

The Implementation of Arbitral Award Annulment In Judicial Practice

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Abstract.

This study attempts to identify the procedure for annulling an arbitral award through the courts and the legal framework governing it. The author uses Gustav Radbruch's legal theory the theory of justice, legal certainty, and legal consequences as an instrument to examine and explain the mechanism for annulling an arbitral award, the types of legal remedies available, and their legal consequences. Using this approach, the author can assess whether an annulment request for an award can be submitted based on the grounds stipulated in law, as well as identify the legal steps that can be taken and their legal impact. The method used is normative legal research, which compiles legal sources by referring to norms in statutory regulations, court decisions, and social customs. The legal sources analyzed include primary materials authoritative documents such as laws, official records, legal treatises, and judicial decisions and secondary materials, namely non-official publications such as textbooks, legal dictionaries, journals, and commentaries on court decisions. Based on the findings, the author concludes that the arbitration award is final and binding on the parties. However, an annulment can be requested if the three conditions stipulated in Article 70 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution are met. Because it is a special civil case, there is no appeal to the High Court; the term "appeal" actually refers to cassation to the Supreme Court, which in Article 72 paragraph 4 is stated as the first and final legal remedy. According to Circular Letter Number 4 of 2016 concerning the Implementation of the Results of the 2016 Plenary Meeting of the Supreme Court Chamber as a guideline for the courts, if the District Court rejects the application for annulment of the arbitration award, no further legal remedies are available, either an appeal or a judicial review.

Keywords: Implementation, Arbitration and Annulment of Arbitration.

I. INTRODUCTION

The development of modern business activities requires dispute resolution mechanisms that are fast, effective, confidential, and legally certain. Disputes in trade, banking, mining, oil and gas, energy, infrastructure, investment, construction, and other commercial sectors often arise from complex contractual relationships. These disputes may involve substantial economic value and parties from different jurisdictions. In this context, litigation does not always meet the practical needs of business actors. Although litigation remains the formal mechanism within the state judicial system, it is often viewed as rigid, public, time-consuming, costly, and adversarial. Its win-lose character may also damage long-term commercial relationships between the parties.

Alternative dispute resolution has therefore developed as a response to the limitations of litigation. One of the most important mechanisms in this field is arbitration. Under Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, arbitration is defined as a method for resolving civil disputes outside the general courts based on a written arbitration agreement made by the parties [1]. This definition shows that arbitration is not merely a private practice outside the legal system. It is a legally recognized dispute resolution mechanism within Indonesian positive law.

Arbitration has several essential characteristics. First, arbitration is based on party consent. Without a valid arbitration agreement, an arbitrator or arbitral institution has no authority to examine and decide a dispute. Second, arbitration recognizes party autonomy. The parties may determine the arbitral institution, arbitrator, procedural rules, seat of arbitration, language of arbitration, and applicable law, provided that their agreement does not violate mandatory legal provisions. Third, an arbitral award is final and binding. This

finality is one of the main reasons why business actors choose arbitration. The parties expect a dispute resolution process that does not continue indefinitely through several layers of appeal.

Historically, arbitration in Indonesia can be traced back to the Dutch colonial period. Its early legal basis appeared in Article 377 of the *Herzien Inlandsch Reglement* and Article 705 of the *Rechtsreglement Buitengewesten*. These provisions allowed disputing parties to submit their dispute to a “*juru pisah*” or private adjudicator. However, the HIR and RBg did not provide detailed rules on arbitration. The technical regulation of arbitration therefore referred to the *Reglement op de Burgerlijke Rechtsvordering*, particularly Articles 615 to 651, which regulated arbitration agreements, appointment of arbitrators, arbitral proceedings, arbitral awards, remedies against awards, and the closure of arbitral proceedings.

After Indonesian independence, the transitional provisions of the 1945 Constitution maintained the validity of existing laws to avoid a legal vacuum. As a result, colonial-era arbitration provisions remained applicable until the enactment of Law Number 30 of 1999. The enactment of this law marked an important development because Indonesia finally had a national legal framework specifically regulating arbitration and alternative dispute resolution. This reform became more significant in line with the growth of national and international business relations. Indonesia had earlier ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards through Presidential Decree Number 34 of 1981. This ratification provided an important legal basis for the recognition and enforcement of foreign arbitral awards in Indonesia [2].

