

Optimizing Online Dispute Resolution (ODR) in Joint Property Dispute Resolution After Divorce in Indonesia

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Article Info	Abstract
Article History Received : 2026-07-02 Revised: 2026-07-14 Published: 2026-07-30 Keywords: <i>Online Dispute Resolution, Joint Property Disputes, Divorce, Alternative Dispute Resolution</i>	The settlement of joint property disputes after divorce in Indonesia is generally still pursued through litigation mechanisms in court, which in practice often takes a relatively long time, high costs, and has the potential to worsen the relationship between the parties. The development of information technology has given birth to <i>Online Dispute Resolution</i> (ODR) as an alternative dispute resolution that offers a faster, more efficient, and more flexible process. However, the implementation of ODR in resolving joint property disputes in Indonesia still faces obstacles in the form of the absence of legal arrangements that specifically regulate the mechanisms, procedures, and legal force of online dispute resolution. This study aims to analyze the urgency of the implementation of ODR in resolving joint property disputes after divorce and examine efforts to optimize its application in a positive Indonesian legal perspective. This research uses normative legal research methods with a statutory <i>approach</i> and a <i>conceptual approach</i> . Legal materials are obtained through literature studies consisting of primary, secondary, and tertiary legal materials, then analyzed qualitatively by descriptive-analytical methods. The results of the study show that although Indonesia's positive law has not comprehensively regulated ODR, the provisions in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments, and Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court provide a normative basis for the use of technology in dispute resolution. Optimizing ODR requires harmonizing regulations, strengthening the capacity of mediators, and providing digital platforms that ensure legal certainty, data security, and protection of the rights of parties. Thus, ODR has the potential to become a <i>complementary mechanism</i> in resolving joint property disputes that is able to realize the principle of simplicity, fast, low-cost, and expand access to justice.

I. INTRODUCTION

The development of information technology has brought significant changes to various aspects of life, including in the dispute resolution system. Digitalization not only changes people's communication and transaction patterns, but also encourages the birth of a faster, more efficient, and more accessible dispute resolution mechanism. One form of such innovation is *Online Dispute Resolution* (ODR), which is a dispute resolution mechanism that utilizes information technology as a medium for negotiation, mediation, conciliation, and arbitration without requiring the parties to meet in person. The presence of ODR is an alternative dispute resolution that is increasingly relevant in the midst of the increasing need for a simple, fast, and

low-cost case resolution process (Widaningsih, 2017).

In Indonesia, out-of-court dispute resolution has gained a legal basis through Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In addition, the use of electronic media in legal activities has been recognized through Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments. However, until now there is no regulation that specifically regulates the mechanism, procedures, or legal force of *Online Dispute Resolution*. The vacancy in this arrangement creates legal uncertainty, especially in its application to civil disputes of a non-commercial nature, including disputes over the division of joint property after divorce (Widaningsih, 2017).

One of the disputes that often arise after the breakup of marriage is a dispute over the division of joint property. The settlement of disputes is generally carried out through litigation in the Religious Court or District Court according to their respective absolute competence. However, the litigation process often takes a relatively long time, costs a lot of money, and has the potential to worsen the relationship between the parties, especially if there are still interests of the child and family relationships that must be maintained. In such conditions, dispute resolution through alternative mechanisms is an option that prioritizes deliberation, agreement, and the principle of *win-win solution* (Amriani, 2012).

Several previous studies have discussed the application of *Alternative Dispute Resolution* (ADR) and *Online Dispute Resolution* (ODR) in dispute resolution. Dahlan and Haryanto (2018) examined the existence of ADR in the settlement of inheritance disputes, while Widaningsih (2017) focused more on the application of ODR in *e-commerce* dispute resolution. Other research also discusses mediation in post-divorce joint property disputes, but still focuses on conventional mediation mechanisms (Zahid & Badi, 2020). Thus, there is still room for study on the application of ODR as a mechanism for resolving joint property disputes after divorce which is analyzed from a positive Indonesian legal perspective.

