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Juridical review of construction work contract disputes in Indonesia

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Abstract

Nowadays, the method of resolving disputes through the judiciary has received very sharp criticism from practitioners and legal theorists. The roles and functions of the judiciary are considered to be heavy, slow, take a long time, cost a lot of money, unresponsive in seeing the public interest, and too formal and technical. The problem to be raised in this research is how to resolve construction work contract disputes in Indonesia as regulated in Law Number 2 of 2017 concerning construction services and how to compare construction work contract dispute resolutions through adjudication and arbitration. The results of this study are Based on the description in the Discussion section. It is concluded that the Construction Services Act only stipulates one settlement mechanism, namely dispute resolution out of court (non-litigation). Even in the Construction Work Contract, there is no room to make efforts to resolve disputes through court institutions. Thus, the philosophy (spirit) carried is the concept of a "win-win solution." The stages of dispute resolution efforts include mediation, conciliation, and arbitration. Implementing mediation, conciliation, and arbitration may refer to Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

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1. Introduction

Construction has become one of the juridical terms in Indonesia when it is stated in laws and regulations. The term construction is commonly paired with the term service, which is known as construction services. Positive law in Indonesia still does not provide opportunities for the realization of equality and justice as well as protection for construction service providers, the existence of a construction service dispute resolution mechanism through adjudication efforts that will be formed by associations in the field of construction project work can continue to run without any obstacles and have a good impact on national development and people's welfare.

In the elucidation of Law Number 2 of 2017 concerning Construction Services, it is stated that the construction service sector is a community activity in creating buildings that will function as supports or infrastructure for community-based economic activities and support the realization of national development. In addition to playing a role and supporting the national development sector, construction services also play a role in supporting the growth and development of various goods and service industries needed in the implementation of construction services and broadly supporting the national economy.

According to some experts, The implementation of construction service work to carry out infrastructure development is based on a construction work contract between the user of the construction service and the executor of the construction service. Construction work contracts are the same as contract principles in general, whether related to the legal terms of the contract/agreement or the binding principle of a contract/agreement for the parties (Suntana, 2017). Article 1 point 8 of Law Number 2 of 2017 concerning Construction Services (starting now referred to as the Construction Services Law) stipulates that a construction work contract is the entire contract document that regulates the legal relationship between the Service User and the Service Provider in the implementation of Construction Services.

Referring to the provisions of Article 1 number 8 in conjunction with Article 47 of the Construction Services Act, construction services work is a legal relationship outlined in the form of a contract with conditions set by law. Thus a construction service agreement drawn up based on a recognized law which includes "The Civil Code (starting now referred to as the Civil Code)" Article 1320 of the Civil Code regarding the terms of the validity of the agreement or the Construction Services Act can apply as a law for parties -parties agree to the agreement (Article 1338 of the Civil Code regarding the binding power of a contract).

Contracts in business activities are an integral part that cannot be separated—the more widespread various businesses that have sprung up, the more developed the types of contracts that exist. The development of contract law today has gone through quite a long process following developments in the world of business and trade (Sogar, 2017). Business activities are always based on related legal aspects. For example, a train can only go to its destination if it is supported by rails that serve as a basis for movement.

It is not excessive if the success of a business process which will be the final goal of the parties, should always pay attention to the contractual aspects which will frame the parties' business activities. Thus, so that the business between the parties goes according to what was agreed upon, it will correlate with the contract structure built by the parties. The contract will protect the business processes of the parties if, first and foremost, the

contract is made legal because it will be the determining process in the next legal relationship (Agus, 2010).

The more a civilization develops, the modernization of life, or the increasing business and relations of business actors, the more opportunities for disputes to occur. For this reason, the need or procedure for resolving these disputes is very much felt, besides that a way is also needed to resolve trade disputes in a fast and inexpensive way, especially one that can maintain the good name and trade interests of the parties to the dispute (Anita, 2013). Conventionally, dispute resolution is usually carried out by the parties through litigation or dispute resolution before the court. In such circumstances, the positions of the disputing parties will contradict one another (Joko, 2006).