The development of national arbitration is also closely related to the establishment of the Indonesian National Board of Arbitration or *Badan Arbitrase Nasional Indonesia*. BANI was established in 1977 under the initiative of the Indonesian Chamber of Commerce and Industry as an independent institution for resolving commercial disputes. Its establishment shows that the need for a fast, professional, and credible business dispute resolution forum had emerged before the enactment of Law Number 30 of 1999. In practice, BANI has become one of the leading arbitral institutions in Indonesia, especially in disputes relating to trade, industry, finance, construction, and other commercial relationships.

Although arbitration is designed as a final and binding mechanism, Indonesian law still provides a limited opportunity to annul arbitral awards. Article 70 of Law Number 30 of 1999 allows a party to submit an application for annulment when an arbitral award is alleged to contain certain serious defects. These defects include the use of forged documents during the examination, the discovery of decisive documents concealed by the opposing party, or an award obtained through fraud committed by one of the parties [1]. These grounds are restrictive. Therefore, annulment of an arbitral award must not be understood as an ordinary legal remedy to re-examine the merits of the dispute.

The legal problem arises when annulment is used in a manner that weakens the principle of finality. One of the central issues concerns the relationship between Article 70 and Article 72 paragraph (4) of Law Number 30 of 1999. Article 72 paragraph (4) provides that the decision of the Supreme Court in an arbitral award annulment case is final and binding. Normatively, the phrase “final and binding” should close the possibility of further legal remedies. However, Indonesian judicial practice has shown different approaches, particularly regarding whether a Supreme Court decision in an arbitration annulment case may still be challenged through judicial review. This inconsistency raises concerns about legal certainty and the effectiveness of arbitration as a final dispute resolution mechanism.

This issue was later clarified through Supreme Court Jurisprudence Number 2/Yur/Arbt/2018. The jurisprudence states that a Supreme Court decision in an arbitration appeal is final and binding and cannot be challenged through judicial review [3]. This legal principle is significant because it guides the courts to respect the finality of arbitration. It also confirms that annulment should remain a limited corrective mechanism, not a procedural gateway to prolong commercial disputes. The Constitutional Court Decision Number 15/PUU-XII/2014 also plays an important role in the development of arbitral annulment law in Indonesia. The case concerned the judicial review of the Elucidation of Article 70 of Law Number 30 of 1999 against the 1945 Constitution. The Elucidation of Article 70 was considered problematic because it required the grounds for annulment to be proven first by a court decision. This requirement created

uncertainty because the text of Article 70 uses the phrase “alleged to contain,” while the elucidation required prior judicial proof. This inconsistency could restrict access to annulment proceedings for a party harmed by fraud, forged documents, or concealed decisive evidence. The Constitutional Court held that the elucidation created legal uncertainty and was inconsistent with the constitutional guarantee of fair legal certainty [4].

A more recent regulatory development can be seen in Supreme Court Regulation Number 3 of 2023. This regulation governs the procedure for the appointment of arbitrators by courts, challenge rights, examination of applications for enforcement, and annulment of arbitral awards. The regulation provides more technical guidance for courts and disputing parties in arbitration-related judicial proceedings [5]. From the perspective of legal certainty, this regulation is important because it clarifies the procedural boundaries of court intervention in arbitration.

The study of arbitral award annulment must also be placed within the theory of legal objectives. Gustav Radbruch identifies three central values of law, namely justice, utility, and legal certainty. In arbitration, these three values often interact in a complex manner. Justice requires that an arbitral award obtained through forged evidence, fraud, or concealed decisive documents can be annulled. Legal certainty requires that arbitral awards remain final and not be continuously challenged through successive legal remedies. Utility requires that arbitration remain efficient and beneficial for business actors. Therefore, annulment of arbitral awards must be understood as a mechanism that balances protection against procedural injustice with respect for arbitral finality.