Based on these conditions, this study aims to analyze the legal basis of the application of *Online Dispute Resolution* in resolving joint property disputes after divorce and to examine the effectiveness of ODR as an alternative dispute resolution in Indonesia. This research departs from the argument that although ODR has not been specifically regulated in laws and regulations, the mechanism has the opportunity to be applied through a systematic interpretation of provisions regarding alternative dispute resolution, civil procedure law, and the use of information technology. Therefore, this research is expected to make a conceptual contribution to the development of civil dispute resolution mechanisms that are more adaptive to technological developments without ignoring the principles of legal certainty, justice, and utility.

II. RESEARCH METHODS

This research is a normative legal research with a statutory *approach* and a *conceptual approach*. The legislative approach is used to analyze the legal provisions that govern out-of-court dispute resolution, especially Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 1 of 1974 concerning Marriage as amended by Law Number 16 of 2019, Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments, Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, as well as other legal provisions related to the settlement of joint property disputes through the *Online Dispute Resolution* (ODR) mechanism. Meanwhile, a conceptual approach is used to examine the doctrines and concepts of *Alternative Dispute Resolution* (ADR), *Online Dispute Resolution* (ODR), mediation, and civil dispute resolution in the perspective of positive Indonesian law (Soekanto & Mamudji, 2015).

The legal materials used consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations of the Supreme Court related to research objects, while secondary legal materials are in the form of books, journal articles, research results, and scientific papers that discuss ADR, ODR, marriage law, and joint property dispute resolution. The collection of legal materials is carried out through *library research*, then analyzed qualitatively using descriptive-analytical methods. The analysis is carried out through legal interpretation of applicable norms, then associated with the development of the use of information technology in dispute resolution to assess the opportunities for the implementation of ODR as an alternative to resolving joint property disputes after divorce in Indonesia.

III. RESULTS AND DISCUSSION

A. The Urgency of Implementing *Online Dispute Resolution* (ODR) in Joint Property Dispute Resolution After Divorce

Joint property disputes are one of the most common civil disputes that arise after the breakdown of a marriage, either due to divorce or death. In judicial practice, the dispute is not only related to determining the status of

property ownership, but also concerns economic interests, family relations, and the protection of the rights of each party. Settlement through litigation often takes a long time, costs relatively large, and has the potential to worsen the relationship between ex-husband and wife. This condition becomes less than ideal, especially if the parties still have joint responsibility for the child or still need communication after divorce (Hartanto, 2012).

Indonesia's positive law has basically provided space for out-of-court dispute resolution through the *Alternative Dispute Resolution* (ADR) mechanism. These provisions are regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution which provides the opportunity for the parties to resolve disputes through consultation, negotiation, mediation, conciliation, or expert assessment based on the agreement of the parties. Settlement through ADR emphasizes more on reaching a peaceful agreement (*win-win solution*) than the adversarial approach commonly encountered in the litigation process (Amriani, 2012).

The development of information technology then encouraged the transformation of the ADR mechanism into the form of *Online Dispute Resolution* (ODR). Through ODR, the negotiation, mediation, and arbitration process can be carried out by utilizing electronic media such as *video conferences*, *chatrooms*, and electronic mail (*e-mail*). The transformation not only provides easy access for the parties, but also increases time and cost efficiency, especially when the parties are in different regions. Thus, ODR is a form of adaptation of dispute resolution to technological developments without eliminating the basic principles of peaceful dispute resolution (Widaningsih, 2017).

Nevertheless, the application of ODR in resolving common property disputes in Indonesia still faces juridical challenges. Until now, there are no laws and regulations that specifically regulate the procedures, mechanisms, or legal force of ODR in the settlement of non-commercial civil disputes. The existing arrangements are still partial and

scattered in various provisions, such as Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments, and Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. As a result, there is no certainty regarding the standard for implementing ODR in post-divorce joint property disputes.

