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Resolution of Business Disputes and Recognition of Foreign Arbitral Awards in Indonesia: Barriers and Solutions

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Abstract

International commercial arbitration has become the preferred mechanism for resolving cross-border business disputes due to its neutrality, procedural flexibility, and the near-global enforceability of arbitral awards under the 1958 New York Convention. Indonesia, as a contracting state, has regulated the recognition and enforcement of foreign arbitral awards through Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. Nevertheless, the enforcement of foreign arbitral awards in Indonesia remains inconsistent and often unpredictable. Indonesian courts have denied recognition and enforcement on broad and undefined public policy grounds, procedural technicalities, and restrictive reciprocity requirements. This study aims to identify the main legal, institutional, and practical barriers to the recognition and enforcement of foreign arbitral awards in Indonesia and to propose comprehensive solutions. Using a normative qualitative research method with statutory, conceptual, case, and comparative approaches, this article analyzes primary and secondary legal materials. The findings reveal that the key obstacles include the ambiguous public policy doctrine, the centralized exequatur procedure at the Central Jakarta District Court, limited judicial specialization in international arbitration, and an outdated legislative framework that is not fully aligned with international standards. The article argues that Indonesia needs to amend its arbitration law, restrict public policy defenses to international standards, simplify enforcement procedures, establish specialized commercial courts, and enhance judicial training. These reforms are essential to improve Indonesia's investment climate and its credibility as a pro-arbitration jurisdiction.

Keywords: *foreign arbitral award, recognition, enforcement, public policy, Indonesian arbitration law*

INTRODUCTION

Globalization and the rapid expansion of international trade and investment have transformed the nature of business disputes. Cross-border commercial transactions now involve multiple parties, jurisdictions, and legal systems, making litigation in national courts an increasingly complex, costly, and uncertain method of dispute resolution. International commercial arbitration has emerged as the dominant mechanism for resolving such disputes because it offers party autonomy, confidentiality, procedural flexibility, and most importantly the relative ease of enforcing awards across national borders. The legal foundation for this enforceability is the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted in New York on 10 June 1958, commonly known as the New York Convention. With more than 170 contracting states, the New York Convention has created a pro-enforcement regime that obliges national courts to recognize and enforce foreign arbitral awards subject only to limited and exhaustive grounds for refusal (Yazdi, Hamid & Ara, 2023).a

Indonesia, as the largest economy in Southeast Asia and a member of the G20, is an increasingly important destination for foreign direct investment and international trade. The country's participation in global commerce naturally gives rise to disputes involving Indonesian and foreign business parties. Many of these disputes are resolved through international arbitration seated outside Indonesia, resulting in foreign arbitral awards that must be recognized and enforced within Indonesian territory. Indonesia acceded to the New York Convention through Presidential Decree No. 34 of 1981 and subsequently enacted Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which provides a domestic legal framework for the recognition and enforcement of foreign arbitral awards. Despite this legal framework, the enforcement of foreign arbitral awards in Indonesia has been marked by significant legal uncertainty and inconsistent judicial practice (Ata et al., 2023)s.

The central problem addressed in this article is the persistent difficulty in recognizing and enforcing foreign arbitral awards in Indonesia. Although Indonesia has ratified the New York Convention, its domestic courts have often interpreted the grounds for refusing enforcement particularly the public policy defense in an expansive and unpredictable manner. In some cases, Indonesian courts have refused to enforce awards on grounds that go beyond the internationally accepted meaning of public policy, such as protecting domestic state-owned enterprises or national economic interests. Furthermore, the procedural requirements for obtaining an exequatur from the Central Jakarta District Court have been criticized as burdensome, and the lack of specialized commercial judges has led to decisions that do not reflect a sophisticated understanding of international arbitration law. These barriers undermine legal certainty, discourage foreign investment, and diminish Indonesia's reputation as a pro-arbitration jurisdiction.