The theory of legal certainty is particularly relevant to this study. Legal certainty requires clear rules, consistent interpretation, and predictable application. If courts interpret Article 72 paragraph (4) inconsistently, the fundamental purpose of arbitration as a final dispute resolution mechanism will be undermined. A winning party in arbitration may lose the benefit of the award because the process continues through further litigation. Conversely, a losing party may use annulment or judicial review as a strategy to delay compliance with the arbitral award. This situation contradicts the basic character of arbitration, which prioritizes efficiency, finality, and enforceability. The theory of legal consequences further explains the effect of annulment. If an arbitral award is annulled, the binding force of the award is eliminated, either wholly or partially. Consequently, the rights and obligations previously determined by the arbitrator may no longer be enforceable. In this context, the court plays an important but limited role. The court must ensure that annulment is granted only on lawful and restrictive grounds. The court must not re-examine the merits of the dispute, because doing so would violate party autonomy, *pacta sunt servanda*, and the final nature of arbitration.

Based on the above discussion, there is a clear academic need to examine the implementation of arbitral award annulment in Indonesian judicial practice. The central issue is not merely whether annulment is regulated under positive law, but how the courts apply the relevant provisions. This study therefore focuses on two main questions. First, what is the legal regulation and ratio legis of arbitral award annulment under Indonesian positive law? Second, how is Article 72 paragraph (4) of Law Number 30 of 1999 implemented in judicial practice? These questions are important to assess whether Indonesian arbitration law has achieved a proper balance between justice, legal certainty, and the effectiveness of commercial dispute resolution.

II. METHOD

This study applies a normative legal research method. The method is used because the main object of the research is legal norms, legal principles, legal doctrines, and judicial decisions concerning the annulment of arbitral awards in Indonesian judicial practice. Normative legal research does not examine legal behavior through field data. It examines law as a system of norms contained in statutory regulations, court decisions, legal doctrines, and other authoritative legal materials. Therefore, this study focuses on the interpretation of legal rules, the coherence between legal provisions, and the implementation of those provisions in court practice.

Legal research has a practical function because it seeks to find legal answers to specific legal problems. [6] Cohen and Olson define legal research as the process of finding the law that governs activities

in human society. This definition shows that legal research does not merely describe legal concepts. It also provides legal reasoning to solve concrete legal issues. In this study, the legal issue concerns the annulment of arbitral awards, especially the grounds for annulment, the limits of judicial intervention, and the implementation of Article 72 paragraph (4) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The specification of this research is juridical-normative. This specification is appropriate because the research analyzes legal materials related to arbitral award annulment, including legislation, judicial decisions, jurisprudence, and legal doctrine. The juridical-normative specification allows the study to examine whether one legal norm is consistent with another and whether the application of the norm follows the hierarchy of laws and regulations. This is important because arbitration law involves two important principles that may create tension. The first is the final and binding nature of arbitral awards. The second is the authority of the court to annul an award in limited circumstances. The study therefore examines how both principles operate within Indonesian positive law.

This research uses three approaches. The first is the statutory approach. This approach examines laws and regulations relevant to the annulment of arbitral awards. The main legal instruments include the 1945 Constitution of the Republic of Indonesia, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, HIR, RBg, Rv, Supreme Court Regulation Number 1 of 1990, and Supreme Court Regulation Number 3 of 2023. Through this approach, the study analyzes the consistency between statutory provisions, constitutional principles, and procedural rules. The statutory approach also helps explain the legal position of Article 70 and Article 72 paragraph (4) of Law Number 30 of 1999 in regulating the annulment of arbitral awards.

The second approach is the conceptual approach. This approach is used to examine concepts that form the theoretical basis of the research. These concepts include arbitration, arbitration agreement, final and binding award, annulment of arbitral award, legal certainty, justice, legal consequences, party autonomy, *pacta sunt servanda*, and judicial intervention. Legal concepts are analyzed by referring to scholarly opinions and doctrines developed in legal literature. [7] Marzuki explains that legal research requires primary and secondary legal materials to answer legal issues in a prescriptive manner. Therefore, legal doctrine is used in this study to strengthen the interpretation of statutory provisions and judicial decisions.