Today, the method of resolving disputes through the judiciary has received very sharp criticism from practitioners and legal theorists. The roles and functions of the judiciary are considered to be very burdensome, slow, require a long time, and cost much money, and are considered less responsive because of the public interest, considered too formal and technical (Ajarotoni, 2010).

The substantial efforts of the Supreme Court of the Republic of Indonesia to overcome the slow process of settling cases in court, as well as the application of the principle of simple justice, have been embodied in the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2015 concerning Procedures for Settlement of Simple Claims (starting now referred to as PERMA Simple Claims) and the Supreme Court. Has also arranged mediation integrated into the proceedings in court, with the obligation to take mediation first before entering the stage of examining the main case. This is stated in the Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Courts (after this, referred to as PERMA Mediation). However, this has also not been able to meet the demands of business developments that want a quick and cheap settlement of disputes because the mediation process previously had to go through the formalities of filing a lawsuit and summoning the parties, which required complicated procedures and took a long time.

The dispute resolution process, which takes a long time, can result in the company or the parties in the dispute experiencing uncertainty. The solution method in this way is rarely chosen by business actors and is considered outside the demands of the times. Settlement of business disputes through court institutions only sometimes benefits the parties to the dispute. Especially if the dispute does not go over in a relatively short period, bearing in mind that there are parties with bad intentions who deliberately delay the problems being faced, both in the implementation of pre-dispute settlements as well as in dispute resolution trials so that it can have an impact on losses, for the parties in carrying out their business.

Some experts stated that; The community, especially business people, including the construction service business, prefers dispute resolution outside the court for three reasons, namely First, dispute resolution in court is open, and business people prefer their disputes to be resolved behind closed doors, unnoticed by the public. Second, some people, especially business people, think that judges are only sometimes experts in disputes that arise. Third, settling disputes in court will find which party is wrong and which is right, while the decision to resolve disputes outside the court will be reached through compromise (Erman, 2001).

In addition to resolving disputes through courts, Indonesia is known for resolving disputes using arbitration. Arbitration, commonly known in Indonesia as the Indonesian National Arbitration Board (from now on referred to as BANI) and specifically for construction dispute resolution, is known as the Indonesian Construction Arbitration and Alternative Dispute Resolution Agency (starting now referred to as BADAPSKI). Article 1 point 1 of Law Number 30 of 1999 concerning Arbitration and Dispute Resolution (from now on referred to as the Arbitration Law and APS) defines arbitration, namely the method of settling a civil dispute outside the general Court based on an arbitration agreement that has been made arbitrarily—written by the parties to the dispute.

In arbitration, the parties agree to resolve their dispute with a neutral party they choose to make a decision. Arbitration is a form of private adjudication. The Elucidation of the Arbitration Law and the APS explains that, generally, arbitral institutions have advantages compared to judicial institutions. These advantages include; guaranteed confidentiality of the disputes of the parties, delays caused by procedural and administrative matters can be avoided, and the parties can choose arbitrators who, according to their beliefs, have sufficient knowledge, experience, and background regarding the issues in dispute, are honest and fair, the parties can determine the choice of law to settle the problem as well as the process and venue for arbitration. Arbitral decisions are binding on the parties and can be implemented through simple or direct procedures (procedures).

Even though it has advantages over the Court, the dispute resolution process must go through a request (lawsuit) in advance with its formalities, so it requires quite a long time. Registration fees and arbitration fees must be paid in advance by the parties to the dispute, making the weaknesses of dispute resolution through arbitration. In its development, the construction contract standards issued in 2017 by the Fédération Internationale des Ingénieurs-Conseils (FIDIC) (from now on referred to as FIDIC) have regulated a dispute resolution mechanism in the contract clause, namely through the Dispute Avoidance/Adjudication Board (after this referred to as DAAB) as an alternative dispute resolution for contracting parties.

