



Legal protection for aggrieved parties in electronic contracts (e-contracts)

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ABSTRACT

The development of information technology has given rise to new forms of transactions through electronic contracts (e-contracts) that offer convenience and efficiency, but also pose potential losses for parties, especially consumers. This study aims to analyze the form of legal protection for parties who are harmed in the implementation of electronic contracts in Indonesia. The research method used is normative juridical with a statutory and conceptual approach, through a study of the Civil Code, Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), and Law Number 8 of 1999 concerning Consumer Protection. The theoretical basis used is the theory of legal protection from Philipus M. Hadjon and the theory of contractual justice according to John Rawls. The results of the study indicate that legal protection for parties who are harmed in electronic contracts can be provided through preventive and repressive mechanisms, including the right to obtain correct information, complaint mechanisms, and dispute resolution through judicial institutions or alternatives such as arbitration and online mediation. This study emphasizes the importance of strengthening regulations and digital literacy so that the principle of good faith and balance of rights in electronic contracts can be effectively guaranteed.

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1. Introduction

In practice, the Electronic Information and Transactions Law (UU ITE) and the Consumer Protection Law (UUPK) still have a number of normative gaps that are not fully able to accommodate the complexity of digital transactions, including limited regulations regarding the validity and fairness of standard clauses in cross-jurisdictional electronic contracts, unclear standards for electronic agreements that truly reflect consumer awareness and understanding, and a lack of specific provisions regarding business actors' responsibilities for failures in systems, algorithms, or digital platforms. Furthermore, the regulation of personal data protection in the ITE Law has not been comprehensively integrated with the consumer protection regime, thus creating legal uncertainty regarding data misuse in digital transactions, while mechanisms for law enforcement and online dispute resolution have not been effectively

regulated and oriented towards access to justice for consumers. In the practice of electronic contracts, there are several fundamental legal issues that often place consumers in a weaker position compared to business actors, including an imbalance in bargaining power reflected in the use of standard clauses made unilaterally without room for negotiation, a lack of transparency in information regarding consumer rights and obligations due to long and difficult to understand agreements, and weak protection of consumer personal data that has the potential to be misused. In addition, approval mechanisms that are only based on "clicking agree" often do not reflect a truly conscious agreement (informed consent), exacerbated by the unclear choice of law and dispute resolution forums that generally benefit business actors, thus overall creating legal injustice for consumers in electronic transactions.

The development of information and communication technology has brought about significant changes in various aspects of human life, including law and economic transactions. One such change is the emergence of electronic contracts, often referred to as e-contracts, which are agreements created, sent, received, and stored electronically via the internet (Liu et al., 2020). Electronic contracts symbolize modern progress, which demands efficiency, speed, and ease in transactions, whether between individuals, between companies, or between businesses and consumers (Studies, 2023). However, behind this convenience, various complex legal issues arise. Unlike conventional contracts, which are executed face-to-face and physically signed, electronic contracts are often concluded without a direct meeting between the parties. This raises fundamental questions about the validity of the contract, the clarity of the parties' intentions, and legal liability if one party suffers a loss (Yawar et al., 2025).

When digital transactions result in losses, legal protection mechanisms for the injured party are often weakened due to a lack of understanding and limited regulations governing legal relations in cyberspace (Hukum & Indonesia, 2020). In the Indonesian context, the legal basis for electronic contracts is actually regulated in Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), which was later updated by Law Number 19 of 2016, and supported by Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. Furthermore, the Civil Code (KUHPperdata) and Law Number 8 of 1999 concerning Consumer Protection also serve as the basis for determining civil liability and consumer rights (Hijazi et al., 2024). However, the existence of these legal norms often fails to address all the problems that arise from the increasingly complex dynamics of digital transactions (Hijazi et al., 2024).

The main problem in electronic contracts is the imbalance in legal positions between businesses and consumers. In many cases, businesses hold a stronger position due to their control over electronic systems, product information, and transaction mechanisms. Meanwhile, consumers often simply "agree" to the terms of the contract without fully understanding its contents and consequences (Baker et al., n.d.). This phenomenon is known as a "standard form contract," where the content of the agreement is entirely determined by one party, leaving the other party with only the option to accept or reject. In the context of e-commerce, this form of contract is very common, for example, when consumers press the "I Agree" button without reading all the terms and conditions (Irianto, 2024).