The third approach is the case approach. This approach examines relevant court decisions concerning arbitral award annulment. The case approach is necessary because the implementation of Article 72 paragraph (4) of Law Number 30 of 1999 cannot be understood only from the text of the statute. It must also be analyzed through judicial practice. Court decisions are examined to identify judicial reasoning, patterns of interpretation, and consistency in the application of legal rules. This approach is also used to assess how the Supreme Court interprets the final and binding character of its decisions in arbitration annulment cases.

The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials are authoritative materials that have binding legal force. These include the 1945 Constitution of the Republic of Indonesia [8], Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, HIR, RBg, Rv, Supreme Court Regulation Number 1 of 1990, Supreme Court Regulation Number 3 of 2023, and relevant court decisions on arbitral award annulment. These primary materials serve as the main basis for analyzing the regulation and judicial implementation of arbitral award annulment in Indonesia. Secondary legal materials are materials that explain and support the analysis of primary legal materials. These include legal textbooks, journal articles, research reports, expert opinions, and academic writings concerning arbitration, alternative dispute resolution, legal certainty, justice, and legal consequences. Tertiary legal materials are also used to clarify legal terms and concepts. These include legal dictionaries, encyclopedias, indexes, and other reference sources. The use of these materials helps ensure that the analysis is systematic, coherent, and academically grounded.

The technique for collecting legal materials is library research. This technique is carried out by identifying, reading, classifying, quoting, and analyzing legal materials that are relevant to the research problem. The materials are obtained from legislation, court decisions, legal books, journals, previous research, and official documents related to arbitration and arbitral award annulment. Library research is

suitable for normative legal research because the main source of analysis is legal documents. The selection of materials is conducted by considering their authority, relevance, and connection to the research questions. The collected legal materials are analyzed qualitatively through normative juridical analysis. The analysis does not use statistical calculation. It relies on legal reasoning, interpretation, and argumentation. The analysis is conducted in several stages. First, the relevant legal materials are identified and classified. Second, the legal norms are interpreted by considering legal principles, statutory purposes, and the relationship between one regulation and another. Third, court decisions are examined to understand how judges apply the rules on arbitral award annulment in concrete cases. Fourth, the findings from statutory analysis and case analysis are compared with legal doctrine to construct a prescriptive legal argument.

This study also considers the historical development of arbitration law in Indonesia. This is necessary because the regulation of arbitration has roots in HIR, RBg, and Rv, while the current legal framework is mainly governed by Law Number 30 of 1999 and subsequent Supreme Court regulations. By examining both old and new legal instruments, this study explains the continuity and development of Indonesian arbitration law. This analysis is important to understand how the current rules on annulment should be interpreted in line with the principles of finality, legal certainty, and limited court intervention.

The research was conducted in Jakarta, particularly at the Supreme Court of the Republic of Indonesia [5]. This location was selected because the Supreme Court is directly related to the research object, especially in relation to jurisprudence and judicial decisions on arbitral award annulment. Legal materials were also collected through the Library of the Supreme Court of the Republic of Indonesia, the National Library of the Republic of Indonesia, and other legal libraries. The research was conducted from September 8, 2024, to November 9, 2024. This study maintains originality by comparing its focus with previous studies. Agus Subroto's 2017 study examined legal certainty in the enforcement of national arbitral awards annulled by the Supreme Court. Evi Eka Elvia's 2023 study analyzed judicial reasoning in several arbitral award annulment cases from 2016 to 2021. Muhammad Yasril Ananta Baharuddin's 2024 study discussed arbitration as a mechanism for business dispute resolution, particularly the role of BANI. Harven Filippo Taufik's 2024 study examined annulment based on the discovery of decisive documents concealed by the opposing party. In contrast, this study focuses on the implementation of arbitral award annulment in judicial practice, especially the application of Article 72 paragraph (4) of Law Number 30 of 1999. The novelty of this study lies in its analysis of the relationship between the ratio legis of annulment, the final and binding nature of Supreme Court decisions, and the possibility of judicial review in arbitration annulment cases.