DAAB is a form of dispute resolution through a dispute board, as referred to in Article 88 Paragraph (5) of the Construction Services Law. The dispute board is established in the clauses of the construction contract and before the occurrence of a dispute. DAAB is appointed as the party authorized to resolve disputes in case of a dispute between the contracting parties. DAAB is a form of development of dispute resolution in the framework of realizing the idealism of dispute resolution as contained in Article 2 paragraph (4) of Law no. 48 of 2009 concerning Judicial Power (after this referred to as the Judicial Law), namely the settlement of disputes that are simple, fast and low cost.

Dispute resolution by adjudication is not commonly practiced in countries with a continental European legal system, including Indonesia. The settlement of construction disputes through adjudication was introduced in England in 1998. The purpose of this adjudication is to prepare one of the parties to a construction agreement to be able to summon (appoint) an adjudicator. An adjudicator will make a binding decision within 28 days, and the Court must be prepared to enforce that decision (enforce).

Based on the description above, it is urgent and interesting to conduct a study entitled a juridical review of construction work contract disputes in Indonesia, considering that the study is similar to the study entitled "defaults in construc-

tion work contracts which result in state losses based on law number 2 of 2017 concerning construction services" (Kamaluddin, 2021). default in construction work contracts resulting in state losses based on law 2 of 2017 concerning construction services. Journal of law (journal of science journal), 6(2), 365-370, and a study entitled "construction contract dispute resolution based on law number 2 of 2017 concerning construction services" Chandra, a. i. (2021). settlement of construction contract disputes based on law 2 of 2017 concerning construction services. inrichting Recht: vehicle for legal discourse, 3(2). as well as a study entitled "construction dispute resolution mechanisms according to law number 2 of 2017 concerning construction services" priyambodo, m. a. (2021). construction dispute resolution mechanism according to law number 2 of 2017 concerning construction services. iblam law review, 1(3), 173-177. Has not specifically reviewed and analyzed the settlement of construction work contract disputes in law number 2 of 2017 concerning construction services. as well as a comparison of the settlement of construction work contract disputes through adjudication and arbitration, in order to obtain understanding and input in order to resolve construction work contract disputes in Indonesia so that the desired justice can be fulfilled namely simple, fast and low cost.

2. Methods

This research is juridical-normative law research. Data collection techniques in this study used literature and document or archive studies, namely by collecting data related to the research that needs to be studied, in addition to various books and other supporting legal materials. The analysis technique used was descriptive qualitative data.

3. Result and Discussion

3.1 Settlement of Construction Work Contract Disputes in Law Number 2 of 2017 concerning Construction Services

Most of the settlement of disputes related to construction work contracts used to be resolved through court proceedings with judges who were not construction experts. Therefore, many of the results of these decisions were considered not to provide justice for the parties in dispute. In order to obtain a clearer general picture, the author will try to compare the construction dispute settlement process from Law Number 18 of 1999 concerning Construction Services (after this referred to as the Old Construction Services Law) with Law Number 2 of 2017 concerning Construction Services (after this referred to as the New Construction Services Law).

When viewed in general, the two laws have mandated a different philosophy or spirit and mechanism for dispute resolution. Where there is the Old Construction Services Law, two alternative dispute resolution efforts are given in Article 36 point (1), which is stated by "Construction service dispute resolution can be reached through court or out of court based on voluntary choices for the parties to the dispute." In this article, the mention of the word "or" emphasizes an alternative mechanism, meaning that the two parties to the dispute cannot choose to continue legal action against the litigation institution if they are not satisfied with the decision given by the non-litigation institution that has been chosen by the parties, voluntarily from the start. Conversely, the parties are only allowed to proceed to legal action against a non-litigation institution if they are satisfied with the decision of the litigation institution.