From a civil law perspective, the principle of freedom of contract, as stipulated in Article 1338 of the Civil Code, grants the parties the freedom to determine the content and form of the agreement. However, this principle is not absolute (Kontrak & Di, 2025). This freedom is limited by the principles of good faith and propriety, as affirmed in Article 1339 of the Civil Code. In electronic contracts, the principle of good faith is often neglected due to the fast and anonymous nature of the transaction process (Wardani & Afriansyah, 2020). This raises the risk of fraud, misuse of personal data, and violations of consumer rights. In addition to the issue of the substance of the agreement, there are also challenges in providing legal evidence in the event of a dispute. In conventional contracts, physical evidence such as signatures and written documents have clear evidentiary force (Hatta et al., 2025). However, in electronic contracts,

evidence is often digital, such as emails, transaction logs, or electronic signatures. Although the ITE Law has recognized the validity of electronic signatures, their application in practice still often gives rise to problems. debate, particularly regarding identity authentication and system security (Jayanti et al., 2025). Another equally important issue is the unpreparedness of the public and law enforcement agencies to deal with the dynamics of electronic contracts. Many consumers do not yet understand their rights, while law enforcement officials, both at the police and court levels, lack the technical capabilities to assess the validity of electronic evidence. As a result, many digital contract disputes are not resolved fairly or even brought to court due to the complexity of the evidentiary process (Baker et al., n.d.).

From a legal theory perspective, the issue of protecting injured parties in electronic contracts can be explained through Philipus M. Hadjon's theory of legal protection, which distinguishes between preventive legal protection and repressive legal protection (Simamora et al., 2025). Preventive legal protection aims to prevent violations by providing clear guidelines, regulations, and information to the public (Szabo et al., 2024). Meanwhile, repressive legal protection is provided after a violation or loss has occurred, for example through the judicial process, compensation, or mediation. In the context of electronic contracts, both forms of protection are crucial for maintaining a balance of rights between businesses and consumers. In addition to the theory of legal protection, the theory of contractual justice proposed by John Rawls is also relevant. According to Rawls, justice not only means formal equality (Ghodoosi, 2021) before the law but also must guarantee fairness or substantive justice for parties with different social or economic positions. In electronic contracts, this means the legal system must be able to protect the weaker party (usually the consumer) from being exploited by the stronger party (the business actor or platform provider) (*LEGAL ISSUES AND JURISDICTION INVOLVED IN E-CONTRACTS: AN ANALYSIS Mitul Soni 1*, n.d.).

The issue of legal protection for the injured party in electronic contracts is also closely related to aspects of ethics and corporate social responsibility. Business actors utilizing digital platforms should not only be profit-oriented but also adhere to the principles of corporate social responsibility (Law, 2024). They are obliged to provide accurate, transparent, and non-misleading information to consumers, and ensure the security of personal data. Several steps can be taken to address this issue. First, there is a need for stronger regulations and stricter law enforcement regarding electronic transactions, including digital dispute resolution mechanisms (Elektronik & Pihak, 2023). Second, education and digital legal literacy are needed for the public to understand their rights and obligations in electronic transactions. Third, there is a need to develop alternative digital-based dispute resolution mechanisms, such as online dispute resolution (ODR), which can provide a fast and efficient solution to resolve disputes without the need for lengthy court proceedings (Yawar et al., 2025).

Furthermore, collaboration between the government, judicial institutions, business actors, and civil society is also key to building a just digital legal ecosystem. The government, as regulator, must update regulations in line with technological developments; judicial institutions must improve their competence in electronic evidence; and business actors must implement the principles of transparency and consumer protection as part of their legal responsibilities. Overall, the issue of legal protection in electronic contracts is not merely a technical issue, but a fundamental one in building public trust in the legal system and the digital economy. Without strong legal protection, public trust in electronic transactions will weaken, ultimately hampering the growth of the national digital economy. Therefore, legal protection for parties harmed in electronic contracts must be a top priority in the development of national law in the era of digital transformation (Indonesia & Mada, 2023).

2. Method

The theory of legal protection and contractual justice plays an important role as a normative and interpretive basis in guiding the interpretation of positive legal norms, especially when