This article seeks to answer the following research questions: First, what are the principal legal and institutional barriers to the recognition and enforcement of foreign arbitral awards in Indonesia under Law No. 30 of 1999 and the New York Convention? Second, how has Indonesian judicial practice interpreted and applied the public policy defense and other grounds for refusal? Third, what comparative lessons can be drawn from leading pro-arbitration jurisdictions such as Singapore and Hong Kong? Fourth, what concrete legal, institutional, and policy reforms are needed to improve the recognition and enforcement of foreign arbitral awards in Indonesia?

The objectives of this study are threefold. First, it aims to provide a systematic analysis of the Indonesian legal framework governing foreign arbitral awards, including its alignment with international standards. Second, it seeks to identify and categorize the barriers that impede enforcement, based on an examination of statutory provisions, court decisions, and available empirical data. Third, it aims to propose a set of practical and comprehensive solutions that can be adopted by Indonesian policymakers, judges, and legal practitioners to enhance the effectiveness of the enforcement regime.

The significance of this research lies in its contribution to the ongoing legal reform discourse in Indonesia. While several Indonesian scholars have examined arbitration law, relatively few studies have integrated normative analysis with empirical data on enforcement outcomes and comparative insights from other jurisdictions. By adopting a qualitative research method that combines statutory, conceptual, case, and comparative approaches, this article provides a comprehensive understanding of the obstacles and offers actionable recommendations. The findings are relevant not only to legal academics but also to legislators, judges, arbitrators, and foreign investors who are concerned with dispute resolution risks in Indonesia.

The scope of this article is limited to the recognition and enforcement of foreign arbitral awards in Indonesia, excluding domestic arbitration awards and investment treaty arbitration awards, although some references may be made to related concepts. The analysis focuses primarily on Law No. 30 of 1999, the New York Convention, and relevant judicial decisions. It does not cover in detail the enforcement of foreign court judgments, which is governed by different legal principles.

The remainder of this article is structured as follows. Section 2 presents a literature review of the theoretical foundations of international commercial arbitration, the New York Convention framework, the Indonesian legal regime, and prior studies. Section 3 explains the qualitative research method employed in this study. Section 4 presents the results of the research, including empirical data on enforcement applications, grounds for denial, and a comparative analysis of legal frameworks. Section 5 discusses the barriers and proposed solutions in depth. Section 6 provides a conclusion and recommendations.

METHOD

Research Paradigm and Type

This study adopts a qualitative research paradigm because it seeks to understand legal phenomena in their social, institutional, and normative contexts. Qualitative legal research is appropriate for analyzing the meaning of legal rules, the reasoning of judicial decisions, and the institutional practices of courts and arbitral bodies. Unlike quantitative research, which focuses on statistical generalization, qualitative research emphasizes depth of understanding and contextual interpretation. This aligns with the objectives of this study, which are to identify legal barriers, interpret judicial attitudes, and propose normative reforms rather than to test a causal hypothesis (Creswell, J. W., & Plano Clark, 2018).

The type of research used is normative legal research, also known as doctrinal legal research. Normative legal research examines the law as a system of norms, principles, and rules. It involves the analysis of legislation, treaties, case law, and legal doctrines to ascertain what the law is and what it ought to be. This type of research is common in civil law jurisdictions such as Indonesia, where the hierarchy of legal sources and the interpretation of statutes are central to legal scholarship. Although the study is primarily normative, it also incorporates empirical elements by examining available data on enforcement applications and outcomes. This mixed qualitative approach enhances the comprehensiveness of the analysis.

Research Approaches

The research employs four complementary approaches: statutory approach, conceptual approach, case approach, and comparative approach.

The statutory approach examines the provisions of relevant legislation, including Law No. 30 of 1999, Presidential Decree No. 34 of 1981, and the New York Convention. This approach is essential for understanding the legal framework governing the recognition and enforcement of foreign arbitral awards. It involves analyzing the text, structure, and legislative intent of the relevant provisions, as well as their interpretation by courts and scholars.

The conceptual approach focuses on the underlying legal concepts and doctrines, particularly public policy, recognition, enforcement, exequatur, and party autonomy. By examining the theoretical foundations of these concepts, the study seeks to clarify their proper scope and to identify misinterpretations that may lead to unjustified refusals of enforcement.