III. RESULT AND DISCUSSION

Legal Basis for the Annulment of Arbitral Awards in Indonesia

The findings show that Indonesian arbitration law recognizes two competing principles. The first is the principle of finality. The second is the possibility of judicial annulment in limited circumstances. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution defines arbitration as a method for resolving civil disputes outside the general courts based on a written arbitration agreement made by the parties. This definition confirms that arbitration rests on party consent and contractual autonomy [1]. The same law also states that the District Court has no jurisdiction to adjudicate disputes between parties who are bound by an arbitration agreement, which reinforces the separateness of arbitral jurisdiction from ordinary litigation.

The finality of arbitral awards is expressly reflected in Article 60 of Law Number 30 of 1999. The provision states that an arbitral award is final and binding upon the parties. In principle, this means that an award cannot be challenged through ordinary appeal, cassation, or judicial review. This rule is central to arbitration because commercial actors choose arbitration to obtain a final, efficient, and enforceable resolution. However, finality is not absolute. Articles 70 to 72 of Law Number 30 of 1999 provide a limited mechanism for annulment of arbitral awards. The existence of this mechanism shows that the Indonesian legal system accepts limited court control over arbitration to prevent serious procedural injustice.

Article 70 of Law Number 30 of 1999 provides three grounds for annulment. First, a document submitted during the arbitral examination is later admitted or declared to be false. Second, after the award is

rendered, a decisive document that was concealed by the opposing party is discovered. Third, the award was obtained through fraud committed by one of the parties during the examination. These grounds are restrictive. They do not allow the court to re-examine the merits of the dispute. The court may only examine whether the award was affected by serious defects that undermine the integrity of the arbitral process.

Before Law Number 30 of 1999, the regulation of annulment was broader under the *Reglement op de Burgerlijke Rechtsvordering*. Article 643 Rv contained ten grounds for annulment, including awards exceeding the arbitration agreement, invalid arbitration agreements, improper tribunal composition, ultra petita decisions, contradictory awards, procedural violations, reliance on invalid documents, concealed documents, and fraud. Compared with Article 643 Rv, Article 70 of Law Number 30 of 1999 adopts a narrower model. This shift reflects a legislative intention to strengthen arbitral finality and reduce excessive judicial intervention.

The narrow formulation of Article 70 is important for legal certainty. If courts could annul arbitral awards for broad or substantive reasons, arbitration would lose its distinctive character. The losing party could use annulment as a strategy to delay enforcement. Therefore, the annulment mechanism must be understood as an exceptional remedy. It exists to protect justice, but it must not transform arbitration into a preliminary stage before litigation.

Ratio Legis of Article 72 Paragraph (4) of Law Number 30 of 1999

The ratio legis of Article 72 paragraph (4) lies in the need to preserve finality while still allowing limited judicial supervision. Article 72 regulates the procedure after an annulment application is filed. If the District Court grants the application, the court determines whether the annulment applies to the whole award or only part of it. The District Court may also determine the legal consequences of annulment, including whether the same arbitrator or a different arbitrator may examine the dispute again.

Article 72 paragraph (4) provides that the decision of the District Court may be appealed to the Supreme Court, which decides at the first and final level. The explanation of this provision clarifies that the term “appeal” refers only to the annulment of an arbitral award under Article 70. This formulation creates a special procedural regime. It does not create an ordinary appeal to the High Court. Instead, the appeal is submitted directly to the Supreme Court, and the Supreme Court’s decision is final.

The purpose of this rule is to avoid prolonged litigation after arbitration. Arbitration is designed as a fast and efficient mechanism. If every annulment decision could be followed by several layers of legal remedies, arbitration would no longer provide procedural efficiency. Article 72 paragraph (4) therefore limits the available remedy to one direct review by the Supreme Court. This model seeks to balance two interests. The first is the interest of the party harmed by fraud, forged documents, or concealed decisive evidence. The second is the interest of the winning party in obtaining final enforcement without unnecessary delay.