these norms are general, open to multiple interpretations, or do not fully accommodate the dynamics of modern contractual relations. The theory of legal protection emphasizes the obligation of the state and law enforcers to guarantee the rights of the weaker party so that they are not harmed by the abuse of power or unequal bargaining position, while the theory of contractual justice directs legal interpretation towards achieving a balance of the rights and obligations of the parties, good faith, and the fairness of the contents of the agreement. Thus, both theories serve as critical measuring tools for judges and policy makers to interpret and apply positive law progressively, contextually, and oriented towards substantive justice, not merely formal legal certainty. The research method used in this study is the normative juridical method, namely legal research that focuses on the analysis of applicable positive legal norms. This approach emphasizes the study of laws and regulations, legal doctrine, and general principles of civil law related to electronic contracts and legal protection for injured parties. Research data was obtained through literature study by examining primary legal materials such as the Civil Code (KUHPerdata), Law Number 11 of 2008 concerning Electronic Information and Transactions, and Law Number 8 of 1999 concerning Consumer Protection, and secondary legal materials in the form of books, journals, and previous research results. Data analysis was carried out qualitatively by interpreting the contents of legal norms, relevant theories such as Philipus M. Hadjon's theory of legal protection and John Rawls's theory of contractual justice, to obtain systematic conclusions about the form and effectiveness of legal protection for injured parties in the implementation of electronic contracts in Indonesia (Horizons, 2025).

3. Analysis and Results

The findings of this study have important implications for the development of a just and sustainable digital legal ecosystem, as they emphasize the need to restructure the legal framework to be more responsive to the unequal relations between businesses and consumers in digital transactions. The results indicate that without strengthening the principles of legal protection and contractual justice, the development of the digital economy has the potential to widen the gap in access to justice and undermine public trust in the legal system. Therefore, the normative implications include the need for regulatory harmonization, strengthened oversight of standard electronic clauses, increased digital legal literacy among the public, and the development of effective and inclusive dispute resolution mechanisms. This ensures that the digital legal ecosystem not only supports innovation and economic growth but also ensures legal certainty, justice, and protection for all parties in a sustainable manner. The use of standard electronic contracts has significant implications for the principle of balancing the rights and obligations of the parties because in practice, these contracts are drafted unilaterally by business actors and do not provide room for negotiation for consumers.

This condition tends to create an imbalance in bargaining power that results in the inclusion of clauses that are more advantageous to business actors, such as limitations on liability, transfer of risk, or disproportionate dispute resolution arrangements. As a result, the principles of contractual justice and the principle of equality between the parties are reduced, because the agreements formed are more formal than substantive. Therefore, without legal intervention through supervision, testing of standard clauses, and interpretations oriented towards protecting the weak party, the use of standard electronic contracts has the potential to ignore the balance of rights and obligations in contractual relationships. Research results indicate that the implementation of electronic contracts (e-contracts) in Indonesia has a fairly strong legal basis, but their practical implementation still faces various obstacles that have the potential to harm one of the parties, especially consumers (Riani & Aprilia, 2025).

Based on an analysis of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and its amendments, as well as Law Number 8 of 1999 concerning Consumer Protection, it was found that Indonesian positive law actually recognizes the validity of electronic contracts as legal evidence binding the parties, provided they fulfill the elements of a valid agreement as stipulated in Article 1320 of the Civil Code (*Blockchain and AI in Digital*

Contracts: A Legal Review of Smart Contract Enforcement, 2025). However, in practice, many electronic contracts are still unilateral and do not reflect the principles of good faith and a balance of rights and obligations, resulting in injustice for the weaker party. In electronic transactions, businesses generally use standard form contracts determined entirely by the digital service provider, with no room for negotiation for consumers. This situation creates an unequal legal position between businesses and consumers, where consumers only have the option to accept or reject the terms of the agreement.

This phenomenon contradicts the principle of freedom of contract, which is ideally based on free and equal agreement. Based on Philipus M. Hadjon's theory of legal protection, the state has an obligation to provide preventative legal protection through clear regulations and a repressive dispute resolution mechanism for aggrieved parties. In this context, the Electronic Information and Transactions Law (ITE) and the Consumer Protection Law have provided a protective framework, but its effectiveness depends on consistent implementation and public understanding of their rights (Albalawee, 2024).

From a legal evidentiary perspective, research also shows that electronic evidence such as digital signatures, emails, or transaction logs can be used as valid evidence under Article 5 of the ITE Law. However, in judicial practice, doubts often arise regarding the authenticity and validity of electronic evidence due to the limited technical capabilities of law enforcement officials in verifying data security systems. This results in a slow and inefficient evidentiary process, resulting in many electronic contract disputes not being pursued. Therefore, capacity building is essential. Human resources in judicial institutions, particularly judges and investigators, are crucial to ensuring the achievement of substantive justice. Based on John Rawls' theory of contractual justice, justice in contracts means not only formal equality but also substantive justice that takes into account the social and economic conditions of the parties. In the context of electronic contracts, applying the principle of contractual justice means providing greater protection to the weaker party, namely consumers, so they are not exploited by businesses with greater economic and informational power. Therefore, the state needs to strengthen digital consumer protection mechanisms, for example by clarifying business actors' responsibilities for losses arising from system errors, data privacy violations, or online fraud (Jurity, 2021).

