks are assessed, specifically with respect to the four minimum standards of neutrality, transparency, accessibility, and enforceability that the Notes establish as constitutive requirements of any legitimate ODR system. Each legal instrument is treated not merely as a formal text but as a normative proposition whose substantive content, scope, definitions, enforcement mechanisms, and procedural standards, is evaluated for its adequacy, internal coherence, and alignment with these international standards. Secondary legal materials, comprising peer-reviewed academic publications, institutional rules of ODR providers including the AAA Supplementary Rules for Online Arbitration and the JAMS Comprehensive Arbitration Rules and Procedures, and empirical case studies of the eBay Resolution Center and the Utah Online Dispute Resolution Program, were collected through systematic searches of academic databases including Google Scholar and relevant law review repositories, using inclusion criteria that required materials to be peer-reviewed, produced by recognized institutional authorities, or authored by established scholars in the ODR field.

The comparative legal approach structures the juxtaposition of the two jurisdictions across five predetermined analytical parameters: legal basis, type of ODR mechanism (court-annexed versus private), enforceability of ODR decisions, cost and accessibility, and legal culture impact. The selection of these parameters is grounded in the existing ODR literature and in the requirements of the UNCITRAL Technical Notes, ensuring that the comparative framework has both empirical relevance and normative anchorage. The analysis proceeds through three sequential steps: internal doctrinal analysis of each jurisdiction's regulatory framework against the UNCITRAL benchmark; structured comparative juxtaposition across the five parameters, moving beyond description to critical normative evaluation of which features satisfy or fail to satisfy the requirements of legal certainty and procedural justice; and normative synthesis directed at the Indonesian context, applying the comparative law principle that the primary value of cross-jurisdictional analysis lies not in the transplantation of foreign solutions but in the extraction of transferable normative design principles calibrated to the receiving jurisdiction's specific legal culture, institutional capacity, and social context. It is within this methodological framework that the findings, comparative analysis, and reform propositions of this study are developed.

Basic Concept of Online Dispute Resolution (ODR)

Online Dispute Resolution (ODR) is a dispute resolution mechanism that utilizes digital technology in all stages of its process, from the submission of disputes to the issuance of arbitration decisions. In general, ODR has emerged as a logical continuation of the Alternative Dispute Resolution (ADR) paradigm, which was previously known for conventional methods such as mediation, arbitration, and negotiation, but has now transformed through online platforms that enable greater time and cost efficiency.

In its conceptual framework, ODR aims to expand access to justice, where information technology facilitates parties in dispute to obtain a resolution that is quick and effective. The basic principle of procedural justice serves as an important foundation in ODR, emphasizing that the legitimacy of a decision greatly depends on the parties' perception of fairness in the process, which includes transparency, active participation, and equality in the dispute resolution process.[14]

Theoretically, ODR is supported by the doctrine of legal legitimacy, which emphasizes the importance of transparency and trust in dispute resolution institutions. This principle is key to ensuring that the ODR mechanism is recognized by the parties as a legitimate and credible means of achieving substantive justice.[15] In addition, the law and economics theory reinforces the argument that the cost and time efficiency offered by ODR provides tangible benefits compared to traditional litigation, which often incurs high expenses and lengthy processes.[16]

At the international level, the harmonization of Online Dispute Resolution (ODR) protocols across varying legal jurisdictions relies fundamentally on established global frameworks. In this context, instruments such as the UNCITRAL Technical Notes on Online Dispute Resolution, coupled with the Model Laws on Electronic Commerce and Electronic Signatures, function as indispensable benchmarks for standardizing these digital adjudicatory processes.[17] However, a rigorous legal analysis indicates that the mere adoption of these international instruments as normative references does not automatically guarantee their effective implementation in domestic legal systems. The UNCITRAL Technical Notes, for instance, establish core procedural requirements including neutrality of the ODR administrator, transparency of the process, accessibility for all disputing parties, and the enforceability of ODR outcomes through national legal mechanisms. When

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14 Heru Kurnianto Tjahjono, Meika Kurnia Puji Rahayu, and Awang Dirgantara Putra, "The Mediating Role Of Affective Commitment On The Effect Of Perceived Organizational Support And Procedural Justice On Job Performance Of Civil Servant," *Journal of Leadership in Organizations* 2, no. 2 (August 10, 2020), https://doi.org/10.22146/jlo.55371.

15 Naomi Creutzfeldt and Ben Bradford, "Dispute Resolution Outside of Courts: Procedural Justice and Decision Acceptance Among Users of Ombuds Services in the UK," *Law & Society Review* 50, no. 4 (December 2016): 985–1016, https://doi.org/10.1111/lasr.12234.

16 Vizta Dana Iswara, "Analisis Pentingnya Implementasi Penyelesaian Sengketa Online Di Indonesia," *Legalitas: Jurnal Hukum* 13, no. 1 (July 3, 2021): 15, https://doi.org/10.33087/legalitas.v13i1.245.

17 United Nations Conference on Trade and Development, *Technology and the Future of Online Dispute Resolution (ODR) Platforms for Consumer Protection Agencies* (United Nations, 2023), https://doi.org/10.18356/9789213585993.

assessed against these criteria, Indonesia's current regulatory architecture reveals a significant compliance gap: while Law Number 1 of 2024 on Electronic Information and Transactions acknowledges the legal validity of electronic documents and signatures, it does not establish a mechanism through which ODR decisions acquire judicial enforceability, nor does it define the procedural standards necessary to satisfy the UNCITRAL requirement of neutral and transparent administration. This gap suggests that Indonesia's engagement with UNCITRAL standards remains at the level of declaratory adoption rather than substantive normative integration. Consequently, the use of these international guidelines, though providing a valuable normative foundation, has not yet translated into the uniform, enforceable ODR standards that would reduce cross-jurisdictional barriers and increase the legal reliability of international dispute resolution outcomes for Indonesian business actors operating in the global digital economy.