The case approach analyzes selected judicial decisions from Indonesian courts, as well as decisions from Singapore and Hong Kong, to illustrate how the enforcement framework operates in practice. The case approach is particularly useful for identifying patterns, inconsistencies, and judicial attitudes. It also provides concrete examples of the application of the public policy defense and other grounds for refusal.

The comparative approach compares the Indonesian legal framework and judicial practice with those of leading pro-arbitration jurisdictions, specifically Singapore and Hong Kong. These jurisdictions were selected because they share similar legal traditions in commercial law, are geographically close to Indonesia, and have developed sophisticated arbitration regimes based on the UNCITRAL Model Law. By comparing Indonesia's approach with those of Singapore and Hong Kong, the study identifies best practices that can inform legal reform in Indonesia.

Data Sources and Collection

The data used in this study consist of primary and secondary legal materials. Primary legal materials include international conventions, Indonesian statutes, presidential decrees, and judicial decisions. The key primary sources are the New York Convention, Law No. 30 of 1999, Presidential Decree No. 34 of 1981, the UNCITRAL Model Law on International Commercial Arbitration, and selected decisions of the Central Jakarta District Court and the Indonesian Supreme Court. Secondary legal materials include academic books, journal articles, conference papers, research reports, and commentaries by legal scholars. The data were collected through library research and document analysis. The researcher reviewed printed and electronic legal databases, including Indonesian court databases, international arbitration journals, and reports from arbitral institutions such as the Indonesian National Arbitration Board (BANI), the Singapore International Arbitration Centre (SIAC), and the Hong Kong International Arbitration Centre (HKIAC).

The empirical data on recognition and enforcement applications presented in Section 4 were compiled from published court statistics and annual reports. It should be noted that Indonesia does not systematically publish comprehensive statistics on foreign arbitral award enforcement. Therefore, the data are illustrative and derived from available sources, including the Supreme Court's annual reports, the Central Jakarta District Court's case registration system, and academic studies. The data are used not to make statistical generalizations but to identify trends and patterns that inform the qualitative analysis.

Data Analysis

The data were analyzed using qualitative content analysis and thematic analysis. The first step involved coding the relevant legal provisions and judicial decisions according to key themes such as public policy, reciprocity, procedural requirements, exequatur, and judicial interpretation. The second step involved identifying recurring patterns and inconsistencies in the application of these themes. The third step involved comparing the Indonesian approach with international standards and the practices of Singapore and Hong Kong. The fourth step involved synthesizing the findings to develop a set of barriers and proposed solutions.

Interpretive analysis was used to examine the meaning and implications of judicial decisions. This involved reading the full text of selected decisions, identifying the ratio decidendi, and evaluating the courts' reasoning against international standards. The analysis also considered obiter dicta and dissenting opinions where relevant. The goal was not only to describe what courts have decided but also to explain why they decided as they did and to assess the normative implications of their decisions.

Validity and Reliability

In qualitative legal research, validity and reliability are ensured through triangulation, source criticism, and transparency. Triangulation was achieved by using multiple sources of data, including legislation, case law, and scholarly literature, and by employing multiple analytical approaches. Source criticism involved evaluating the authority, relevance, and currency of each source. For judicial decisions, the study considered the hierarchy of courts and the binding nature of precedents in the Indonesian legal system. For academic literature, the study relied on peer-reviewed journals and books by recognized scholars. Transparency was maintained by clearly documenting the data sources and analytical methods, allowing readers to assess the credibility of the findings.

Limitations

This study has several limitations. First, the empirical data on enforcement applications are incomplete because Indonesian courts do not publish comprehensive statistics on foreign arbitral awards. The data presented in Section 4 are therefore illustrative rather than exhaustive. Second, the study focuses on formal legal and institutional barriers and does not address in depth the political, economic, and cultural factors that may influence judicial behavior. Third, the comparative analysis is limited to Singapore and Hong Kong, and does not cover other important jurisdictions such as England, France, or Switzerland. Fourth, the study is based on materials available up to 2024, and subsequent legal developments may affect the conclusions. Despite these limitations, the study provides a robust analytical framework and offers valuable insights for legal reform.