The findings also show that the legal meaning of Article 72 paragraph (4) was not always applied consistently in practice. Before the Supreme Court clarified its position, several cases reflected conflicting approaches regarding whether a Supreme Court decision in an arbitration annulment case could still be challenged through judicial review. Some decisions allowed judicial review, while others rejected it. This inconsistency weakened legal certainty and created uncertainty for parties who relied on arbitration as a final dispute resolution mechanism.

The Supreme Court later attempted to resolve this inconsistency through the chamber system. [9] Supreme Court Circular Letter Number 4 of 2016 states that, based on Article 72 paragraph (4) of Law Number 30 of 1999 and its explanation, no appeal or judicial review is available against a District Court decision rejecting an application for annulment of an arbitral award. Conversely, if the District Court annuls the arbitral award, the aggrieved party may file an appeal to the Supreme Court. The Supreme Court then decides the case at the first and final level, and no judicial review is available afterward. This position strengthens the finality of arbitration and prevents annulment proceedings from becoming endless litigation.

Constitutional Court Decision Number 15/PUU-XII/2014 and the Interpretation of Article 70

A major issue in the annulment framework concerned the relationship between Article 70 and its elucidation. The text of Article 70 uses the phrase “alleged to contain,” meaning that the party applying for

annulment only needs to allege the existence of forged documents, concealed decisive documents, or fraud. However, the elucidation of Article 70 required those grounds to be proven by a court decision before the annulment application could be considered.

This created a serious procedural problem. Article 71 requires an annulment application to be submitted within 30 days after the arbitral award is submitted and registered with the clerk of the District Court. If the applicant had to obtain a separate court decision proving forgery or fraud before filing an annulment application, it would be almost impossible to comply with the 30-day limitation period. The elucidation therefore created a contradiction between the right to file an annulment application and the procedural time limit for doing so.

The Constitutional Court addressed this issue in Decision Number 15/PUU-XII/2014. The Court found that the elucidation of Article 70 created legal uncertainty because it added a requirement not found in the main text of the article. The Court emphasized that Article 70 was already clear and did not require an elucidation that imposed a prior court decision requirement. As a result, the elucidation was declared to have no binding legal force. This decision is significant because it restores the practical function of Article 70. Applicants may present and prove the grounds for annulment within the annulment proceeding itself, rather than having to obtain a separate prior judgment.

This development supports access to justice while preserving the exceptional nature of annulment. It allows parties to challenge awards affected by serious procedural defects. At the same time, it does not permit courts to reopen the merits of the dispute. The court's role remains limited to examining whether the statutory grounds for annulment are proven.

Implementation of Article 72 Paragraph (4) in Judicial Practice

The implementation of Article 72 paragraph (4) shows that the Supreme Court has moved toward a more restrictive interpretation of remedies in arbitration annulment cases. The central principle is that arbitration must remain final and binding. Judicial intervention must be exceptional and limited. This position is consistent with the policy underlying Law Number 30 of 1999.

Before 2017, judicial practice showed divergent views. Some Supreme Court decisions accepted judicial review in arbitration annulment cases. Other decisions rejected it. This inconsistency created uncertainty. It allowed losing parties to continue filing extraordinary remedies even after the Supreme Court had decided the case. Such practice weakened the efficiency of arbitration and encouraged strategic delay.

The later approach, reflected in Supreme Court Circular Letter Number 4 of 2016, confirms a clearer rule. If the District Court rejects an annulment application, no further legal remedy is available. If the District Court grants annulment, an appeal may be submitted directly to the Supreme Court. The Supreme Court's decision is final and cannot be challenged through judicial review. This interpretation follows the wording and explanation of Article 72 paragraph (4). It also aligns with the finality principle that underlies arbitration.

The issuance of Supreme Court Regulation Number 3 of 2023 further supports procedural clarity. This regulation governs the procedure for court appointment of arbitrators, challenge rights, examination of enforcement applications, and annulment of arbitral awards. The regulation was enacted to support effective dispute resolution through arbitration and improve ease of doing business. Its existence shows that the Supreme Court recognizes the need for technical guidance in arbitration-related judicial proceedings. It also confirms that court involvement in arbitration must follow clear procedural boundaries.