In the specific context of Indonesia, the concept of ODR is developing within sectoral regulations that have not yet been fully integrated. Law Number 1 of 2024 concerning Electronic Information and Transactions (ITE Law) provides a legal basis for electronic transactions, but still requires specific regulations that explicitly govern the implementation of ODR. This imperfection leads to the low effectiveness of ODR implementation in Indonesia. It is important for Indonesia to promptly formulate integrated regulations that comprehensively govern the implementation of ODR.

Clear and integrative regulations will not only increase legal certainty but also promote public trust in online dispute resolution mechanisms, which are crucial in the current era of digitalization. The main shortcoming of Law Number 1 of 2024 concerning ITE in relation to ODR is the absence of specific provisions regarding electronic identity verification mechanisms, technical standards for dispute resolution platforms, and rules on personal data protection in the online dispute resolution process. The urgency of explicitly regulating ODR in this law is to ensure the legal validity of all online processes, strengthen the data security of the parties involved, and provide clear guidance for both service providers and users of ODR regarding their rights and obligations on these online platforms.

Field observations indicate that the use of ODR platforms in Indonesia is still limited, especially among MSMEs (Micro, Small, and Medium Enterprises) that face challenges in digital literacy and a lack of trust in decisions issued online. Limited accreditation of ODR service providers and minimal synergy with the conventional judicial system also represent significant obstacles, making it difficult for ODR decisions to be enforced by formal courts.[18]

In contrast, the United States demonstrates regulatory maturity in the implementation of ODR, with legal foundations such as the Federal Arbitration Act (FAA), the E-SIGN Act, and the Uniform Electronic Transactions Act (UETA). Institutions such as the American Arbitration Association (AAA) have long developed specific rules for ODR, which cover aspects of confidentiality, electronic hearings, and the management of electronic evidence to ensure that the process is conducted transparently and credibly.[19]

The striking differences between the implementation of ODR in Indonesia and the United States highlight the need for better legal constructs in Indonesia, using both statute and comparative analysis approaches. A sound legal framework should explicitly define ODR, set accreditation requiremesnts for service providers, and establish clear mechanisms for the enforceability of ODR decisions within the formal legal system.

A paradigmatic illustration of ODR operating at systemic scale is provided by the eBay Resolution Center, which stands as one of the most extensively documented case studies in the ODR literature. As detailed by Rule, the eBay Resolution Center was developed to manage the exponential growth of consumer-to-consumer disputes arising on the eBay marketplace, a context in which the volume and low monetary value of individual disputes rendered conventional litigation or institutional arbitration economically impractical.[20] At its peak in 2012, the platform processed over 60 million disputes annually, relying on a structured sequence of automated negotiation, asynchronous communication between parties, and, where direct negotiation failed, escalation to facilitated resolution by a neutral intermediary. The legal significance of the eBay Resolution Center for comparative ODR analysis lies in several dimensions. First, it demonstrates that ODR is operationally viable at a scale

[18] Absonia Mebi Yunika Putri, "Pelindungan Konsumen Dalam Transaksi Dagang Antara Pemilik Usaha Dan Karyawan Umkm Bronsu/Bronsugar," *JHP17 (Jurnal Hasil Penelitian)* 7, no. 1 (February 8, 2022): 101–11, https://doi.org/10.30996/jhp17.v7i1.6194.

[19] Louis F. Del Duca, Colin Rule, and Zbynek Loebl, "Facilitating Expansion of Cross-Border E-Commerce-Developing a Global Online Dispute Resolution System (Lessons Derived from Existing ODR Systems - Work of the United Nations Commission on International Trade Law)," *SSRN Electronic Journal*, 2011, https://doi.org/10.2139/ssrn.1970613.

[20] Rule, "Online Dispute Resolution and the Future of Justice."

that dwarfs the combined caseload of most national court systems, thereby substantiating the theoretical claim that ODR can expand access to justice in ways that conventional litigation cannot. Second, it illustrates that effective ODR does not require a pre-existing statutory framework specifically tailored to online dispute resolution: the platform achieved high rates of voluntary compliance by engineering user experience incentives, such as buyer and seller reputation systems, that made compliance rational even in the absence of legal coercion. Third, and most critically for the Indonesian context, the eBay case reveals a fundamental limitation of private ODR design: the absence of a legal enforcement mechanism meant that the system's effectiveness was entirely contingent on platform-based behavioral incentives rather than legal obligation. This structural characteristic, high functional efficiency coupled with inherently limited legal enforceability, closely mirrors the condition of private ODR platforms currently operating in Indonesia, such as Tokopedia Care and Shopee Resolution Center, and reinforces the argument that regulatory intervention to provide an enforcement pathway is not a theoretical aspiration but an operational necessity.[21]

It is precisely this operational necessity that the governance network theory approach seeks to address in constructing a responsive legal framework. The governance network theory approach is used as an analytical tool in constructing this legal framework, emphasizing collaboration among regulators, legal professional associations, and technology developers. This synergy is expected to create Standard Operating Procedures (SOPs) that are responsive to the needs of business actors, as well as independent audits that ensure the integrity of the dispute resolution algorithms used in ODR platforms.[22] Thus, according to the governance network theory approach, the effectiveness of ODR implementation greatly depends on the synergy among various key actors, including the government, legal industry players, civil society organizations, and technology business actors. This collaboration is essential for creating policies that are inclusive, adaptive, and capable of addressing practical

21 Luca Dal Pubel, "E-Bay Dispute Resolution and Revolution: An Investigation on A Successful ODR Model," in *Conference Collaborative Economy: Challenges & Opportunities at: Barcelona*, 2019; Rule, "Online Dispute Resolution and the Future of Justice."

