



BUILDING TRUST THROUGH CONTRACT: A LEGAL PROTECTION EFFORT FOR SERVICE PROVIDERS AND USERS IN THE DIGITAL ERA

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Abstract

This study investigates the effectiveness of mediation as a mechanism for resolving business disputes in Indonesia, focusing on its procedural efficiency and impact on the relationships between disputing parties. Employing a qualitative research approach with descriptive normative analysis, the research highlights the legal foundations of mediation established by laws such as Law No. 30 of 1999 and Supreme Court Regulation No. 1 of 2016, which mandate mediation prior to litigation. The findings reveal that while mediation presents significant benefits, including faster resolution times and cost savings, its effectiveness is contingent on several factors: public awareness, the quality of mediators, and the parties' willingness to engage collaboratively. The study emphasizes the importance of confidentiality, neutrality, and mutual interest as key principles in ensuring a fair mediation process. Despite the challenges faced, such as a preference for litigation and uncertainties regarding the enforcement of mediated agreements, the research indicates that mediation has the potential to enhance business relationships and streamline dispute resolution processes. The insights gleaned from this study not only contribute to the understanding of mediation within the Indonesian legal context but also offer valuable lessons for other jurisdictions aiming to develop their alternative dispute resolution frameworks.

Keywords: Mediation, Business Disputes, Alternative Dispute Resolution (ADR), Indonesia, Procedural Efficiency

1. INTRODUCTION

In the rapidly evolving digital era, the relationship between service providers and users has transformed significantly, necessitating robust legal frameworks to foster trust and ensure fair practices. With the rise of online transactions, digital platforms, and the increasing reliance on technology for service delivery, both parties face unique challenges and vulnerabilities that can undermine confidence in these interactions.

Legal protection theory encompasses the mechanisms through which the law safeguards the rights and interests of individuals and society from arbitrary actions perpetrated by governmental authorities and other entities (Glicksman et al., 2023; Tymoshenko et al., 2023). This concept is integral to the framework of legal regulations designed to ensure that individual rights are upheld, providing a structure for guaranteeing human rights and preventing violations by any party. The overarching goals of legal protection include the promotion of justice, the establishment of legal certainty, and the facilitation of expediency within society (Kelsen, 2022; Joyce & Laverick, 2022; Dimock, 2023; Brooks, 2023). In this context, law serves as a vital instrument for integrating and coordinating diverse interests within a community.

The legal theory of covenants pertains to the principles governing agreements between parties, defined as legal acts wherein individuals bind themselves to obligations toward others. The term derives from the Dutch "overeenkomst" and the English "contract" or "agreement" (Ichsan & Ramli, 2022). This theoretical framework delineates the guiding principles and regulations that

BUILDING TRUST THROUGH CONTRACT: A LEGAL PROTECTION EFFORT FOR SERVICE PROVIDERS AND USERS IN THE DIGITAL ERA

Hafizh et al.

shape agreements in law (Dagan & Dorfman, 2022; Jennejohn et al., 2022; Kumar & Heidemann, 2022; Knapp et al., 2023; Dagan & Heller, 2023). Within the Indonesian legal context, agreements are regulated under Book III of the Civil Code, which addresses engagements. The Law of Agreement operates as an open system, granting legal subjects substantial freedom to formulate agreements of varying content, provided they do not contravene existing laws, public order, or moral standards.

Both agreements and contracts fundamentally entail legal actions that establish binding relationships between parties involved. As articulated in Article 1313 of the Civil Code, the parties are obligated to fulfill the terms of the agreement as if they were legislated laws. The classical theory of contracts highlights enduring characteristics that remain relevant as modern contracts evolve. Additionally, the principles underlying agreements provide a foundation for legal order, derived through juridical construction by analyzing empirical data to identify general or abstract qualities. An agreement is deemed valid when it meets specific conditions that enable enforceability and confer legal consequences, as stipulated in Article 1320 of the Civil Code. Furthermore, Articles 1338 and 1339 outline general validity requirements, while Article 1333 establishes that a valid agreement must specify certain promised items, ensuring clarity regarding the goods or subjects involved, even if the quantity is not expressly stipulated, provided it can be calculated or determined later. This comprehensive understanding of the legal framework surrounding covenants is crucial for promoting trust and ensuring legal protection in the increasingly complex landscape of digital transactions and service agreements.