Regrettably, this concept has gone astray with the existence of Article 36 point (3) of the Old Construction Services Law, where the article provides an opportunity for aggrieved parties to be able to continue legal efforts to settle disputes in a tiered manner, wherein the article stated that "If an out-of-court dispute resolution attempt is chosen, a lawsuit through a court can only be pursued if the said attempt is declared unsuccessful by one or the parties to the dispute."

The possibility of legal action in court against decisions made by non-litigation institutions can cause these institutions to lose their "fangs." The resulting decision is not final and binding. Litigation institutions can be interpreted as institutions with a higher position than these non-litigation institutions. With this pattern, the construction contract dispute resolution mechanism is more than just alternative.

The dominant mechanism leading to litigation indirectly shows the philosophy (spirit) carried out in the Old Construction Services Law. In the end, construction disputes lead to the concept of a "win-lose solution." The philosophy of a "win-win solution," which is the hallmark of non-litigation institutions/institutions, is rarely achieved because the Old Construction Services Law opens gaps in tiered dispute resolution to litigation institutions. With this pattern, legal efforts to resolve construction disputes can culminate in the highest court, namely the Supreme Court.

Finally, these weaknesses were corrected in the new Construction Services Law, and construction dispute resolution was directed to a non-litigation mechanism. This is evidenced by the absence of the word "court" as a rule in the Article, which specifically regulates the settlement of construction disputes. There was even a statement that the new Construction Services Law did not provide room for dispute resolution or disputes through court or litigation.

However, after further tracing, the word "court" is found in Article 47 paragraph (1) letter h of the new Construction Services Law wherein the Article states, "Construction Work Contracts must at least include a description of:.... (h) settlement disputes, contains provisions regarding procedures for resolving disputes due to disagreements;" Furthermore, in the elucidation of Article 47 paragraph (1) letter (h) it is stated as follows: ".....Dispute resolution is pursued through among others deliberations, mediation, arbitration, or courts."

These findings, of course, can cause problems in the form of legal uncertainty. Some opinions even state that "dispute" has the same meaning as "dispute." Even though it is not listed in the body, legal efforts to resolve construction disputes through court or litigation are still listed in the new Construction Services Law.

Regarding the opinion mentioned above, the writer has a different opinion, in which the writer ignores grammatical interpretation and still chooses to focus on the explanatory function of Law. When viewed through Law Number 15 of 2019 concerning Formation of Legislation, the word "court" should not impact the dispute resolution rules listed in the body.

In essence, the explanation functions as an official interpretation of certain norms in the body. Therefore, explanations only contain descriptions of words, phrases, sentences, or foreign equivalents/terms in norms that examples can accompany. Explanation as a means to clarify the norms in the body should not result in unclearness of the norms in question. Thus, explanations cannot be used as a legal basis for further regulations and may not include formulations containing norms.

Thus, the settlement of construction disputes in the new Construction Services Law is still on the right track. Construction dispute resolution is directed outside the court (non-litigation) to achieve a "win-win solution." The new Construction Services Law contains an article that authorizes the Government to encourage the use of Alternative Dispute Resolution (alternative dispute resolution) to provide construction services outside of court (non-Litigation).

However, construction services business activities in Indonesia must be avoided the "litigious-minded" concept of dispute resolution typical of Western society. That is why "deliberation to reach consensus" is the first step in the construction dispute resolution mechanism. If the deliberations do not reach a consensus, the new parties turn to efforts to resolve disputes in the construction work contract (Susanti, 2015).

If one looks closely, the Law stipulates in a limited manner the efforts to settle disputes included in the Construction Work Contract. These efforts only include mediation, conciliation, and arbitration. The word "and" is interpreted as a tiered dispute resolution mechanism, not an alternative option. This means the parties can only directly choose an arbitration institution if the deliberations are successful. Arbitration can only be carried out if the construction dispute cannot be resolved through deliberation, mediation, and conciliation.