From the perspective of legal certainty, this development is positive. The availability of clear procedural limits reduces the risk of repeated challenges. It also protects the winning party from prolonged uncertainty. However, from the perspective of substantive justice, the restriction on judicial review may be debated. A party may argue that a Supreme Court decision could contain a serious judicial error. In ordinary civil procedure, judicial review exists as an extraordinary remedy to correct certain final judgments. Yet arbitration has a special procedural character. The legislature deliberately created a shorter and more final route to protect arbitration from excessive litigation.

Thus, the implementation of Article 72 paragraph (4) reflects a policy choice. Indonesian law prioritizes finality and efficiency over unlimited access to extraordinary remedies in arbitration annulment

cases. This choice is justified as long as the District Court and Supreme Court carefully examine the statutory grounds under Article 70 and do not treat annulment proceedings as a mere formality.

Legal Consequences of Annulment of Arbitral Awards

The annulment of an arbitral award produces significant legal consequences. If an award is annulled, its binding force is removed either wholly or partially. The rights and obligations determined in the award may no longer be enforceable. The party that won in arbitration may lose the benefit of the award. The parties may need to restart dispute resolution, either through a new arbitration or another legal mechanism, depending on the court's determination and the nature of the dispute.

Annulment also affects the confidentiality of arbitration. One of the main reasons business actors choose arbitration is the private nature of the proceedings. Once an annulment application is filed in the District Court, the dispute enters the judicial system. Court proceedings generally follow the principle of open justice. This may expose information that the parties originally intended to keep confidential. As a result, annulment may reduce one of the main advantages of arbitration.

Another consequence is delay. Even if the annulment application is ultimately rejected, the enforcement of the award may be postponed. The winning party may suffer financial loss due to delayed execution, additional legal costs, and lost commercial opportunities. This risk is particularly serious when the losing party files an annulment application without strong evidence, merely to delay enforcement. Therefore, courts must be strict in examining whether the grounds under Article 70 are genuinely present.

At the same time, annulment has an important corrective function. If an award is obtained through forged documents, concealed decisive evidence, or fraud, enforcing the award would damage the legitimacy of arbitration. In such cases, annulment protects procedural integrity and substantive justice. The challenge is to prevent abuse while preserving the corrective role of the court. This is where the theories of justice, legal certainty, and utility become relevant.

From the perspective of justice, annulment is necessary when an award is tainted by serious dishonesty. A fraudulent award cannot be defended merely because arbitration is final. From the perspective of legal certainty, annulment must remain limited so that arbitration does not become another stage of litigation. From the perspective of utility, annulment must be handled quickly and carefully so that it does not destroy the economic benefits of arbitration. The best approach is therefore restrictive but not rigid. Courts should annul awards only where there is convincing proof that the integrity of the arbitral process has been seriously compromised.

Comparative Perspective: Annulment of Arbitral Awards in Singapore

The comparison with Singapore shows that Indonesia and Singapore share the same basic policy, but their legal frameworks differ in scope and structure. Singapore applies a dual-track arbitration system. Domestic arbitration is governed by the Arbitration Act 2001 [10], while international arbitration is governed by the International Arbitration Act 1994 [11]. Singapore's International Arbitration Act gives effect to the UNCITRAL Model Law and the New York Convention.

Singapore law expressly states that an award made by an arbitral tribunal under an arbitration agreement is final and binding on the parties. Section 19B of the International Arbitration Act provides that the award may be relied upon by any party by way of defence, set-off, or otherwise in court proceedings. This rule is similar to Article 60 of Indonesia's Arbitration Law. Both systems treat finality as a central feature of arbitration.

However, Singapore provides a broader and more structured framework for setting aside arbitral awards. Under the International Arbitration Act, the General Division of the High Court may set aside an award on the grounds contained in Article 34(2) of the UNCITRAL Model Law and additional grounds under Singapore law. The grounds include incapacity of a party, invalidity of the arbitration agreement, lack of proper notice, inability to present one's case, decisions beyond the scope of submission to arbitration, improper tribunal composition or procedure, non-arbitrability, and conflict with public policy. Singapore law also recognizes that the court may suspend setting-aside proceedings to allow the arbitral tribunal to resume proceedings or cure defects where appropriate.