According to Hadjon, legal protection acts as a guarantee from the state to empower individuals in exercising their rights (Juanda, 2023; Kemilau et al., 2023; Mutik et al., 2024; Mardhatillah & Parvez, 2024). Hadjon identifies two primary forms of legal protection: preventive protection, which encompasses measures taken to avert rights violations or disputes, and repressive protection, which refers to law enforcement actions that occur post-violation, including the imposition of criminal or civil penalties on offenders (Sulastri, 2023; Fihim et al., 2023; Rizqy et al., 2024). Fitzgerald has linked the theory of legal protection to natural law, asserting that the law integrates societal interests while placing constraints on specific interests for the public good (Efendi et al., 2022; Saputra et al., 2023). Overall, the theory of legal protection underscores the essential function of law in defending individual and societal rights from various threats, employing both preventive and repressive strategies to enforce justice and ensure equitable outcomes in society.

In the of legal agreements, a contract is recognized as valid when it adheres to specific characteristics, aligns with ethical norms, and complies with legislative provisions (Filatova, 2020; Antognini, 2021; Dwivedi et al., 2021; Dixit et al., 2022; Helewitz, 2024). A contract represents a commitment from one party to perform agreed-upon actions, establishing a legal relationship with the other party (Hariri, 2011). According to Prodjodikoro (2011), this relationship enables one party to demand the fulfillment of the agreed terms. However, a notable phenomenon arises when the concept of an agreement is interpreted variably, leading to potential confusion and ambiguity (Hernoko, 2010). As noted by Nevianti et al. (2024), contracts define the rights and obligations between service providers and users. Despite the principle of freedom of contract established in Article 1338 of the Civil Code, which permits parties to freely form agreements, this principle is often oversimplified to mean merely the freedom to agree, overlooking essential principles such as consensualism.



The multitude of principles embedded in Article 1338 creates an intricate web of interrelated concepts fundamental to contract law, which together are intended to ensure fairness in contractual relationships and provide legal protection, certainty, and security for both service providers and users. In the digital era, the complexity and dynamism of relationships between service providers and users have escalated (Akter et al., 2020; Benbya et al., 2020; Beverungen et al., 2021; Martín-Rojas et al., 2021; Gawer, 2022; Wirtz et al., 2023). The advent of digital platforms has transformed traditional business transactions, facilitating rapid and efficient interactions that transcend geographical limitations. This evolution not only broadens market reach for service providers but also enhances competition and fosters innovation. Moreover, the increased transparency brought about by online reviews and feedback mechanisms has empowered users to evaluate service quality effectively (Jiang et al., 2021; Mariani & Nambisan, 2021; Zheng, 2021; Marinescu et al., 2021; Duan et al., 2022).

Despite the growing importance of contracts in facilitating trust and ensuring legal protection in digital interactions, there remains a notable gap in understanding how various principles of contract law are interpreted and applied within this context. Previous studies have highlighted the complexity of contract law, particularly the principles enshrined in Article 1338 of the Civil Code, which includes freedom of contract and consensualism (Salim, 2021; Nevianti et al., 2024). However, limited research has focused on how these principles manifest in the digital landscape, where agreements often occur without face-to-face interactions. Furthermore, the increasing risks of fraud in digital transactions underscore the need for a more nuanced examination of contractual frameworks and their effectiveness in providing legal recourse for both service providers and users (Akter et al., 2020; Gawer, 2022). Addressing this gap is essential for developing strategies that enhance legal protections and promote trust in digital marketplaces.

