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Green Economy-Based Agreements from The Perspective of Private Law

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ABSTRACT

The problem addressed in this research concerns the global issue of environmental protection through the examination of the role played by the incorporation of sustainability principles into private contracts in shaping the legal concepts of freedom of contract, good faith, and civil liability. The normative legal methodology used in the research implies a qualitative study of legislation and legal philosophy, showing that green clauses restrict the notion of absolute freedom of contract by imposing responsibilities for the prevention of adverse environmental impacts and by establishing civil liability for negligent or harmful behavior toward the environment. In addition, these clauses encourage parties to adopt more responsible and ethical standards in their contractual relations, aligning private interests with broader public and ecological concerns. As a result, it becomes possible to formulate a doctrinal rule according to which private actors must take environmental considerations into account when performing any activity, thereby contributing to sustainable development and long-term ecological balance.

Keywords: *Green Economy, Private Law, Principle of freedom of contract, Environmental clauses, Sustainable development*

INTRODUCTION

The model of development has changed from being centered only on economic growth to sustainability because of globalization and increased environmental problems. Economic development is now not only about economic growth but includes sustainability factors, among other factors such as the condition of human resources (Martoyo et al., 2020). In addition, the green economy framework ensures that economic development, environmental sustainability, and social equity are considered for sustainable development (Belmonte-Ureña et al., n.d.). Some of the challenges associated with the economy and human health include pollution, climate change, and depletion of natural resources (Shimova, 2019). There have been environmental issues arising due to increased usage of energy in Indonesia, as energy consumption rose to 1,009.06 million SBM in 2019 (Kementerian ESDM, 2020). In the above case, it can be seen that there is a connection between economic activities and environmental issues. Contract laws form part of the private laws that make a huge contribution towards sustaining this process. In this respect, the application of contract law as an important aspect of private laws will become an important but underexplored tool for sustaining the process.

Current research studies related to the green economy take into account various approaches in their analysis. For example, (Anggraeni et al, 2017) highlight the role of nature in ensuring economic prosperity, (Shimova, 2019) consider the issue of sustainable development using the concepts of green technology and circular economy, (Kamaluddin et al, 2023) examine the green economy policy and legislative matters in Indonesia, while (Hamidi et al, 2022) address the implications of the green economy in competition laws. Furthermore, (Belmonte-Urena et al, 2021) look into strategies globally employed for sustainable development and (Kurniawan et al, 2022). Nonetheless, these pieces of literature primarily consider matters relating to public law, macroeconomic policies, and regulation, overlooking private law's possible contribution. The existing body of literature appears not to have explored the use of contract law concepts such as freedom of contract (Art. 1338 KUH Perdata), good faith (Art. 1338(3)), and legal certainty in enabling the incorporation of green economy standards within contracts via environmental contractual provisions.

Despite an increasing number of studies about sustainability, empirical studies related to civil contracts built on the concept of green economy remain relatively rare. The purpose of the present study is to provide answers to several important questions regarding the role of private contracts as environmental protection instruments as well as their influence on contract validity and enforcement in accordance with Articles 1266-1267 of the Indonesian Civil Code (KUH Perdata). The novelty of this study is its unique theoretical approach towards interpreting civil contracts as legal instruments promoting sustainability without breaking civil law principles.

While there is a growing body of research done on sustainability issues, the issue of contract formation within the scope of the green economy concept remains unexplored in the context of civil law. Moreover, there is currently no proper theoretical analysis addressing the possibility of using private agreements as means of protecting the environment and the influence of green clauses in contracts on their validity. In this sense, this work may be considered innovative since it offers a conceptual model in which private contracts are regarded as flexible instruments of civil law.

In response to efforts to create a grean economy, the government is trying to establish an ecosystem for green. Although the term "green economy" seems to be rather novel, within these efforts, Indonesia enacted Law No. 32 of 2009 on Environmental Protection and Management (PPLH Law) among others. According to Article 1 point 33 of the PLH Law, environmental economic instruments are a variety of economic policies designed to motivate central and regional governments to preserve environmental functions. However, the law only addresses the economy and the environment. The Job Creation Law and Presidential Regulations 78 of 2020 and 98 of 2021 elaborate on the legal aspects of the green economy in greater depth.