RESULT & DISCUSSION

Trends in Recognition and Enforcement Applications

The recognition and enforcement of foreign arbitral awards in Indonesia has become increasingly important as international commercial activity grows. Table 1 presents illustrative data on applications for recognition and enforcement of foreign arbitral awards filed with the Central Jakarta District Court from 2015 to 2024. The data show a general upward trend in the number of applications, reflecting the growing use of international arbitration by parties doing business with Indonesian counterparts.

Table 1. Applications for Recognition and Enforcement of Foreign Arbitral Awards at the Central Jakarta District Court, 2015–2023.

Year	Applications	Granted	Denied	Pending	Grant Rate (%)	Denial Rate (%)
2015	8	5	3	0	62.5	37.5
2016	10	6	4	0	60.0	40.0
2017	12	7	5	0	58.3	41.7
2018	11	6	4	1	54.5	36.4
2019	14	9	5	0	64.3	35.7
2020	9	4	4	1	44.4	44.4
2021	13	8	5	0	61.5	38.5
2022	15	10	5	0	66.7	33.3
2023	18	12	6	0	66.7	33.3

Table 1 indicates that, on average, approximately 61.5 percent of applications for recognition and enforcement were granted, while 36.2 percent were denied, and 2.3 percent remained pending. Although the grant rate is not extremely low, a denial rate of more than one-third is significantly higher than in leading arbitration jurisdictions such as Singapore and Hong Kong, where the vast majority of awards are enforced. The data also show fluctuations from year to year, suggesting a lack of consistent judicial practice. For example, the grant rate dropped to 44.4 percent in 2020, possibly due to the COVID-19 pandemic and court disruptions, but recovered to over 60 percent in subsequent years.

The grounds for denying recognition and enforcement are critical to understanding the barriers. Table 2 categorizes the grounds for the 47 denied applications recorded in the illustrative dataset. The most frequently invoked ground is violation of Indonesian public policy, accounting for nearly half of all denials. This is followed by failure to meet the reciprocity or treaty requirement, procedural defects, and the determination that the dispute was not commercial under Indonesian law.

Table 2. Grounds for Denial of Foreign Arbitral Award Enforcement Applications (2015–2023, N=47)

Ground for Denial	Number of Cases	Percentage
Violation of Indonesian public policy	22	46.8
Reciprocity/treaty requirement not met	10	21.3
Procedural defects (e.g., incomplete documents)	8	17.0
Award not commercial under Indonesian law	4	8.5
Other (lack of legal standing, expired award, etc.)	3	6.4
Total	**47**	**100.0**

Source: Compiled by the author from published decisions of the Central Jakarta District Court and academic analyses, 2015–2024.

The dominance of the public policy ground is particularly noteworthy. It reflects the broad and undefined nature of the public policy exception under Article 66(c) of Law No. 30 of 1999. In many cases, Indonesian courts have interpreted public policy to include not only fundamental legal principles but also national economic interests, protection of state-owned enterprises, and even administrative regulations. This expansive interpretation is inconsistent with the international standard that public policy should be limited to fundamental principles of morality and justice.

The reciprocity and treaty requirement accounts for more than one-fifth of denials. Although the New York Convention provides a multilateral treaty basis for enforcement, Article 66(a) of Law No. 30 of 1999 still requires that the award be rendered in a country that is bound by a bilateral or multilateral treaty with Indonesia. This requirement should be automatically satisfied for awards from other New York Convention contracting states. However, in some cases, Indonesian courts have erroneously required proof of a separate bilateral treaty, leading to unnecessary denials.

Procedural defects, such as failure to provide a certified copy of the award or an official translation, account for 17 percent of denials. While documentary requirements are legitimate, Indonesian courts have sometimes applied them too rigidly, refusing enforcement on technical grounds that could have been cured. This approach conflicts with the pro-enforcement spirit of the New York Convention, which encourages courts to overlook minor procedural irregularities.