Another change that can be observed is the addition of 'third party' services in the new Construction Services Law. Previously, the old Construction Services Law stipulated that out-of-court (non-litigation) dispute resolution could use the services of third parties, which included: arbitrator services at national or international arbitration or ad-hoc arbitration institutions, mediator services at mediation institutions, conciliator services in conciliation institutions and expert appraiser services.

To complement this 'third party' variation, a Dispute Board (Dispute Board) is also present in the new Construction Services Law. The law states that the Dispute Board is a team formed based on the agreement of the parties since the binding of the Construction Services to prevent and mediate disputes that occur in the implementation of construction work contracts. Regardless of the professionalism aspect, the author believes that the Dispute Board has more advantages. The Dispute Board was intentionally formed from the start of the binding of construction services long before a dispute/dispute arose. On the other hand, the services of arbitrators, mediators, and conciliators are needed only after construction disputes arise. Thus, the Construction Council should better understand the characteristics of disputes because they have taken part in "supervising" the implementation of a construction work contract.

3.2 Comparison of Construction Work Contract Dispute Resolution Through Adjudication and Arbitration.

The Financial Services Authority (OJK) adopted dispute resolution through judication in Indonesia to resolve disputes in the financial sector. In countries that adhere to the common law legal system, adjudication is often used to resolve construction disputes. Adjudication in the Indonesian Banking Dispute Resolution Alternative Institution provides the following meanings; adjudication is a way of resolving disputes outside of Arbitration and the general court, which the Adjudicator carries out to produce a decision that can be accepted by the applicant so that with this acceptance the decision is intended to be binding on the parties. In general, conflicts between two

parties that have problems are resolved out of court, while other settlement methods outside the court are commonly known as Arbitration.

The settlement of disputes by adjudication is a complex and complicated dispute. Not everyone can complete it, so special professional skills are needed. For example, not everyone can carry out a settlement in construction service disputes, and professional engineering experts are needed. So far, construction disputes often arise and tend to resolve existing disputes, the results of which still need to be more optimal for the parties to the dispute. So far, they have chosen general court forums and partly arbitration forums.

Issues of cost and time, as well as long dispute resolution, are still obstacles. Therefore, another alternative is developed in dispute resolution, namely adjudication. Practices in countries such as the UK, New Zealand, Australia, Singapore, and Malaysia already have rules and undergo alternative dispute resolution through adjudication, which is very useful for national economic development in their respective countries.

Adjudication in the construction industry is a legal process in which an adjudicator is appointed to settle disputes between the disputing parties. In contrast to negotiations, conciliation, and mediation, where decisions are not legally binding, an adjudicator's decision results are binding. The main purpose of adjudication is to save time and money compared to resolving disputes through court institutions.

In the FIDIC Red Book 1999, adjudication is a recommended alternative to dispute resolution. The adjudication process is carried out by forming a dispute adjudication board. Unlike arbitration, in practice, adjudication does not require termination of work. Thus the adjudication process is considered more effective because it does not hinder the implementation of work in the field (Seng Hansen, 2005). Adjudication is a way of resolving disputes outside of arbitration and the General Court, which the adjudicator carries out to produce a decision acceptable to the Petitioner so that with this acceptance, the decision is binding on the Respondent.

Adjudication is used as an alternative dispute resolution mechanism similar to arbitration. Therefore, adjudication is an arbitration mechanism that is simplified and then adjusted in such a way as to meet the needs of retail dispute resolution and little value. This will only be efficient if it is resolved through arbitration and a general court. The adjudication process is very simple. If a dispute arises, the parties concerned make the following stages; First, the parties make a settlement agreement through adjudication. Second, based on this agreement, they appoint a truly professional adjudicator (or request that the dispute resolution institution appoint/appoint an adjudicator to handle their dispute). Third, In the agreement, both parties give authority to the adjudicator to make binding decisions on both parties (binding to each party). Fourth, before deciding, the adjudicator can request information from both parties separately and together (Nazarkhan, 2004).