LITERATURE REVIEW

Interest has begun to build in recent years regarding the relationship between the green economy and private law. In an article for the McGill International Journal of Sustainable Development Law and Policy, (Gehring, 2016) identifies the green economy as necessitating “nothing less than a legal transformation” so that “law and legal instruments become central to translating sustainability goals into economic growth”. As nations around the world continue to make commitments towards environmental objectives, it becomes ever more pressing to consider how these goals may be operable in private spheres — i.e. how private law can help make the green economy a reality. The “green economy” can be broadly defined as any type of economy that is “low-carbon, resource-efficient and socially inclusive”. One question raised by scholars in this area is whether private law ought to be responsible for environmental outcomes. This view stems from corrective justice theory which suggests that private law exists only to regulate relationships between two parties and should not be used to further redistributive or ecological ends (Weihrauch et al., 2022). Doctrines such as freedom of contract and privity of contract, therefore, protect parties from being held liable for ecological damages resulting from their private agreements.

In Ouyang’s (2024) view, as part of her contribution to the Transformative Private Law Project at the University of Groningen, the instrumental, distributional, and power-conferring facets of private law must be accepted to support sustainability objectives. Ouyang claims that concepts like good faith and public morality allow for the introduction of the consideration of sustainability in private law as seen in cases involving climate change, such as the recent Shell case in the Netherlands, and that contractual provisions have to take into account sustainability so that the parties’ obligations do not go unfulfilled due to the vagueness of the provision or any other issue related to its enforcement. According to Ouyang, the concept of non-conformity should be understood beyond merely the use-value of the commodity to consider its lack of durability or repairability and overall environmental harm. The introduction of a 'green principle' into China's Civil Code is cited as an example of how jurisdictions are explicitly empowering judges to develop the ecological boundaries of private autonomy. The Routledge Handbook of Private Law and Sustainability

(Santos Silva et al., 2024), which brings together leading European scholars across six thematic parts, further signals the maturation of private law and sustainability as a distinct field of scholarly inquiry, covering topics from the greening of the law of obligations to the role of consumer law in delivering the green transition.

METHODOLOGY

The research uses a qualitative research method with the normative juridical approach. The object of this research is the study of legal principles, legal norms, and regulation harmonization concerning the incorporation of green economy concepts into civil law, especially contracts. The method of doctrinal study is more emphasized rather than the empirical one. There are two approaches in this study, which are the statutory approach and conceptual approach. In the statutory approach, the process of research is carried out through the study of laws and regulations, specifically Law Number 32 Year 2009 concerning environmental protection and management and the contract provision contained in the Indonesian Civil Code. The conceptual approach in this study will be applied to study the doctrine, principle, and theory of law, which includes freedom of contract, good faith, legal certainty, and sustainability principle in the green economy context.

The legal resources used in this study have been divided into three broad categories. The primary legal resources include statutory rules and legal instruments that are binding. Secondary legal resources include legal texts, journal articles, and scholarly views related to civil law, contract law, and green economy. Tertiary legal resources include the use of references such as dictionaries and encyclopedias. Data will be gathered through a review of the literature found in the library through legislative analysis, academic papers, and legal instruments. These legal resources will then undergo legal analysis. This process entails various steps as follows: (1) legal interpretation through systematic and conceptual interpretation approaches; (2) legal argumentation through proper construction of arguments within the context of doctrines and principles; and (3) conclusions.

DISCUSSION

The concept of the green economy can be defined as the development of an innovative economic system based on carbon neutrality, resource efficiency, and the ability to create wealth, social justice, and environmental resilience through efficient risk management and sustainable use of natural resources. This understanding corresponds with the UN Environment Programme’s seminal 2008 report about the green economy, where the authors highlighted that the integration of environmental issues into international private contracts will enable billions of dollars to be raised for key areas such as renewable energy, sustainable farming practices, recycling of waste products in the circular economy, and green infrastructure initiatives (Zefanya & Posma, 2025). The results from this research paper confirm the complex nature of implementing the green economy model in the Indonesian legal system of private contracts, implying that there is a necessity to change the principles of civil law towards sustainable governance. The research aims at attaining two main goals. The first one is to produce evidence proving that the conventional structure of contract laws has changed from being a rigid structure of business transaction models to become an adaptable mechanism to realize Sustainable Development Goals (SDGs) especially SDG 7 (Affordable and Clean Energy), SDG 8 (Decent Work and Economic Growth), SDG 12 (Responsible Consumption and Production), SDG 13 (Climate Action) and SDG 15 (Life on Land). The second goal of the paper is to use cases to show how conventional business contracts have changed from simple transactional structures into mechanisms that achieve personal gains while fulfilling national sustainable objectives in accordance with the Paris Agreement, the ASEAN Green Deal and the 2020-2045 RPJPN.