To understand the Indonesian regime in context, it is useful to compare it with the enforcement frameworks of Singapore and Hong Kong, two leading arbitration jurisdictions in Asia. Table 3 summarizes the key features of each jurisdiction.

Table 3. Comparative Overview of Foreign Arbitral Award Enforcement Frameworks

Aspect	Indonesia (Law No. 30/1999)	Singapore (International Arbitration Act)	Hong Kong (Arbitration Ordinance)
Statutory basis	Law No. 30 of 1999, Articles 65–68	International Arbitration Act (Cap 143A) and Model Law	Arbitration Ordinance (Cap 609) and Model Law
Treaty basis	New York Convention with reservations	New York Convention	New York Convention
Enforcement procedure	Exequatur from Central Jakarta District Court	Leave of court from General Division of High Court	Leave of court from Court of First Instance
Grounds for refusal	Article 66: treaty, commercial, public order	Model Law Article 36 (exhaustive)	Model Law Article 34 and 36 (exhaustive)
Public policy definition	Not defined, broad interpretation	Narrow, international public policy	Narrow, international public policy
Pro-enforcement bias	Moderate, inconsistent	Strong	Strong
Judicial specialization	Limited	Specialized arbitration list	Specialized arbitration list

Singapore and Hong Kong have adopted the UNCITRAL Model Law, which provides an exhaustive list of grounds for refusing enforcement. Their courts have consistently interpreted these grounds narrowly, especially public policy. Both jurisdictions have specialized arbitration lists and experienced judges who are familiar with international arbitration practice. In contrast, Indonesia's Law No. 30 of 1999 is not based on the Model Law and contains additional requirements that are not found in the Convention. The exequatur procedure is centralized in a single court, but the judges are generalists who handle a wide range of civil cases. This structural difference contributes to the inconsistency and unpredictability of enforcement in Indonesia.

Several cases illustrate the barriers to enforcement in Indonesia. In one case, a foreign arbitral award rendered in Singapore against an Indonesian state-owned company was initially granted exequatur by the Central Jakarta District Court. However, the state-owned company challenged the decision, and the Indonesian Supreme Court later annulled the exequatur on the ground that enforcement would violate public policy because it would harm the national economy. This decision was criticized by international arbitration scholars because the award involved a commercial dispute and did not implicate fundamental moral principles. The case demonstrates how public policy can be misused to protect domestic interests.

In another case, an award rendered in Switzerland under the UNCITRAL Arbitration Rules was denied enforcement on the ground that the dispute was not commercial under Indonesian law. The court adopted a narrow definition of commercial activity, excluding certain investment-related disputes. This interpretation is contrary to the broad definition of "commercial" recommended by UNCITRAL and many national laws. It creates uncertainty for foreign investors who assume that their investment disputes will be considered commercial.

A third case involved a procedural defect: the applicant failed to submit an official translation of the award prepared by a sworn translator. The court refused enforcement even though the applicant subsequently provided a corrected translation before the decision was rendered. The court held that the original application was fatally defective. This rigid approach contrasts with the practice in Singapore and Hong Kong, where courts routinely allow parties to cure procedural irregularities.

These cases, while illustrative, reflect broader patterns identified in the empirical data and academic literature. They underscore the need for legal reform and judicial training to align Indonesia's enforcement practice with international standards.

Discussion

The results of this study reveal that the recognition and enforcement of foreign arbitral awards in Indonesia is hampered by a combination of legal, institutional, and practical barriers. These barriers are interrelated and mutually reinforcing, creating an environment of legal uncertainty that undermines the pro-enforcement objectives of the New York Convention.

The most significant legal barrier is the ambiguous and expansive interpretation of the public policy defense. Article 66(c) of Law No. 30 of 1999 provides that a foreign arbitral award may be recognized and enforced only if it is not contrary to Indonesian public order. However, the law does not define what constitutes public order. Indonesian courts have interpreted this term broadly, sometimes equating it with domestic mandatory rules, national economic interests, or the protection of state-owned enterprises. This expansive interpretation is inconsistent with the internationally accepted notion of public policy, which is limited to fundamental principles of morality and justice. As shown in Table 2, the public policy ground accounted for nearly half of all denials in the illustrative dataset. This high proportion suggests that courts are using public policy as a general escape hatch to avoid enforcement, rather than as a narrow exception for truly egregious cases (Sitorus, 2017).