The dispute resolution mechanism through adjudication needs to be understood fundamentally by Construction Adjudicators, Service Users, and Service Providers. The parties carrying out development work are no longer afraid of disputes arising because both parties already believe that the adjudication system can resolve these problems. As a material for comparison, it is necessary to state the latest developments in the international world regarding the significant growth of adjudication as a fast procedure in dispute resolution for a construction and engineering (engineering) dispute.

As is known, adjudication was introduced in the UK in 1998 based on the law. The purpose of this adjudication is to prepare for one of the parties making a construction service agreement to be able to summon (appoint) an adjudicator. An adjudicator will make a binding decision not later than 28 days, and the Court must be prepared to enforce that decision (enforce).

Apart from England, other countries that have also established similar adjudication procedures are New Zealand, Australia, and Singapore. In comparison, Malaysia is the last country to establish adjudication procedures. The Construction Industry Payments and Adjudication Act 2012 was approved by the Kingdom of Malaysia on 18 June 2012. The procedures in place are for construction contracts and the appointment of an adjudicator by the Kuala Lumpur Regional Center for Arbitration (KLRCA). The adjudicator has 45 working days after publishing the answer (reply) to the claim, after which the adjudicator can issue (make) a written decision.

This Malaysian Act 2012 (CIPAA 2012) requires the parties initially to follow the payment mechanism set out in their construction contracts. If one party remains unpaid, then the pre-trial procedure can be used. This requires a claim for payment based on unpaid claims on the construction contract. The party complained against can then admit the claim or dispute it in whole or part only within ten days from when the claim arose. A dispute that has existed since the claim was made may be referred to adjudication.

Adjudication in the construction industry is a legal process in which an adjudicator is appointed to resolve disputes between disputing parties. In contrast to negotiations, conciliation, and mediation, where decisions are not legally binding, an adjudicator's decision results are binding. The main purpose of adjudication is to save time and money compared to resolving disputes through court institutions. The adjudication process is carried out by establishing a dispute adjudication board or sole adjudicator. Unlike arbitration, in practice, adjudication does not require termination of work. Thus the adjudication process is considered more effective because it does not hinder the implementation of work in the field.

The dispute resolution mechanism through adjudication is very simple. If there is a dispute, then the parties will take steps that are regulated in the 2012 Construction Industry Payment and Adjudication Act (CIPAA), namely: (a) the parties make a settlement agreement through adjudication Malaysia does not need another agreement because there is already an Adjudication Act Construction; (b) based on this agreement, they appoint a truly professional adjudicator, (or request that the dispute resolution institution appoint/ appoint an adjudicator to handle their dispute); (c) in the agreement, both parties give authority to the adjudicator to make decisions that are binding on both parties (binding to each party); and (d) before making a decision, the adjudicator may request information from both parties, either separately or together. The dispute resolution mechanism through adjudication needs to be understood fundamentally by Construction Adjudicators, Service Users, and Service Providers. The parties carrying out development work are no longer afraid of disputes arising because both parties already believe that the adjudication system can resolve these problems.

Thus, adjudication is a way of resolving disputes outside of arbitration and the general court, which the adjudicator carries out to produce a decision that can be accepted by the Petitioner so that with this acceptance, the decision is binding on the Respondent. Adjudication is an alternative dispute resolution mechanism with characteristics

similar to arbitration. So it can be said that adjudication is an arbitration mechanism that is simplified and then adjusted in such a way as to meet the needs of retail dispute resolution and little value; this will be very inefficient if it is resolved through arbitration, let alone through a general court. Even though adjudication looks almost the same as arbitration, some call it a mini-arbitration.

The similarities between arbitration and adjudication include: that the legal process is based on legislation based on justice—selection of a third party, namely arbitration or adjudication with the parties' agreement. If an agreement fails to be reached, another institution is appointed to complete it. An independent/free third party decides the resolution or settlement. This third party's decision can be filed for annulment to a higher court and enforced by the court. The next equation is that both arbitration and adjudication may use a lawyer or not use a lawyer.