22 Ayyappan Palanissamy and R. Kesavamoorthy, "Automated Dispute Resolution System (ADRS) – A Proposed Initial Framework for Digital Justice in Online Consumer Transactions in India," *Procedia Computer Science* 165 (2019): 224–31, https://doi.org/10.1016/j.procs.2020.01.087.

challenges in the field, as well as ensuring that ODR regulations are formulated to reflect the real needs of all stakeholders.

In addition, the legislative drafting theory approach provides important guidance in formulating ODR regulations that are clear, measurable, and adaptive to technological developments. For example, clauses on privacy by design, end-to-end encryption, and data retention minimization must be explicitly formulated to ensure the security and privacy of disputing parties.[23] The application of legislative drafting theory is important because it provides systematic guidance in formulating ODR regulations, especially in determining clear legal terminology, consistent regulatory structure, and ensuring that the regulations are adaptive to technological changes and the needs of the legal community. This approach also helps to avoid ambiguity or lack of clarity in regulations, which often become major obstacles in the implementation of legal policies related to digital technology such as ODR.

Strengthening digital procedural justice is also a key aspect in the legal construction of ODR, where the rights of the parties such as audi alteram partem (the right to be heard), decision transparency, as well as mechanisms for administrative appeal or judicial review must be explicitly guaranteed in the regulations.[24] This is intended to ensure that the digitalization of dispute resolution processes does not diminish the fundamental principles of legal justice. With this comprehensive legal framework, the implementation of ODR in Indonesia can be aligned with international best practices, particularly those in the United States. This strategic step will not only strengthen the effectiveness of the ODR mechanism but also increase public trust in online business dispute resolution processes, which will ultimately make a significant contribution to the investment climate and legal certainty in Indonesia.

Regulation and Legal Framework of ODR in Indonesia and the United States

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[23] Bhanu Pratap Singh and Ankush Joshi, "Ethical Considerations in AI Development," 2024, 156–79, https://doi.org/10.4018/979-8-3693-2964-1.ch010.

[24] I Komang Wiantara, "Penyelesaian Perkara Perdata Di Pengadilan Berdasarkan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 7, no. 4 (December 2018): 456, https://doi.org/10.24843/JMHU.2018.v07.i04.p04.

In general, the legal framework governing the mechanism of Online Dispute Resolution (ODR) has developed from the need for fast, efficient, and transparent dispute resolution as the use of information technology in the global business world increases. ODR is viewed as a logical extension of Alternative Dispute Resolution (ADR) mechanisms, which have historically offered alternative methods of dispute resolution outside the formal litigation process that often requires more time and cost. From a global perspective, the regulation of ODR draws important references from international instruments such as the UNCITRAL ODR Guide, the Model Law on Electronic Commerce, and the Model Law on Electronic Signatures.[25] These provisions establish international standards to ensure that electronic documents, digital signatures, and online dispute resolution processes have legal force that is recognized across jurisdictions.

In Indonesia, the legal framework for ODR is largely scattered across sectoral regulations without a single clear legal umbrella. Law Number 1 of 2024 concerning Electronic Information and Transactions (ITE Law) serves as the main foundation recognizing the validity of electronic documents and electronic signatures; however, a critical evaluation of its enforcement mechanism reveals a fundamental structural limitation: the law provides no explicit procedural pathway through which an ODR decision, whether from online mediation or online arbitration, can be submitted to and enforced by a competent court of law. This absence means that the legal force of an ODR outcome remains contingent upon voluntary compliance, which directly contradicts the principle of legal certainty as understood in Indonesian procedural law, wherein a legally binding decision must carry inherent enforceability. Government Regulation Number 71 of 2019, while providing technical standards for the security of electronic system operators, similarly fails to address the question of ODR enforceability, thereby compounding the normative gap. The cumulative effect of these regulatory deficiencies is significant: in the absence of a statutory enforcement mechanism, ODR decisions cannot be equated with arbitral awards under Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, which requires formal registration with the District Court as a prerequisite for enforcement. This procedural disconnect means that online dispute resolution in Indonesia, regardless of the parties' agreement or the quality of the ODR process, remains

25 Manisha Navlani and Rashi Agarwal, "Rethinking Online Arbitration," *SSRN Electronic Journal*, 2013, https://doi.org/10.2139/ssrn.2332784.

structurally unable to guarantee the enforcement of its outcomes, a condition that fundamentally undermines the value proposition of ODR as a reliable mechanism for business dispute resolution.[26]

Meanwhile, in the United States, ODR is governed by more mature and integrated regulations, such as the Federal Arbitration Act (FAA), the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), and the Uniform Electronic Transactions Act (UETA). These regulations provide a strong legal basis for the recognition and enforcement of electronic arbitration decisions, as well as the validity of digital documents and electronic signatures in online business dispute resolution.

Specifically, institutions such as the American Arbitration Association (AAA) have established supplementary rules specifically for ODR, which include provisions on confidentiality, electronic hearings, and the management of electronic documents.[27] This creates clear and transparent standards for ODR service users, and ensures that the online dispute resolution process in the United States has high legitimacy and credibility. The regulatory differences between Indonesia and the United States show that the United States has a significant advantage in terms of legal and technological infrastructure readiness to support ODR. On the other hand, Indonesia still faces challenges related to regulatory fragmentation, which impacts the low effectiveness of online dispute resolution mechanisms.