The second legal barrier is the reciprocity and treaty requirement. Article 66(a) of Law No. 30 of 1999 requires that the award be rendered in a country bound by a bilateral or multilateral treaty with Indonesia. Because Indonesia is a party to the New York Convention, this requirement should be satisfied for awards rendered in other contracting states. However, some Indonesian courts have misunderstood this requirement, demanding proof of a separate bilateral treaty or failing to recognize the multilateral nature of the New York Convention. This has led to unnecessary refusals in cases involving countries that are clearly New York Convention contracting states. This barrier is partly due to a lack of judicial familiarity with international treaty law and partly due to the outdated wording of Article 66(a) (Adiasih & Simanjuntak, 2023).

The third barrier is procedural rigidity. Article 67 of Law No. 30 of 1999 requires applicants to submit specific documents, including the original or certified copy of the award, the arbitration agreement, and an official translation into Indonesian. While documentary requirements are necessary for verification, Indonesian courts have sometimes applied them too strictly. For example, courts have refused enforcement where the translation was not performed by a sworn translator, even if the award itself was authentic and the translation was accurate. This formalistic approach conflicts with the pro-enforcement spirit of the New York Convention, which encourages courts to focus on substantive validity rather than minor procedural defects. The 17 percent denial rate due to procedural defects shown in Table 2 is particularly troubling because these defects are often curable and do not affect the fundamental fairness of the award (Saraswati & Hidayat, 2019).

The fourth barrier is the centralized exequatur procedure. Under Article 65 of Law No. 30 of 1999, all applications for recognition and enforcement of foreign arbitral awards must be filed with the Central Jakarta District Court. This centralization creates a bottleneck and imposes significant travel and logistical costs on parties located outside Jakarta. Moreover, because the Central Jakarta District Court is a general court, its judges are not specialized in international arbitration. They handle a wide range of civil, criminal, and commercial cases, which limits their capacity to develop expertise in the complex field of international arbitration. This lack of specialization contributes to inconsistent decisions and a lack of familiarity with international standards (Zaheeruddin, 2023).

The fifth barrier is judicial nationalism and a protective mindset. Some Indonesian judges and policymakers perceive foreign arbitral awards as foreign intrusions into national sovereignty. This perception is particularly strong in cases involving state-owned enterprises or national resources. In such cases, courts may be inclined to protect domestic interests by refusing enforcement, even when the award is legally sound. This judicial nationalism undermines the principle of party autonomy and erodes confidence in Indonesia as a neutral and reliable forum for international commerce. The misuse of public policy to protect state-owned enterprises is a clear manifestation of this barrier (Tesfay, 2021).

The barriers identified above create a climate of legal uncertainty that affects all stakeholders in international business transactions. Foreign investors and trading partners cannot predict with confidence whether an arbitral award will be enforced in Indonesia. This uncertainty increases transaction costs, reduces the willingness of foreign parties to enter into contracts with Indonesian counterparts, and may lead to higher risk premiums. It also affects Indonesian parties by limiting their ability to resolve disputes through international arbitration, which is often the preferred forum for cross-border transactions (Kurochkina, 2023).

The inconsistency of judicial practice is particularly damaging. As shown in Table 1, the grant rate fluctuated from 44.4 percent in 2020 to 66.7 percent in 2022 and 2023. While some fluctuation may be explained by differences in case merits, the high denial rate and the variability suggest that decisions are influenced by factors other than the legal merits. This inconsistency makes it difficult for legal practitioners to advise clients on the likelihood of enforcement and undermines the rule of law.

Public policy is a necessary safety valve in any legal system. It allows courts to refuse enforcement of awards that would violate fundamental principles of justice, morality, or public order. However, the concept is inherently vague and open to interpretation. When applied too broadly, public policy can undermine the entire enforcement regime. The challenge is to strike a balance between respecting national sovereignty and honoring international obligations (Suwarsit & Arifardhani, 2022).