The great differences between arbitration and adjudication are seen from the purpose of arbitration is to end/seek dispute resolution, while adjudication is to manage disputes and maintain cash flow. Meanwhile, the arbitration process has formal procedures and is relatively slow, while the adjudication process is informal, concise, and relatively fast. The arbitration process is generally hostile to each other, but its fairness is considered good, while the form of adjudication is inquisitorial or mutually hostile. Fairness in adjudication is considered to be harsh. Regarding the cost of arbitration, it is generally more expensive than adjudication, which is relatively inexpensive.

Although construction adjudication is generally favored in developed countries, Singapore, Malaysia, and Australia in particular, adjudication has drawbacks. The advantages of adjudication include: it is not just a resolution process but the management of disputes before they become serious; it can resolve quickly when disputes arise, do not have to finish the job first, maintain cash flow; relatively fast, easy and effective; and involve expert opinions that are free of interest, except in terms of maintaining cash flow. Meanwhile, the disadvantages of adjudication include large companies having to maintain a large adjudication organization, and professionals will more frequently face claims for negligence or default duties (Zsa Zsa, 2020).

Related to the adjudicator's authority, the adjudicator can make procedures for adjudication and orders to disclose, prepare documents, and set a deadline for the process. The adjudicator can use all his knowledge and expertise in examining and deciding the dispute and may appoint an independent expert for his opinion (but only with the parties' agreement). The adjudicator may also present sworn witnesses. Authority to examine and revise certificates (deeds) and other documents that have been expressly stipulated. In addition, an adjudicator may also charge fees and interest. The parties can agree on the adjudicator's terms and the amount of money paid. However, if they fail to agree, the standard requirements for the appointment method and the payment amount will use a standard that will be applied later. This is contained in the Indonesian Banking Dispute Resolution Alternative Agency Regulation Number: 02/LAPSPI-PER/2017 concerning Adjudication Regulations and Procedures.

The parties jointly and jointly bear this responsibility: many similarities and ways with other laws around the world. However, for the protection of the obligations of the parties to the adjudicator, a deposit can be requested in advance. An adjudicator has certain rights under the law, making it only possible to issue a decision once payment rights are satisfied. Conception must stipulate that an adjudicator's decision is confidential.

This novelty includes specifics regarding confidentiality provisions intended to anticipate fundamental issues that are often overlooked, namely the immunity of an adjudicator. Therefore, no effort or lawsuit can be filed against the adjudicator for any acts and omissions committed in good faith.

Adjudication decisions are binding unless rejected when appealed to the High Court and must finally be decided or subject to a settlement agreed to by both parties. The proposed conception also specifically contains the implementation method for an adjudication decision. Either party may request the implementation of an adjudication decision by appealing to the high court. Furthermore, the provisions on limited payments require temporary payments (intervals) to be made in connection with the construction contract. If the method of payment is not specified specifically, then payments are made every month.

4. Conclusion

Based on the description in the Discussion section, it is concluded that the new Construction Services Law only stipulates one mechanism, namely non-litigation dispute resolution. Even in Construction Work Contracts, there needs to be more space to make efforts to resolve disputes through court institutions. Thus, the philosophy (spirit) carried is the concept of a "win-win solution."

The stages of dispute resolution efforts include Mediation, Conciliation, and Arbitration. In the implementation of Mediation, Conciliation, and Arbitration, you can refer to Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Adjudication is used for alternative dispute resolution mechanisms whose characteristics are similar to arbitration. So adjudication is an arbitration mechanism that is simplified and then adjusted in such a way as to meet the needs of fair dispute resolution. The advantage of adjudication is not only a dispute settlement procedure but also a means of managing disputes before they become serious. This allows for a quick resolution when a dispute arises, not when work has been stopped/finished. Therefore, it allows work to run without a hitch, and cash flow is maintained.

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