A sound and comprehensive legal construct is urgently needed in Indonesia, utilizing both statute and comparative analysis approaches. Through the statute approach, regulations related to ODR in Indonesia must clearly define the mechanisms, technical standards, service provider accreditation, and enforceability of ODR decisions by formal courts. The comparative analysis approach is also important to adopt in order to identify and incorporate best practices from the US legal system. For example, the concept of the full faith and credit clause used in the United States can be adapted in Indonesia to

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26 Rahmat Bijak Setiawan Sapii and Ersa Hamzah, "Responsibilities of Business Actors to Consumers Due to Incompatibility of Objects and Specifications in Electronic Transaction Agreements," *Journal of Digital Law and Policy* 1, no. 3 (May 2022): 103–10, https://doi.org/10.58982/jdlp.v1i3.240.

27 Foster, II and Trautman, "Alternative Dispute Resolution In Brief."

ensure cross-jurisdictional recognition of ODR decisions, thereby increasing legal certainty in their implementation.[28]

In addition, governance network theory is also an important approach in formulating policies and regulations related to ODR. This approach emphasizes the importance of collaboration among regulators, professional associations, business actors, and civil society in creating regulations that are inclusive, adaptive, and responsive to the practical needs of business actors and society.[29] From the perspective of legislative drafting theory, the formulation of ODR regulations must be systematic, clear, and adaptive to technological changes. The use of clear terminology and a consistent regulatory structure will help avoid legal ambiguities that could hinder the implementation of such regulations.[30] By utilizing these various theoretical and policy approaches, the legal construct of ODR in Indonesia can be strengthened to produce effective and credible regulations. This step will not only enhance legal certainty in online dispute resolution but also reinforce Indonesia's position in facing global dynamics related to business dispute resolution in the digital era.

Tabel 1. Structured Comparative Framework of Online Dispute Resolution in Indonesia and the United States

Comparative Parameter	Indonesia	United States	Analytical Note
Legal Basis	Law Number 1 of 2024 on Electronic Information and Transactions (ITE Law); Government Regulation Number 71 of 2019 on Electronic System Operators; Minister of Trade Regulation Number 50 of 2020 on E-Commerce; Supreme	Federal Arbitration Act (FAA); Electronic Signatures in Global and National Commerce Act (E-SIGN Act, 2000); Uniform Electronic Transactions Act (UETA); California Consumer Privacy Act (CCPA); Supplementary ODR Rules of the American	Indonesia's legal basis is sectoral and fragmented, producing normative gaps in enforcement, accreditation, and platform standards. The U.S. framework is multi-layered but coherent, with each instrument addressing a distinct dimension of

[28] Marko Cahya Sutanto, "The Existence of the Doctrine of Severability and Competence-Competence under the Constellation of Indonesian Arbitration Law," *Global Jurist* 19, no. 2 (July 2019), https://doi.org/10.1515/gj-2018-0049.

[29] Viona Wijaya, "Perubahan Paradigma Penataan Regulasi Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 10, no. 2 (August 27, 2021): 167, https://doi.org/10.33331/rechtsvinding.v10i2.712.

[30] Esther Majambere, "Clarity, Precision and Unambiguity: Aspects for Effective Legislative Drafting," *Commonwealth Law Bulletin* 37, no. 3 (September 2011): 417–26, https://doi.org/10.1080/03050718.2011.595140.

	Court Regulation (Perma) Number 7 of 2022 on e-Court. No single, integrated legal instrument specifically governing ODR.	Arbitration Association (AAA) and JAMS.	ODR validity and enforceability.
Type of ODR (Court-Annexed vs. Private)	Predominantly private-platform ODR (e.g., Tokopedia Care, Shopee Resolution Center), operating without integration into the formal judiciary. The e-Court system under Perma No. 7 of 2022 is court-annexed but is restricted to conventional court proceedings and does not recognize or incorporate decisions from private ODR platforms. No hybrid or integrated model currently exists.	Both court-annexed (state-level small claims courts with electronic filing and hearings) and private institutional ODR (AAA, JAMS, eBay Resolution Center) are well-developed. Private ODR decisions, where rendered through arbitration, are recognized and enforceable under the FAA, creating effective integration between private and judicial systems.	Indonesia exhibits a structural bifurcation between court-annexed and private ODR, with no legal bridge between them. The U.S. demonstrates a functionally integrated model where private ODR decisions can achieve judicial force, providing a key reference for Indonesia's legislative reform.
Enforceability of ODR Decisions	No explicit statutory mechanism for the enforcement of private ODR decisions by competent courts. ODR outcomes cannot be equated with arbitral awards under Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, which requires formal registration with the District Court as a prerequisite for enforcement. Compliance with ODR decisions is therefore effectively voluntary, contingent upon the losing party's cooperation.	Electronic arbitration decisions rendered through accredited ODR providers (AAA, JAMS) are enforceable under the FAA, which guarantees the finality and binding character of arbitral awards. The full faith and credit doctrine ensures cross-state recognition of ODR decisions. The E-SIGN Act and UETA further validate the legal standing of electronic documents and digital signatures used in ODR proceedings.	Enforceability constitutes the most critical legal gap in Indonesia's ODR framework. Without a mandatory enforcement mechanism, legal certainty, a foundational principle of procedural justice, cannot be guaranteed. The U.S. model, in which the FAA functions as the enforcement backbone, provides the primary legislative construct that Indonesia must adapt.
Cost and Accessibility	Fee structures for ODR services remain	ODR services provided by AAA and JAMS operate	Both jurisdictions face accessibility challenges,