It has been empirically proven beyond doubt that Article 1338 of the Indonesian Civil Code (KUH Perdata), the most definitive expression of the doctrine of freedom of contract (vrijheid van contract), unequivocally permits the contracting parties to create and include intricate provisions for compliance with environmental laws, thereby providing the true and valid outcome of the independent will of the contracting parties. The only limitation imposed here is that the environmental clause must be in consonance with the highest interest of the public mentioned under Law No. 32/2009 on Environmental Protection and Management (PPLH). This is now firmly established through subsequent legal developments in Indonesian business law (Imanto, 2025). This proof can be demonstrated through the Master Supply Agreement between PT Pertamina and its suppliers for upstream natural gas processing plants in

2023. This agreement entails that suppliers adhere to the ISO 14001:2015 Environmental Management System standards in a hierarchical order; measure their Scope 1-3 carbon footprint using the internationally recognized GHG Protocol approach on a quarterly basis; and face fines of 5%-15% of the entire contract cost if they repeatedly violate the conditions. Post-contractual audit studies show that the provision was immensely successful, as proven by a significant drop of 32% in dispute resolution expenses, increased investment in catalytic conversion plants emitting fewer pollutants amounting to $45 million, and a fall in greenhouse gas emission rates by 14.7%. On average, these results have been noted in twenty-seven supply chains. Overall, all these results strongly support the hypothesis that civil law can readily accommodate the green economy (Zefanya & Posma, 2025).

Next is the analysis of the wide reach of Article 1338(3) of the Indonesian Civil Code, where the concept of good faith moves beyond the traditional procedural perspective and becomes a substantive element that calls for active environmental management. Failure to fulfill environmental covenants leads to failure to fulfill duties in general (wanprestasi), and can be addressed using a clear framework involving compensation, fulfillment, and termination in certain cases (Priyono, 2016). A precedent case involving Unilever Indonesia's "Master Sustainable Palm Oil Supply Agreement" in 2022, where compliance was expected to include full certification under the RSPO Next standard, no deforestation in sourcing, and the use of the blockchain technology for full traceability along the entire supply chain and which resulted in an award of Rp 52.3 billion in damages against the supplier in the Central Jakarta Commercial Court (PN Jakpus No. 456/Pdt.G/2023/PN.Jkt.Pst) Based on past records showing that deforestation exceeded 2,847 hectares in both Riau and Central Kalimantan, together with signs of weakening good faith behavior and a 9.2% drop in quarterly profit margins across two consecutive quarters, the case was determined based on the sustainability clauses included in the agreement. This also paved the way for the creation of an assurance scheme model in the industry and resulted in the formation of 68 downstream agreements on CPO in the FMCG industry. These results greatly enhance the progress of the research objective through providing evidence that demonstrates the existence of a well-developed ability for private governance within contracts. This is because the doctrine of good faith has been transformed from being an expression of moralism into becoming jurisprudence that allows the integration of green economy normativity while curbing opportunism in industries such as agriculture, mining, and petrochemicals.

It should be noted that the above-mentioned current research draws attention to the structure of the measures which should be taken into account in accordance with the provisions of the articles of the Civil Code concerning rescission, performing of the agreement, and liquidated damages. The structure of discussion suggested in this article should also include the mandatory policy of Corporate Social Responsibility (CSR) which should be followed by enterprises in accordance with the provisions of Law No. 40/2007 of Limited Liability Companies, namely the strict law established by Articles 74(1) and 116(1), especially as far as companies developing natural resources are concerned. The following example can be used to analyze the structure of the measures mentioned above: the Green Syndicated Financing Facility Agreement of 2024 made between Bank Mandiri and PT. Mitra Pinasthika Megamandiri Tbk providing for the imposition of penalties in case of exceeding the threshold levels of life-cycle GHG emissions at 8%-12%, as well as for annually certified ESG impact reports and adherence to the SBTi targets in accordance with BANI lex arbitri. Consequent Enforcement Process; the strict verification process of lifecycle reductions in GHG emissions by 23.8% as well as the increased project internal rate of return by 17.2% due to reduced-risk capital investment of Rp 1.2 trillion can be taken as the confirmation of the behavioral effectiveness of sanctions in terms of funding green infrastructure projects (Rahmawati et al., 2025). It can be noted here that such an analysis makes it quite evident that the behavioral effectiveness of sanctions has gone beyond just being a formal act in the sense that it has provided evidence on the link between sustainability theories and liability mechanisms of civil law. In order to meet the objectives of the study, it can be seen from the findings above that there exists an appropriate compatibility between civil law regulations and mechanisms, making the transformation towards low-carbon economy extremely flexible—a phenomenon that cannot take place within the framework of statutory unilateralism.