However, alongside these advantages, the digital landscape has introduced significant challenges, particularly the heightened risk of fraud. Malicious actors exploit security vulnerabilities to perpetrate identity theft, fake transactions, and data manipulation, jeopardizing both consumers and businesses. This research aims to investigate the role of contracts as vital legal instruments that foster trust and protect the interests of both service providers and users in the face of these emerging challenges. By examining the interplay between contractual agreements and digital interactions, this study seeks to contribute valuable insights into strengthening legal protections in the evolving digital marketplace.

2. IMPLEMENTATION METHOD

This research is classified as normative legal research, which involves the examination of library materials or secondary data (Soekanto & Mamuji, 2013). Also referred to as doctrinal research, normative legal research conceptualizes law primarily as the written statutes and regulations (law in books) or as rules and norms that guide appropriate human behavior (Amiruddin & Asikin, 2006). This type of research serves to identify legal rules, principles, and doctrines relevant to specific legal issues (Marzuki, 2007). To achieve objective results, data collection is conducted through library research, gathering secondary data that comprises primary legal materials, secondary legal materials, and tertiary legal materials. This secondary data, which includes laws, regulations, textbooks, and relevant institutional information, forms the theoretical foundation for analyzing primary data collected from field research. All gathered data and information are subjected to qualitative analysis, employing analytical descriptive methods to draw conclusions on the research topic.



BUILDING TRUST THROUGH CONTRACT: A LEGAL PROTECTION EFFORT FOR SERVICE PROVIDERS AND USERS IN THE DIGITAL ERA

Hafizh et al.

3. RESULTS AND DISCUSSION

In the digital era, the nature of contracts between service providers and users has transformed significantly, primarily through the rise of electronic agreements, or e-contracts, which revolutionize business transactions by fostering a more interconnected and efficient ecosystem tailored to consumer needs. Digital technologies facilitate collaboration among businesses, consumers, and partners, enhancing market reach and accelerating transaction processes. E-contracts offer numerous advantages, including improved accessibility, efficiency, and rapid execution of transactions. Various forms of digital contracts exist, such as click-wrap agreements, where users consent to terms by clicking an acceptance button; browse-wrap agreements, which imply agreement through use; shrink-wrap agreements, commonly applied in software licenses; smart contracts based on blockchain technology, which execute automatically when conditions are met; and terms of service and privacy policies that outline usage terms and data protection measures. In Indonesia, the legal recognition of electronic contracts is established under Law Number 11 of 2008 on Electronic Information and Transactions, provided they meet the criteria for valid agreements outlined in Article 1320 of the Civil Code.

Legal protection is crucial to ensure that service providers can meet customer needs while upholding contract terms, promoting transparency and trust in transactions, as mandated by Law No. 8/1999 on Consumer Protection. This law grants consumers rights to compensation when goods or services deviate from agreed terms, emphasizing the importance of mutual consent as stipulated in Article 1338 of the Civil Code. Although the term "contract" is familiar to the public, its legal understanding remains simplistic, largely defined within the Civil Code, particularly in Book III. The concept of a contract, stemming from "engagement or agreement," is enshrined in Article 1313, which defines consent as an agreement where one or more parties promise to another. However, this formulation has been criticized for its incompleteness and breadth; it focuses solely on unilateral consent and includes vague terminology that encompasses various actions beyond mere agreement (Atmoko, 2022).

Contract law principles outlined in Book III of the Civil Code—such as consensualism, freedom of contract, binding force (*pacta sunt servanda*), and good faith—are foundational to the formation and enforcement of agreements in the digital landscape. Despite the benefits of digital contracts, including accessibility and transaction efficiency, challenges such as fraud risk, legal uncertainty, and privacy breaches arise with technological advancements. The digital environment allows malicious entities to exploit security vulnerabilities, leading to identity fraud and data manipulation, which poses significant threats to both consumers and businesses alike. Furthermore, legal ambiguities in online transactions complicate the resolution of disputes due to jurisdictional disparities, making it imperative for service providers and users to comprehend the legal landscape surrounding digital contracts.