The international standard for public policy is now well established. The United Nations Commission on International Trade Law (UNCITRAL) and leading national courts have consistently held that public policy should be limited to international public policy, meaning those principles that are recognized by the international community as fundamental. Domestic public policy, such as national economic interests or administrative regulations, should not justify refusal under Article V(2)(b) of the New York Convention. This distinction is crucial because it prevents courts from using public policy to review the merits of the award or to protect domestic parties from the consequences of their contractual obligations.

Indonesia’s courts have not consistently adopted the international public policy standard. Instead, they have sometimes equated public policy with domestic legal norms, such as the principle of good faith, the prohibition of unjust enrichment, or the protection of national interests. While these are legitimate legal principles, they do not necessarily rise to the level of international public policy. By using domestic public policy as a ground for refusal, Indonesian courts have effectively expanded the scope of the public policy exception beyond what is permitted under the New York Convention. This is the most fundamental barrier to enforcement in Indonesia and the one that most urgently needs reform (Rezara, 2022).

Beyond the substantive legal barriers, procedural and institutional factors also impede enforcement. The centralized exequatur procedure at the Central Jakarta District Court creates practical difficulties for parties located outside Java. It also concentrates all enforcement cases in a single court, which may not have the resources or expertise to handle the growing number of applications. The lack of a specialized arbitration division means that judges are not exposed to international arbitration law on a regular basis and may lack the necessary training and experience.

Moreover, the Indonesian court system is characterized by a heavy caseload and limited technological infrastructure. This can lead to delays in processing enforcement applications, which undermines the finality and efficiency of arbitration. The absence of a clear and uniform procedural framework for enforcement also creates opportunities for forum shopping, delay tactics, and inconsistent rulings. These institutional barriers are not unique to Indonesia, but they are particularly acute in a jurisdiction that is still developing its arbitration culture (HARAHAP, 2018).

The quality of judicial decision-making in international arbitration cases depends heavily on the knowledge and attitudes of the judges involved. In Indonesia, judges are generalists who rotate through different types of cases. They may not have specialized training in international commercial law, arbitration, or treaty interpretation. This lack of specialization can lead to errors in applying the New York Convention and the Arbitration Law. For example, some judges have failed to recognize that the New York Convention is a multilateral treaty that satisfies the reciprocity requirement in Article 66(a). Others have confused the grounds for refusal with domestic appeal grounds, effectively reviewing the merits of the award.

In addition to technical knowledge, judicial mindset plays a crucial role. Some Indonesian judges view arbitration as a competitor to the national courts and may be reluctant to enforce awards that they perceive as undermining judicial authority. This protective mindset is reflected in the broad interpretation of public policy and the formalistic application of procedural requirements. Changing this mindset requires not only training but also a cultural shift within the judiciary toward a more internationalist and pro-arbitration perspective (Zeller et al., 2021).

To address the barriers identified in this study, a comprehensive set of legal, institutional, and policy reforms is needed. The following solutions are proposed based on the findings and on comparative best practices from Singapore and Hong Kong.

First, Indonesia should amend Law No. 30 of 1999 to align its provisions with the New York Convention and the UNCITRAL Model Law. Specifically, Article 66 should be revised to eliminate the redundant reciprocity requirement and to provide an exhaustive list of grounds for refusal that mirrors Article V of the Convention. The public policy exception should be defined narrowly, explicitly referring to international public policy and excluding domestic economic or political interests. The amendment should also clarify that procedural defects can be cured and that the court should focus on substantive compliance rather than formalities.

Second, Indonesia should restrict the public policy defense to fundamental principles of international public policy. The legislature could adopt a statutory definition or the Supreme Court could issue a circular or regulation guiding lower courts. Such guidance should emphasize that public policy does not include the protection of state-owned enterprises, national economic interests, or domestic mandatory rules unless they rise to the level of international public policy. Courts should be required to provide detailed reasons for any refusal based on public policy, and such refusals should be subject to appellate review to prevent abuse (Dong & Yuan, 2022).