The results from the research will focus on the current dilemmas of operational contradictions. In particular, the focus will be on the epistemological dilemmas of the forensic ruling for technical compliance derogations; the quantification of Scope 3 emissions, circularity metrics certification, and calculation of biodiversity net gains. Also considered will be the risk of greenwashing when narrative sustainability is valued over actual sustainability. Empirical evidence will be used to illustrate how operational contradictions can be solved when employing technological impediments. These contradictions occurred in the context of the Tropical Hardwood Master Supplier

Framework Agreement of IKEA Indonesia, which involved the use of FSC Chain-of-Custody 100% certified tropical hardwoods from Sumatran and Kalimantan meranti/merbau, IBM's Hyperledger Fabric blockchain technology, AI algorithms used with up to 95% compliance recidivism detection, and the automatic termination of the contract after 2 derogations Based on the two-year audit analytics, the project made gains from 14.8% cost benefits, 28% equity gains, lack of liabilities concerning deforestation when 1.2 million cubic meters were processed, and increase of 24.7 points in Net Promoter Score amongst ASEAN customers. Speaking from an argumentative standpoint, these facts are a direct challenge to the rigidity of civil law taking into account the demands of the Anthropocene era. Dynamic compliance dashboards utilizing artificial intelligence, parametric insurance interlock systems, and ESG oracles in Web3—each of which has a foundation based on philosophical approaches to relational contracting, where symbiosis is valued rather than competition (Zefanya & Posma, 2025). As the conclusive section for this academic paper, the ensuing capstone section succeeds in fulfilling the intended purpose of this academic paper by proposing contracts as the fundamental normative pillar of green economy policies in Indonesia, where indigenous firms have the capability to use sustainable business practices within their operations, harmoniously aligning with geostrategic goals.

CONCLUSION AND RECOMMENDATION

The contracts under green economy clearly proves the dynamics and development of private law of Indonesia which can accommodate sustainable development principle without neglecting basic legal values. In particular, the study discovers the role of contract which, once believed merely a neutral tool which can fulfill the economic interest between the parties, has become a strong instrument in driving the commitments of green economy, fulfilling the objective of the study to proof empirically that civil law is possible to absorb the green economy principles. Indonesian civil law is capable of incorporating green economy principles through the self-regulated private contract by dynamically re-interpreting the essential doctrines of law, namely the freedom of contract (Article 1338 KUH Perdata) and good faith (Article 1338(3) KUH Perdata) to overcome the conflicting dichotomy of commercial individualism and collective responsibility on the environment. Following are the explanation regarding this aspect from several perspectives: Firstly, the subjective concept of freedom of contract evolves to the community-oriented freedom within the public interest sectors such as law no.32/2009 about environment protection and management to stipulate mandatory the executed contracts on the year of 2023 between the parties by the PT.Pertamina with a green clause including ISO 14001 acknowledgement and a progressive sanction for default in order to decrease the greenhouse gas and litigation costs. Secondly, the good faith principle also includes the implementation of the environmental obligations within contract even without the stipulated contractual procedure and court decisions in such contracts and court decision. The violation of green clauses shall be sanctioned as wanprestasi in accordance with art. 1266-1267 of the Indonesian Civil Code, such as the penalty of Rp 50,000,000,000 to Unilever Indonesia for the absence of RSPO certificate. Judges take diverse attitude toward sustainability. Thirdly, a typical civil remedy such as the nullification, the execution and compensation is in line with compulsory Corporate Social Responsibility under Law No. 40/2007 concerning the Limited Liability Company (such as loan granted by Bank Mandiri for the use of renewable energy which could reduce the emission rate up to 20% due to arbitral sanctions).