The absence of comprehensive regulation does not necessarily close the opportunity for ODR implementation. On the contrary, various existing legal provisions can be systematically interpreted as a legal basis for the implementation of technology-based dispute resolution. The recognition of electronic documents, electronic communications, and the use of electronic media in legal proceedings shows that the Indonesian legal system has basically opened up space for the digitization of dispute resolution. Therefore, the main problem does not lie in whether or not ODR can be applied, but in the absence of harmonization of norms that specifically regulate the procedures for its implementation in joint property disputes (Rochani & Bintoro, 2013).

From the perspective of family dispute resolution, the implementation of ODR has greater urgency than in ordinary civil disputes. Joint property disputes involve parties who were previously bound in a marital relationship, so the resolution is not only oriented towards the division of property, but also needs to consider psychological aspects, family relationships, and the interests of children. Through the ODR mechanism, the communication process can take place more flexibly, maintain the privacy of the parties, and reduce potential conflicts that often arise in face-to-face meetings. Thus, ODR not only offers procedural efficiency, but also provides space for the creation of a more conducive and agreement-oriented solution (Zahid & Badi, 2020).

Based on this description, the urgency of implementing ODR in resolving common property disputes is not only based on the development of information technology, but also on the need for a more effective, efficient,

and adaptive dispute resolution mechanism to the dynamics of modern society. Although Indonesia's positive legal framework has not comprehensively regulated ODR, various provisions that have been in force show that there is a sufficient normative basis to support its implementation. Therefore, a clearer formulation of the ODR implementation model is needed so that the mechanism is able to provide legal certainty while ensuring the protection of the rights of the parties in resolving joint property disputes.

B. Optimization of Online Dispute Resolution (ODR) as a Model for Joint Property Dispute Resolution in Indonesia

The development of information technology has driven the transformation of various public services, including in the field of dispute resolution. The digitization of the dispute resolution process is a logical consequence of the increasing need for faster, simpler, and more efficient mechanisms. In the context of post-divorce joint property disputes, the use of *Online Dispute Resolution* (ODR) has great potential to complement dispute resolution mechanisms that have been dominated by litigation processes and conventional mediation. The characteristics of joint property disputes that generally still open up opportunities for reaching agreements make ODR a relevant alternative to be developed in the Indonesian legal system (Amriani, 2012).

However, the effectiveness of ODR implementation is not only determined by the availability of technology, but also by the readiness of regulations that provide legal certainty for the parties. Until now, Indonesia's positive law has not had any special regulations regarding the procedures for implementing ODR in resolving civil disputes. As a result, the implementation of ODR still depends on the interpretation of the provisions of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments, and Supreme Court Regulation Number 1 of 2016

concerning Mediation Procedures in Court. This condition shows the need for regulatory harmonization so that the use of electronic media in dispute resolution obtains stronger legal legitimacy (Widaningsih, 2017).

ODR optimization must also pay attention to the characteristics of joint property disputes as part of family law disputes. In contrast to commercial disputes that focus more on economic aspects, joint property disputes are closely related to the personal relationships of the parties, protection of children's interests, and efforts to maintain family relationships after divorce. Therefore, the implementation of ODR cannot only be oriented towards procedural efficiency, but must also be able to facilitate dialogue, deliberation, and the achievement of a fair agreement for both parties. In this context, the role of mediators remains an important factor even though the mediation process is carried out through electronic media (Amriani, 2012).

In addition to providing ease of access, ODR has the potential to expand access to *justice*. Parties who are in different areas or have mobility limitations can still participate in the dispute resolution process without having to be physically present. The use of electronic media can also reduce transportation costs, speed up communication, and minimize trial delays that often occur in litigation processes. Thus, ODR not only supports the principle of simple, fast, and low-cost justice, but also expands the community's opportunities to obtain effective dispute resolution (Harahap, 2005).