Privacy breaches represent another pressing concern, as online platforms often collect extensive personal data. While this data aids in service improvement, its potential misuse and the associated risks of data leaks necessitate robust privacy measures. Users may remain unaware of the extent of data collection, raising legitimate concerns regarding their privacy and security. Addressing these challenges requires a careful approach, incorporating stringent regulations and enhanced cybersecurity protocols to safeguard both parties' interests in digital transactions. Building trust in the digital era hinges on certain crucial elements of contracts, including clarity and transparency in contract content to prevent misunderstandings, the use of secure electronic



signatures for authentication, and clear provisions regarding data protection and privacy to reassure users about the safety of their personal information.

Additionally, effective contracts should incorporate clear dispute resolution mechanisms to provide recourse in case of disagreements, fostering a sense of security among users. Provisions for warranties and compensation enhance users' confidence by clearly outlining liabilities should service providers fail to fulfill their obligations. Flexibility within digital contracts is equally important, allowing for adaptations as circumstances change, thereby ensuring long-term relevance and reliability. The effectiveness of contracts in the digital age is contingent upon their legal validity, law enforcement, consumer protection, and the incorporation of security measures. For e-contracts to be legally valid, they must meet contractual requirements as delineated in Article 1320 of the Civil Code, which necessitates mutual agreement, legal capacity, a defined subject matter, and a lawful cause.

The enforcement of digital contracts poses unique challenges, particularly in cross-jurisdictional contexts where varying legal rules can create confusion regarding the rights and obligations of parties. This complexity is exacerbated by the need for service providers and users to understand clauses related to choice of law and choice of forum, which delineate applicable laws and dispute resolution venues. Online Dispute Resolution (ODR) mechanisms, such as mediation and arbitration, offer efficient alternatives to traditional litigation, further streamlining the resolution process in the digital realm. Consumer protection remains integral to the effectiveness of digital contracts, as enshrined in Law No. 8/1999, which provides consumers with recourse for compensation in the event of service non-fulfillment.

Given the heightened risks associated with digital transactions, it is essential for contracts to encompass robust data protection and privacy provisions to ensure compliance with evolving regulations, such as Personal Data Protection Laws. Security measures, including electronic signatures and encryption technologies, play a pivotal role in safeguarding contracts against unauthorized access and misuse, while smart contracts provide additional security through automated execution of terms upon fulfillment of predefined conditions. However, the inherent rigidity of smart contracts can present challenges when changes are required, highlighting the need for legal frameworks that accommodate technological advancements while remaining adaptable to evolving circumstances.

The effectiveness of contracts in the digital era is deeply intertwined with compliance to fundamental legal principles, consumer protection, enforcement challenges across jurisdictions, and the security and flexibility of agreements. As e-contracts become increasingly central to establishing legal relationships in digital services, addressing these multifaceted issues will be paramount for fostering secure and trustworthy environments for service providers and users alike. By embracing these principles and adapting to the dynamic landscape of digital technology, stakeholders can navigate the complexities of modern transactions with greater confidence and security.

4. CONCLUSION

In conclusion, the digital era has profoundly transformed business transactions, fostering a more interconnected and consumer-centric ecosystem while simultaneously introducing challenges such as fraud, privacy breaches, and legal uncertainties. Digital contracts are crucial in establishing trust between service providers and users, emphasizing the importance of clarity, transparency, secure electronic signatures, data protection, and effective



BUILDING TRUST THROUGH CONTRACT: A LEGAL PROTECTION EFFORT FOR SERVICE PROVIDERS AND USERS IN THE DIGITAL ERA

Hafizh et al.

dispute resolution mechanisms. To enhance the effectiveness of these contracts, it is essential to strengthen regulatory frameworks governing digital agreements, including robust cybersecurity standards and clear provisions for Online Dispute Resolution (ODR). By addressing these elements, stakeholders can create a secure and efficient environment for digital transactions, ensuring the protection and confidence of all parties involved.

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BUILDING TRUST THROUGH CONTRACT: A LEGAL PROTECTION EFFORT FOR SERVICE PROVIDERS AND USERS IN THE DIGITAL ERA

Hafizh et al.

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