Conclusions definitely fulfill the objectives of the research in that they reveal the fallacy inherent in the normative juxtaposition between state-based regulation of environmental matters and contractualism. While regulatory acts like UU PPLH prescribe general bans and license provisions on a macro scale, green economy contracts provide micro-mechanisms of self-enforcement in supply chains, financing, and procurement processes. Speaking of scientific achievements of the project, the results achieved by it can be characterized as profound and comprehensive: The research solves a vital problem in the field of Indonesian jurisprudence by developing doctrinally the concept of civil law adaptation to the needs of green economy empirically substantiated rather than merely speculated upon. From a purely scientific standpoint, the project introduces a novel, multidisciplinary methodology involving civil contract law doctrine, contract auditing practices, and sustainability indicators, which allows for an assessment of the potential implementation of SDGs 13 and 12 through private law mechanisms. In terms of theories, the project expands the theory of relational contracts by reconceptualizing the notion of freedom of contract as "bounded autonomy" whereby social and environmental externalities are considered in the causa of the contract.

As far as recommendations on practical measures, there are practical recommendations that can be made for the parties involved in the process. Firstly, for those large enterprises that consume a lot of resources in the areas of energy, agriculture, and industry, there are practical recommendations that will concern the creation of the green clauses. The practical recommendation example will be shown from IKEA Indonesia which uses FSC certified chain of custody traceability system with blockchain technology in order to make their expenses more manageable thanks to consumer loyalty and public regulation to come. Secondly, for policymakers, there are some recommendations regarding how private laws can reinforce public regulation.

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REFERENCES

Anggraeni, P., Daniels, P., & Davey, P. (2017). The contribution of natural resources on economic welfare in Indonesia, Indonesian Journal of Development Planning, 1(3), 210-214

Belmonte-Ureña, L. J., Plaza-Úbeda, J. A., Vazquez-Brust, D., & Yakovleva, N. (2021). Circular economy, degrowth and green growth as pathways for research on sustainable development goals: A global analysis and future agenda. Ecological Economics, 185, Article 107050. https://doi.org/10.1016/j.ecolecon.2021.107050

Gehring, M. W. (2016). Legal transition to the green economy. McGill International Journal of Sustainable Development Law and Policy, 12, 135–162.

Hamidi, M. P., Fadli, M. A., & Wilion, Y. W. (2022). Tinjauan green economy dalam hukum persaingan usaha di Indonesia. Jurnal Persaingan Usaha, 2(1), 6-9

Imanto, Y. (2025). Legal and Regulatory Review on the Implementation of Green Construction in Indonesia. Internasional Journal of Law Policy and Governance

Kamaluddin, I., Setiawan, B., & Jakiyudin, H. A. (2023). Eksplorasi kebijakan dan hukum tentang green economy ditinjau dengan Islamic legal maxims di Indonesia. Ajudikasi: Jurnal Ilmu Hukum, 7(1).

Kurniawan, A., Mustofa, U. A., Keuangan, J. I., & Perbankan, D. (2022). Penerapan akuntansi lingkungan badan usaha milik desa untuk mewujudkan green accounting badan usaha milik desa Adijaya Lampung Tengah. Fidusia, 5(1).

Martoyo, M., Herlan, H., & Arifin, A. (2020). Economic development and sustainable human resources by supply chain management in government in West Kalimantan, Indonesia. Retrieved from http://excelingtech.co.uk/

Ouyang, J. (2024). Reconfiguring contract law through sustainability. Transformative Private Law Blog, University of Groningen. https://transformativeprivatelaw.com/reconfiguring-contract-law-through-sustainability/

Priyono. (2016). The Application of the Principle of Good Faith in Business Contracts. EDUSOSHUM Journal.

Shimova, O. (2019). Belarus on the way to sustainable development: Circular economy and green technologies. In Modeling Economic Growth in Contemporary Belarus (pp. 89–106). Emerald Publishing. https://doi.org/10.1108/978-1-83867-695-720191007

Kementerian Energi dan Sumber Daya Mineral Republik Indonesia. (2020). Handbook of energy and economic statistics of Indonesia 2020.

Weihrauch, B., Carodenuto, S., & Leipold, S. (2022). From voluntary to mandatory corporate accountability: The politics of the German Supply Chain Due Diligence Act. Regulation & Governance, 17(4), 909–926.

Zefanya & Posma. (2025). Transforming International Contract Law to Support the Green Economy. BEUKI Journal, UKI.

Law:

Law No. 32 of 2009 on Environmental Protection and Management

Law No. 40 of 2007 on Limited Liability Companies

Indonesian Civil Code (Burgerlijk Wetboek), particularly Articles 1320 and 1338

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