	undefined and non-standardized in existing regulations. Low digital literacy among Micro, Small, and Medium Enterprises (MSMEs), particularly in non-urban areas, represents a significant barrier to adoption. The absence of accreditation standards for ODR service providers further limits institutional trust and public confidence in the process.	on a fee-for-service basis, which includes filing fees, administrative charges, and arbitrator compensation. While technologically advanced, this cost model raises access to justice concerns for small claimants and individual consumers, as fees may be disproportionate to low-value disputes. A persistent digital divide in rural areas further limits equitable access.	though of differing character: Indonesia's challenge is primarily one of regulatory vacuum and digital literacy deficit, while the U.S. challenge concerns cost proportionality and rural digital infrastructure. Both point to the need for a tiered, context-sensitive cost structure as a regulatory design principle.
Legal Culture Impact	Indonesian legal culture retains a strong preference for conventional, face-to-face dispute resolution, reflected in the historical dominance of musyawarah (deliberation) and court-based litigation. Low public trust in online decisions, particularly among MSMEs unfamiliar with digital platforms, limits organic adoption of ODR. The absence of accreditation standards for online mediators and arbitrators further erodes institutional credibility.	U.S. legal culture has a long-established tradition of ADR and private dispute resolution, with arbitration and mediation widely accepted as legitimate alternatives to litigation. Legal pluralism, the recognition that private community norms and business-sector initiatives can complement formal law, has facilitated the acceptance of ODR as a primary mechanism for commercial dispute resolution. However, concerns regarding the repeat-player advantage and self-regulatory accountability of private ODR providers indicate that legal culture alone does not substitute for robust oversight.	Legal culture functions as both an enabling and constraining variable in ODR adoption. Indonesia must address cultural trust deficits through public legal education, transparent institutional design, and clear accreditation of ODR providers. The U.S. experience demonstrates that a mature ADR culture, while enabling, does not eliminate the need for structural regulatory safeguards.

Based on the explanation in Table 1 above, the structured comparative analysis reveals systematic and multi-dimensional disparities between the ODR frameworks of Indonesia and the United States across five critical parameters, each of which carries distinct normative and practical implications. With respect to legal basis, the analysis confirms that Indonesia's regulatory landscape is characterized by sectoral fragmentation: while Law Number 1 of 2024 on Electronic Information and Transactions, Government Regulation Number 71 of 2019, and Minister of Trade Regulation Number 50 of 2020 collectively provide a partial normative foundation, none of these instruments constitutes a comprehensive legal umbrella capable of governing the full spectrum of ODR mechanisms. In contrast, the United States has developed a coherent, multi-layered legal architecture in which the FAA, E-SIGN Act, and UETA each address discrete yet complementary dimensions of ODR validity, forming an integrated whole that Indonesia's regulatory design has yet to achieve.

On the parameter of ODR type, the analysis identifies a structural bifurcation in Indonesia between court-annexed e-Court proceedings and private-platform ODR, with no legally defined interface between them. This stands in direct contrast to the U.S. model, in which the FAA provides the legal bridge that enables private ODR decisions, particularly those rendered through arbitration, to acquire judicial enforceability. This integration is, arguably, the single most consequential regulatory design feature that Indonesia must replicate in any future ODR legislation.

The parameter of enforceability crystallizes the most acute legal deficit in Indonesia's current framework. The absence of a statutory enforcement mechanism means that private ODR decisions remain contingent upon voluntary compliance, which is fundamentally incompatible with the principle of legal certainty. The inability to equate ODR outcomes with arbitral awards under Law Number 30 of 1999 further compounds this gap, as parties are denied the procedural pathway — namely, registration with the District Court, that would give their agreement binding legal force. The U.S. system, anchored by the FAA's enforcement guarantee and the full faith and credit doctrine, offers a normatively rigorous model for resolving this deficiency.

Regarding cost and accessibility, the comparison reveals that both jurisdictions face accessibility challenges, though of structurally different character. Indonesia confronts a regulatory vacuum in fee standardization alongside significant digital literacy deficits among MSMEs, while the United States grapples with proportionality concerns inherent in the private, fee-for-service model of AAA and JAMS, a dynamic that raises substantive questions about whether these institutions adequately serve public interest standards, particularly for small claimants. This finding underscores the need for a tiered, value-proportionate cost structure as a non-negotiable design element of any future Indonesian ODR regulation.

Finally, the legal culture parameter reveals that while the U.S. benefits from a mature ADR tradition and a legal pluralism ethos that has normalized private dispute resolution, Indonesia's legal culture, shaped by musyawarah norms and lingering institutional distrust of digital processes, represents a structural adoption barrier that cannot be addressed through regulation alone. Public legal education, transparent institutional design, and enforceable accreditation standards for ODR service providers are necessary complements to legislative reform. At the same time, the U.S. experience demonstrates that cultural acceptance of ODR does not eliminate the risk of structural inequities, particularly the repeat-player advantage that can accrue to institutional parties in private arbitration settings, reinforcing the case for independent regulatory oversight regardless of the prevailing legal culture.

Taken together, these five parameters demonstrate that the comparative gap between Indonesia and the United States in ODR governance is not merely one of technological infrastructure, but is fundamentally a question of regulatory architecture, enforcement design, and institutional accountability. The implications for Indonesian legal reform are correspondingly systemic: an effective ODR law must simultaneously address legal basis integration, enforcement mechanisms, service provider accreditation, cost proportionality, and public trust, not as isolated policy interventions, but as constitutive elements of a coherent and rights-protective ODR ecosystem.