However, several challenges still need to be considered in the implementation of ODR. The gap in access to technology, the digital capabilities of the parties, the security of personal data, and the confidentiality of information are aspects that require serious attention. In addition, the absence of operational standards regarding the procedures for implementing ODR can cause differences in practices among dispute resolution institutions. Therefore, the development of ODR must be accompanied by the preparation of regulations that regulate procedures, data protection, the validity of

electronic documents, and the mechanism for implementing the results of agreements reached through electronic media (Soekanto & Mamudji, 2015).

Based on this analysis, this study argues that the optimization of ODR in resolving joint property disputes can be carried out through three steps. First, the establishment of regulations that specifically regulate the ODR mechanism as part of an alternative dispute resolution system in Indonesia. Second, strengthening the capacity of mediators through training on the use of information technology and online dispute resolution. Third, the provision of a digital platform that meets security, confidentiality, and ease of access standards so as to be able to provide adequate legal protection for all parties to the dispute.

Thus, ODR should not be seen as a substitute for the existing dispute resolution mechanism, but as a complementary *mechanism* that can increase the effectiveness of the dispute resolution system in Indonesia. If supported by adequate regulations, human resource readiness, and adequate technological infrastructure, ODR has the potential to become a model for resolving common property disputes that is more adaptive to the development of the digital society while still ensuring legal certainty, justice, and benefits for the parties.

IV. CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Based on the results of the research, it can be concluded that *Online Dispute Resolution* (ODR) has a high urgency as an alternative to resolving joint property disputes after divorce in Indonesia. Dispute resolution through litigation mechanisms often takes a relatively long time, costs a lot of money, and has the potential to worsen the relationship between the parties. On the contrary, ODR offers a faster, more efficient, flexible dispute resolution mechanism, and still prioritizes the principle of deliberation to reach mutual agreement. Although Indonesia's positive law has not specifically regulated ODR, the

existence of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments, as well as Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court shows that there is a normative foundation that can support the implementation of technology-based dispute resolution mechanisms.

Optimizing ODR in resolving joint property disputes requires strengthening aspects of regulation, institutions, and technological infrastructure. This study argues that the development of ODR is not enough to rely only on technological advances, but must be accompanied by legal arrangements that provide certainty regarding dispute resolution procedures, legal status of agreement results, personal data protection, and standards for online mediation implementation. Thus, ODR can function as a *complementary mechanism* in the dispute resolution system in Indonesia that is able to realize the principles of simplicity, fast, low-cost, while expanding people's access to *justice*.

B. Suggestions

The government and lawmakers need to consider the drafting of regulations that specifically regulate the implementation of *Online Dispute Resolution* as part of an alternative dispute resolution system in Indonesia. These arrangements need to include the mechanism for implementing ODR, the validity of electronic documents and agreements, the protection of personal data, and procedures for the implementation of agreements reached through electronic media so as to create legal certainty for the parties.

The Supreme Court and dispute resolution institutions also need to develop digital infrastructure that is secure, easily accessible, and integrated with the judicial system, along with increasing the capacity of mediators in the implementation of online mediation. In addition, the next research is expected not only to use a normative legal approach, but also to develop empirical research involving judges,

mediators, advocates, and justice seekers to evaluate the effectiveness of the application of ODR in resolving post-divorce joint property disputes in Indonesia.

REFERENCE LIST

Amriani, Nurnaningsih. (2012). *Mediasi: Alternatif Penyelesaian Sengketa Perdata di Pengadilan*. Jakarta: Rajawali Pers.

Harahap, M. Yahya. (2005). *Hukum Acara Perdata*. Jakarta: Sinar Grafika.

Republik Indonesia. (1999). Undang-Undang Nomor 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa.

Republik Indonesia. (2008). Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik.

Republik Indonesia. (2016). Peraturan Mahkamah Agung Republik Indonesia Nomor 1

Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

Republik Indonesia. (2019). Undang-Undang Nomor 16 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan.

Soekanto, Soerjono, & Mamudji, Sri. (2015). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers.

Widaningsih. (2017). *Penyelesaian Sengketa E-Commerce Melalui Online Dispute Resolution (ODR)*. *Jurnal Panorama Hukum*, 2(2).