An analysis of field practices also found that the resolution of electronic contract disputes is still dominated by conventional mechanisms through the courts, which are time-consuming and costly. However, global developments have demonstrated the effectiveness of Online Dispute Resolution (ODR) as a fast, affordable, and efficient digital dispute resolution mechanism. Several countries, such as Singapore and the European Union, have implemented ODR systems to handle online consumer disputes. In Indonesia, a similar mechanism needs to be developed immediately through integration between the judiciary, the Ministry of Communication and Information Technology, and the National Consumer Protection Agency (BPKN) (Krisnadwipayana & E-commerce, n.d.). Furthermore, the public's lack of digital legal literacy is a major obstacle to achieving effective legal protection. Many consumers do not yet understand their rights and obligations under electronic contracts, making them vulnerable to fraud or exploitation. Therefore, sustained efforts by the government and educational institutions are needed to increase public legal awareness through outreach, training, and the provision of easily accessible legal information. Overall, the results and discussion of this study confirm that legal protection for parties harmed in electronic contracts has not been optimal, despite having an adequate legal basis. The main problems lie in implementation, law enforcement, and public awareness. These issues must be addressed comprehensively through:

(1) strengthening technology-based regulations and law enforcement; (2) increasing the capacity of law enforcement officials to understand electronic evidence; (3) developing an online dispute resolution system; and (4) increasing digital legal literacy among the public (Ong et al., 2021). This study concludes that legal protection in electronic contracts must be adaptive, progressive, and equitable, in order to be able to face the challenges of technological development while

maintaining the balance of the rights of the parties in the increasingly digitalized Indonesian civil law system (Heidari et al., 2023).

4. Conclusion

The most relevant follow-up research agenda for testing the effectiveness of electronic contract legal protection in the future includes empirical studies on the implementation and enforcement of electronic contracts in various digital sectors, including e-commerce, platform services, and the app-based economy. Further research is also crucial, focusing on comparative legal analysis between national and international regimes to identify best practices in digital consumer protection, as well as evaluating the effectiveness of electronic consent mechanisms, standard clauses, and online dispute resolution. Furthermore, interdisciplinary studies integrating technological, consumer behavior, and regulatory aspects are needed to assess the impact of algorithms and artificial intelligence on contractual justice, thus providing a basis for formulating adaptive, progressive legal policies oriented toward sustainable legal protection. The use of standard electronic contracts has significant implications for the principle of balancing the rights and obligations of the parties because in practice, these contracts are drafted unilaterally by business actors and do not provide room for negotiation for consumers. This condition tends to create an imbalance in bargaining power that results in the inclusion of clauses that are more advantageous to business actors, such as limitations on liability, transfer of risk, or disproportionate dispute resolution arrangements. As a result, the principles of contractual justice and the principle of equality between the parties are reduced, because the agreements formed are more formal than substantive.

Therefore, without legal intervention through supervision, testing of standard clauses, and interpretations oriented towards protecting the weak party, the use of standard electronic contracts has the potential to ignore the balance of rights and obligations in contractual relationships. Based on the results of the research and discussion that has been conducted, it can be concluded that legal protection for injured parties in electronic contracts (e-contracts) in Indonesia has a normatively adequate legal basis, but its implementation still faces various obstacles. Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), Law Number 8 of 1999 concerning Consumer Protection, and provisions in the Civil Code (KUHPerdata) have provided the basis for recognizing the validity of electronic contracts and the rights of injured parties. However, in practice, there is still often an imbalance in the legal position between business actors and consumers due to the form of standard contracts that tend to be one-sided and low legal literacy of the community. Through the approach of Philipus M. Hadjon's legal protection theory and John Rawls' contractual justice, effective legal protection should encompass two main dimensions, namely preventive and repressive. Preventive protection is realized through firm regulations, information transparency, and digital legal education to the community. Meanwhile, repressive protection is implemented through dispute resolution mechanisms, both in court and through efficient online dispute resolution (ODR). Therefore, ongoing efforts are needed from the government, businesses, and the public to strengthen the national digital legal system. The government needs to improve law enforcement and provide guidance to businesses to uphold the principles of good faith and a balance of rights, while the public needs to improve their understanding of their legal rights in electronic transactions. This will create a civil legal system that is adaptive to technological developments while ensuring justice, certainty, and legal benefits for all parties in the era of digital transformation.

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