Comparative Analysis of ODR Systems in Indonesia and the United States

The development of information and communication technology has brought about fundamental changes in the way business disputes are resolved, particularly through the adoption of Online Dispute Resolution (ODR) systems. In general terms, ODR is recognized as an innovation that can reduce the burden of formal litigation and offer solutions that are efficient, fast, and affordable. From the perspective of procedural justice theory, the ODR system is considered capable of providing a higher level of access to justice, especially for business actors in remote areas who previously faced geographical and financial barriers in accessing conventional judicial institutions.[31] However, the effectiveness of ODR as a primary instrument for dispute resolution greatly depends on the regulatory framework, technological infrastructure, and the level of digital literacy in each country.

In the context of Indonesia, the ODR system is still in a developmental stage that tends to be sporadic and has not yet been integrated into a comprehensive legal framework. Sectoral regulations such as Law Number 1 of 2024 concerning ITE, Government Regulation Number 71 of 2019, and Minister of Trade Regulation Number 50 of 2020 have accommodated the legality of electronic documents and online mediation. However, there are no provisions that explicitly regulate the enforceability of ODR decisions in district courts, accreditation mechanisms for service providers, or operational standards for platforms. This results in institutional fragmentation and legal uncertainty in the implementation of ODR decisions, especially in cases involving micro, small, and medium enterprises (MSMEs) with low levels of digital literacy.

The most significant and empirically documented pilot initiative in Indonesia's digital dispute resolution trajectory is the e-Court program, initially introduced through Supreme Court Regulation Number 3 of 2018, subsequently expanded and superseded by Regulation Number 1 of 2019 which added electronic trial (e-litigation) features, and further amended by Regulation Number 7 of 2022. As documented by Pratiwi, Steven, and Permatasari (2020), the e-Court system was designed to modernize court administration through digital case filing, electronic summons, and online payment of court fees, representing the Supreme Court's most ambitious attempt to transpose conventional judicial proceedings into digital form.[32] The program was initially piloted in 32 selected courts — encompassing District Courts, Religious Courts, and State Administrative Courts across major urban centers — before being progressively expanded nationwide. However, the empirical findings documented by Pratiwi et al. (2020) reveal that implementation encountered significant administrative and technological barriers, including inadequate digital infrastructure in non-metropolitan courts, low familiarity with electronic procedures among court officers and litigants, and difficulties in authenticating electronic documents in the absence of a

31 Sapii and Hamzah, "Responsibilities of Business Actors to Consumers Due to Incompatibility of Objects and Specifications in Electronic Transaction Agreements."

32 Pratiwi, Steven, and Permatasari, "The Application of E-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems."

nationally standardized e-signature verification system. Further, as analyzed by Wati, Kamello, and Sastro (2023), the post-pandemic expansion of e-Court, while accelerating the pace of digital adoption within the formal judiciary, has simultaneously exposed the structural limitation that is most consequential for ODR: the e-Court system remains exclusively oriented toward court-administered proceedings and provides no mechanism for the recognition or enforcement of decisions issued by private ODR platforms.[33] The legal architecture of the e-Court pilot thus illustrates, in concrete and documented form, the central regulatory gap identified in this study: Indonesia has developed a court-annexed digital litigation instrument, but has not developed the legal bridge necessary to connect private ODR outcomes with the formal enforcement machinery of the state. This pilot experience also reveals that technological infrastructure deficits and digital literacy barriers are not merely secondary challenges, but constitute primary structural constraints on the viability of any ODR framework that relies on widespread voluntary adoption without a supporting legal mandate and capacity-building program.

In contrast to Indonesia, the United States has long developed an ODR system supported by a strong regulatory foundation and mature technological infrastructure. The Federal Arbitration Act (FAA), the E-SIGN Act, and the Uniform Electronic Transactions Act (UETA) have provided legal certainty for electronic arbitration, the validity of digital signatures, and the recognition of electronic documents across jurisdictions. In addition, institutions such as the American Arbitration Association (AAA) and JAMS have implemented supplementary rules governing confidentiality, electronic hearings, and digital evidence management, lending procedural credibility to the ODR process.[34] However, a critical legal analysis of the role of these private ODR institutions raises substantive questions regarding whether their operational models adequately meet public interest standards, a dimension that is frequently underexamined in comparative ODR literature. As private commercial entities, AAA and JAMS operate ODR services on a fee-for-service basis, which, when assessed through the lens of the access to justice principle, raises concerns about the affordability and accessibility of their services for small claimants, individual

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[33] Wati, Kamello, and Sastro, "The Development of Procedural Law Through the E-Court System After Pandemic in Indonesia."

[34] Palanissamy and Kesavamoorthy, "Automated Dispute Resolution System (ADRS) – A Proposed Initial Framework for Digital Justice in Online Consumer Transactions in India."

consumers, and micro-enterprises.[35] Empirically, the fee structures of these institutions, which may include filing fees, administrative charges, and arbitrator compensation, can represent a disproportionate financial burden relative to the value of the dispute, thereby potentially excluding the very categories of business actors that ODR is designed to serve. Furthermore, the repeat-player dynamic, wherein institutional parties, by virtue of their recurring engagement with private ODR providers, may accumulate informational and relational advantages over individual or first-time claimants, represents a structural equity concern that the current U.S. regulatory framework, including the FAA, does not adequately address. The absence of a federal regulatory body specifically mandated to supervise private ODR providers means that accountability mechanisms remain largely self-regulatory in character, which raises further questions about the independence and transparency of the dispute resolution process. Although state-level instruments such as the California Consumer Privacy Act (CCPA) provide important protections regarding data use and algorithmic transparency, these measures are geographically limited and do not constitute a comprehensive public interest oversight regime for ODR. This analysis suggests that while the governance network model in the United States has created a technologically responsive and institutionally credible ODR ecosystem, its alignment with public interest standards, particularly with respect to equitable access, procedural fairness for weaker parties, and independent oversight, remains an area requiring further regulatory refinement.