This framework differs from Indonesia's Article 70, which only lists three grounds. Indonesia focuses on forged documents, concealed decisive documents, and fraud. Singapore's framework is broader because it includes due process, jurisdictional excess, tribunal composition, arbitrability, and public policy. This broader model reflects the influence of the UNCITRAL Model Law. It also offers courts a clearer analytical structure when assessing whether an award should be set aside.

Another important difference concerns the treatment of domestic arbitration. Under Singapore's Arbitration Act, domestic awards may be subject to limited appeal on a question of law, subject to statutory requirements. This is different from international arbitration, where the setting-aside mechanism is the primary remedy. Singapore therefore distinguishes more clearly between domestic and international arbitration. Indonesia, by contrast, regulates arbitration through a single national statute, although it distinguishes national and international awards for enforcement purposes.

The Singapore model demonstrates that broader annulment grounds do not necessarily weaken arbitration if the courts apply them restrictively. The key lies in judicial discipline. Courts must not review the merits of the dispute. They may only examine fundamental defects, such as jurisdictional excess, denial of natural justice, fraud, corruption, non-arbitrability, or public policy violations. This approach provides a more detailed framework than Article 70 of Indonesia's Arbitration Law, while still respecting arbitral finality.

For Indonesia, the comparison suggests two possible lessons. First, the grounds for annulment may need clearer statutory formulation. The narrow wording of Article 70 protects finality, but it may not fully address issues such as lack of notice, invalid arbitration agreement, excess of jurisdiction, or improper tribunal composition. Second, procedural rules must remain strict to prevent abuse. If Indonesia expands the grounds for annulment in the future, it must also maintain firm time limits and prohibit merit review.

IV. CONCLUSION

This study concludes that the annulment of arbitral awards in Indonesia is an exceptional legal remedy. Although arbitral awards are final and binding, they are not completely immune from judicial supervision. Court control remains necessary to protect the integrity of arbitration when an award is affected by serious procedural defects. However, this control must remain limited so that arbitration does not lose its main characteristics, namely speed, efficiency, confidentiality, and finality.

First, the ratio legis of annulment under Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution is to balance legal certainty and justice. Article 70 limits the grounds for annulment to three situations: the use of forged documents, the discovery of decisive documents concealed by the opposing party, or fraud committed by one of the parties during the arbitral proceedings. These grounds show that annulment is not intended to reopen the merits of the dispute. It only serves to correct awards that are procedurally defective and legally unfair.

Second, the authority of the District Court in annulment proceedings is restricted. The court may examine whether the statutory grounds for annulment are proven, but it may not reassess the substance of the dispute that has already been decided by the arbitral tribunal. If the grounds under Article 70 are not proven, the application must be rejected. If they are proven, the court may annul the award wholly or partially and determine the legal consequences under Article 72.

Third, Article 72 paragraph (4) creates a special procedural mechanism. A District Court decision that annuls an arbitral award may be challenged directly before the Supreme Court. This remedy is not an ordinary appeal to the High Court. The Supreme Court decides the case at the first and final level. Therefore, no further legal remedy, including judicial review, should be available after the Supreme Court's decision.

Fourth, the implementation of Article 72 paragraph (4) has been strengthened by Supreme Court Circular Letter Number 4 of 2016. This circular confirms that a District Court decision rejecting an annulment application cannot be challenged by appeal or judicial review. If the District Court grants annulment, the aggrieved party may appeal directly to the Supreme Court, whose decision is final.

Finally, Indonesia's ratification of the 1958 New York Convention through Presidential Decree Number 34 of 1981 reinforces the importance of respecting arbitral finality. Overall, annulment must be

applied carefully and restrictively. Courts must protect justice without undermining legal certainty. This balance is essential to maintain arbitration as a credible and effective mechanism for resolving commercial disputes in Indonesia..

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