Third, Indonesia should reform the enforcement procedure to reduce procedural rigidity and improve access. The requirement to file all applications at the Central Jakarta District Court should be replaced by a system that allows applications to be filed in the district court where the respondent resides or where the assets are located. This would reduce logistical burdens and distribute the workload. Alternatively, a specialized commercial court with jurisdiction over international arbitration matters could be established in Jakarta and other major commercial centers. The procedural rules should allow parties to cure minor defects and should prioritize substance over form.

Fourth, Indonesia should enhance judicial specialization and training. The Supreme Court should establish a specialized arbitration list within the commercial court, staffed by judges who have received advanced training in international arbitration law. Training programs should cover the New York Convention, the UNCITRAL Model Law, comparative arbitration practice, and treaty interpretation. Judges should also be exposed to international arbitration conferences and exchange programs with courts in Singapore and Hong Kong. This would improve the technical quality of decisions and foster a more pro-arbitration judicial culture.

Fifth, Indonesia should promote the use of alternative dispute resolution mechanisms and arbitration-friendly policies. The government and business community should work together to promote Indonesia as a safe and reliable seat of arbitration. This includes supporting the Indonesian National Arbitration Board (BANI) and encouraging the use of Indonesian arbitration institutions for international disputes. A more robust domestic arbitration sector would reduce the need for foreign awards and build confidence in the Indonesian legal system.

Sixth, Indonesia should consider ratifying the UNCITRAL Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention on Mediation) to complement its arbitration framework. While not directly related to enforcement of arbitral awards, this would signal Indonesia’s commitment to international dispute resolution and enhance its reputation as a pro-business jurisdiction.

Finally, greater transparency and publication of court decisions on foreign arbitral award enforcement is needed. The Supreme Court should publish all decisions on its website and in a searchable database. This would allow legal practitioners and scholars to analyze patterns, identify inconsistencies, and hold courts accountable. Transparency would also provide foreign investors with greater confidence in the predictability of the Indonesian legal system.

The reforms proposed in this article would have far-reaching implications for business dispute resolution in Indonesia. First, they would enhance legal certainty and predictability, which are essential for attracting foreign investment and promoting international trade. Foreign parties would be more willing to enter into contracts with Indonesian counterparts if they know that arbitral awards will be enforced in accordance with international standards. Second, the reforms would reduce the cost and delay associated with enforcement, making dispute resolution more efficient. Third, they would strengthen the rule of law by ensuring that Indonesian courts honor international obligations and respect party autonomy.

From a broader perspective, improving the enforcement of foreign arbitral awards would contribute to Indonesia’s economic development. A reliable dispute resolution framework is a key component of a favorable investment climate. By aligning its arbitration law with international best practices, Indonesia can position itself as a hub for international arbitration in Southeast Asia, competing with Singapore and Hong Kong. This would bring economic benefits, including legal services revenue, job creation, and increased foreign direct investment.

However, reform requires political will and coordination among multiple stakeholders, including the legislature, the judiciary, the Ministry of Law and Human Rights, and the business community. It also requires a long-term commitment to legal education and institutional capacity building. The challenges are significant, but the potential benefits are substantial. This article provides a roadmap for achieving these reforms and highlights the urgent need for action.

CONCLUSION

This article has examined corporate legal responsibility for carbon emission disclosure and environmental litigation risk in Indonesia’s green economy era. The analysis shows that Indonesia has developed a multi-layered but fragmented legal framework that imposes carbon disclosure obligations and creates significant legal risks for corporations. Administrative sanctions, civil liability, criminal liability, climate litigation, and greenwashing claims are all potential consequences of inadequate or misleading carbon disclosure. Directors may also face personal liability for negligent management of climate risks. To reduce legal uncertainty and align corporate conduct with national climate goals, Indonesia should adopt an integrated carbon disclosure regime with uniform standards, mandatory third-party assurance, and clarified liability rules. Such reforms would strengthen corporate governance, enhance the credibility of carbon markets, and support Indonesia's transition to a low-carbon green economy.

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