A concrete illustration of court-annexed ODR in the United States is provided by the Online Dispute Resolution program implemented by the State of Utah, which represents one of the most cited examples of judicially integrated ODR in the academic and policy literature. Remaining actively operational across participating justice courts within the state, the Utah program, developed in collaboration with technology developers and ADR practitioners, provides a structured, multi-stage digital process specifically designed for the resolution of small claims disputes that would otherwise be heard in state court. The program operates through a web-based platform accessible to parties without legal representation, offering sequential stages of negotiation, facilitation by a neutral court-appointed officer, and, where necessary, judicial determination, all conducted asynchronously and without mandatory physical attendance. The

35 Rafidah Abd Karim et al., "Feminism and Gender Equality among Orang Asli Women: Implications for Customs and Laws," *Hasanuddin Law Review* 11, no. 2 (August 3, 2025): 209–35, https://doi.org/10.20956/halrev.v11i2.6317.

legal significance of the Utah ODR model for the present comparative analysis is threefold. First, it demonstrates the operational feasibility of a genuinely court-connected ODR system, in which the digital platform is not a parallel and unrecognized alternative to the court, but an integrated component of the formal judicial process, with outcomes carrying the same legal force as conventionally rendered judgments. This directly addresses the enforceability gap that characterizes both Indonesia's e-Court system and its private platform ecosystem. Second, the Utah model illustrates how a governance network approach, involving state court administrators, technology providers, legal aid organizations, and consumer advocates, can produce an ODR infrastructure that is simultaneously accessible to self-represented litigants and aligned with public interest standards, thereby mitigating the access-to-justice concerns associated with purely private, fee-intensive ODR providers such as AAA and JAMS. Third, the Utah experience demonstrates that court-annexed ODR need not displace existing ADR culture; rather, by incorporating negotiation and facilitation as preliminary stages before judicial determination, it embeds consensual dispute resolution within a legally enforceable framework. This hybrid design represents a normative model that Indonesia could adapt, particularly in the context of integrating the *musyawarah* tradition into a legally structured ODR process that nonetheless guarantees enforceability of outcomes.

A closer examination of both countries reveals significant differences in adoption levels, institutional synergy, and the protection of parties' rights in online dispute resolution. In Indonesia, limited digital literacy and low public trust in online decisions have resulted in suboptimal adoption of ODR; even major commercial platforms such as Tokopedia Care and Shopee Resolution Center are not yet integrated with the formal judicial system.[36] Meanwhile, in the United States, innovations such as automated triage, blind bidding negotiation, and the use of artificial intelligence have become standard practices that accelerate the process, reduce manual intervention, and minimize the

36 Dona Budi Kharisma and Nadzya Tanazal E.Ar, "Online Dispute Resolution as an Alternative Model for Dispute Settlement in The Financial Technology Sector," *Pandecta Research Law Journal* 17, no. 1 (June 2022): 137–45, https://doi.org/10.15294/pandecta.v17i1.25267.

potential for human bias in dispute resolution.[37] The increasing integration of artificial intelligence into dispute resolution mechanisms reflects a broader global trend toward digital governance, requiring adaptive legal frameworks capable of balancing technological innovation and regulatory oversight.[38]

Indonesia's legal framework still requires strengthening through the enactment of an Electronic Dispute Resolution System Bill that includes a definition of ODR, accreditation requirements, mechanisms for the recognition and enforcement of decisions, and personal data protection based on privacy by design principles and independent algorithm audits. In contrast, in the United States, improvements are being made through amendments to the FAA and E-SIGN Act to include clauses on algorithmic accountability, disclosure parameters for automated triage, and standardization of fee structures according to the value of the dispute. This comparison shows that best practices from the United States can be adapted in Indonesia, especially in terms of integrating ODR decisions into the national judicial system and establishing cross-sector governance networks.[39]

Comparative analysis also shows that the application of law and economics theory is highly prominent in the United States, with a cost model that is proportional to the value of the dispute and incentives for online mediators. In contrast, in Indonesia, the fee structure and financing scheme for ODR remain unclear and often become an additional burden for MSMEs.[40] This indicates the need for adjustments to tariff and incentive policies in Indonesia so that they do not become obstacles for small business actors in accessing ODR.

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37 Ernest Thiessen and Graham Ross, "Live Demonstration of a Working Collaborative Enegotiation System (Smartsettle Infinity)," in *Proceedings of the Eighteenth International Conference on Artificial Intelligence and Law* (New York, NY, USA: ACM, 2021), 275–76, https://doi.org/10.1145/3462757.3466091.

38 Hong Nhung Pham and Thi Thuy Lam Tran, "Shaping the Labor Market of Vietnam in the Age of Artificial Intelligence: Comparative Insights from the European Union," *Hasanuddin Law Review* 11, no. 3 (December 21, 2025): 274–94, https://doi.org/10.20956/halrev.v11i3.5901.

39 Muhammad Faiz Aziz and Muhamamd Arif Hidayah, "Perlunya Pengaturan Khusus Online Dispute Resolution (Odr) Di Indonesia Untuk Fasilitasi Penyelesaian Sengketa E-Commerce," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 2 (August 27, 2020): 275, https://doi.org/10.33331/rechtsvinding.v9i2.449.

40 Ayudia Nur Rifdah, Mulyani Zulaeha, and Yulia Qamariyanti, "Commercial Business Dispute Settlement Through Online Non-Litigation Dispute Settlement in Indonesia," *Lambung Mangkurat Law Journal* 6, no. 2 (2021): 267–87.

In addition, the United States has firmly established personal data protection and transparency in automated decision-making through policies such as the California Consumer Privacy Act (CCPA), which regulates algorithm audits and the disclosure of decision-making parameters.[41] Meanwhile, Indonesia still needs to strengthen its legal framework for personal data protection to align with principles found in the GDPR and CCPA, thereby ensuring the security and trust of parties involved in the ODR process.[42]

The next difference lies in the integration and recognition of ODR decisions across jurisdictions. In the United States, the application of the full faith and credit clause ensures that electronic arbitration decisions are recognized throughout all states. Indonesia still faces challenges regarding the recognition of ODR decisions between regions or across jurisdictions, thus requiring more robust regulation in national law or through bilateral/multilateral instruments at the ASEAN level.[43] In terms of oversight mechanisms, the United States has implemented independent supervision of algorithms and ODR processes through the establishment of the National ODR Council, which involves various stakeholders. In Indonesia, there is not yet a similar institution responsible for supervising and auditing ODR implementation, so the potential for bias, fraud, and violations of procedural rights can still occur without adequate oversight.

The findings of this study also highlight that ODR regulations in the United States are more adaptive and responsive to technological dynamics, while Indonesia still tends to be reactive and follows technological developments without a clear and integrated legal framework. This impacts the low level of trust and effectiveness of online dispute resolution in Indonesia.

The novelty of this research lies in its proposed legal construct based on the statute approach, comparative analysis, governance network, and legislative drafting theory to build an ODR system that is not only responsive to domestic needs but also adaptive to global best practices. The main recommendation for Indonesia is to promptly establish an integrative ODR law, determine

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41 Singh and Joshi, "Ethical Considerations in AI Development."

42 Rina Shahriyani Shahrullah, Jihyun Park, and Irwansyah Irwansyah, "Examining Personal Data Protection Law of Indonesia and South Korea: The Privacy Rights Fulfilment," *Hasanuddin Law Review* 10, no. 1 (January 3, 2024): 1, https://doi.org/10.20956/halrev.v10i1.5016.

43 Aziz and Hidayah, "Perlunya Pengaturan Khusus Online Dispute Resolution (Odr) Di Indonesia Untuk Fasilitasi Penyelesaian Sengketa E-Commerce."

enforceability mechanisms, service provider accreditation, independent algorithm audits, and data protection based on privacy by design.[44]

Thus, this comparative analysis underscores that Indonesia must learn from the best practices of the United States, particularly in multi-stakeholder collaboration, cross-jurisdictional integration, data protection, and the strengthening of technological infrastructure. All these efforts are aimed at ensuring that ODR in Indonesia not only serves as an alternative solution, but also becomes a main pillar in business dispute resolution in the digital era one that is transparent, fair, and efficient.

Conclusion

The comparative analysis conducted in this study demonstrates that the gap between Indonesia and the United States in online dispute resolution governance is not reducible to a deficit of technology or institutional will, but is fundamentally a structural problem of regulatory architecture, enforcement design, and institutional accountability. Indonesia's ODR framework is characterized by three compounding deficiencies: the sectoral fragmentation of its legal basis across Law Number 1 of 2024, Government Regulation Number 71 of 2019, and Minister of Trade Regulation Number 50 of 2020 without a unifying legal instrument; the structural bifurcation between the court-annexed e-Court system and private-platform ODR with no legally defined bridge between them; and the complete absence of a statutory enforcement mechanism that would give ODR decisions the binding legal force essential to legal certainty. The United States, by contrast, has achieved functional integration between private ODR and the formal judiciary through the Federal Arbitration Act's enforcement backbone, while the Utah court-annexed ODR model demonstrates that equitable, publicly accountable ODR is operationally feasible at the state level. These findings collectively establish that Indonesia urgently requires not merely a new statute, but a coherent, multi-component reform architecture.

This study proposes a phased Three-Tier Online Dispute Resolution (ODR) Reform Model to transform Indonesia's fragmented digital dispute ecosystem into a structured, credible, and legally binding framework. Tier I

44 Opniel Harsana B Pongkapadang, *Online Dispute Resolution Dalam Penyelesaian Sengketa Bisnis* (Bogor: Divya Media Pustaka, 2026).

(Short-Term: 0–2 Years) focuses on establishing a robust regulatory foundation through the enactment of a standalone Electronic Dispute Resolution Act. This legislation aims to define standardized ODR mechanisms, formulate a mandatory enforcement pathway via streamlined District Court registration, mandate initial ODR clauses in e-commerce contracts, and institute an independent National ODR Council for accreditation governance. Building upon this foundation, Tier II (Medium-Term: 2–4 Years) operationalizes a hybrid public-private collaboration infrastructure. This phase mandates the integration of accredited private ODR decisions into the Supreme Court's e-Court system via a recognition gateway, requires e-commerce platforms to utilize accredited ODR mechanisms, and implements a statutory three-stage dispute resolution sequence consisting of automated negotiation, facilitated mediation, and binding arbitration. Finally, Tier III (Long-Term: 4–7 Years) consolidates the ecosystem by prioritizing equity, procedural oversight, and cross-jurisdictional integration. Strategic interventions include establishing a value-proportionate fee structure to protect MSMEs, enforcing mandatory independent algorithmic audits for platforms employing AI-assisted management, and pursuing multilateral ODR recognition agreements at the ASEAN level. Ultimately, this sequenced reform strategy serves as a foundational requirement to mitigate unresolved disputes, bolster investor confidence, and ensure equitable participation within Indonesia's rapidly expanding digital economy.

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