

LEGAL PROTECTION FOR THE WEAKER PARTY IN CIVIL CONTRACTS: A COMPARATIVE ANALYSIS OF INDONESIAN LAW AND INTERNATIONAL PRACTICE

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ABSTRACT

Civil contracts, as fundamental instruments in modern legal and economic transactions, are often characterised by an imbalance in bargaining power between the parties, whereby the weaker party (consumers, workers, debtors) is in a vulnerable position and susceptible to contractual exploitation by the stronger party (business operators, employers, creditors). This study aims to analyse legal protection for weaker parties in civil contracts in Indonesia, compare it with international practices, and formulate policy recommendations to strengthen the national legal system. It employs a literature review using a legal-normative and comparative approach. The research findings indicate that Indonesia possesses a fairly comprehensive normative framework through the Civil Code and sectoral legislation; however, its effectiveness is hampered by low legal literacy, weak enforcement, and limited access to justice. Comparative analysis reveals that the European Union, the United States, and the United Kingdom have developed more advanced protection mechanisms, including mandatory protection that cannot be overridden by choice-of-law clauses, collective enforcement through consumer organisations and public authorities, and judicial flexibility to set aside unfair terms through the doctrine of *unconscionability* and the reasonableness test. This study recommends holistic reforms encompassing the adoption of the principle of mandatory protection, strengthening the powers of the BPSK and OJK for preventive oversight, integrating more flexible doctrines for the courts, simplifying class action mechanisms, and implementing a massive legal literacy programme. Without synergy between robust regulation, consistent enforcement, and community empowerment, legal protection for the vulnerable will remain a normative promise incapable of altering the reality of structural injustice in contractual relationships.

Keywords: legal protection, vulnerable parties, civil contracts, comparative analysis, imbalance of bargaining power, unfair terms, substantive justice, Indonesian contract law

Introduction

Contracts or civil agreements are fundamental instruments in modern legal and economic transactions, enabling the parties to regulate their respective rights and obligations independently. However, in practice, contractual relationships are often

characterised by an imbalance in bargaining power between the parties, where one party is in a stronger position economically, in terms of information, or legal expertise, whilst the other party is in a weaker position and vulnerable to exploitation (Anwar, 2014). This imbalance raises fundamental questions regarding the extent to which the principle of freedom of contract can be upheld without sacrificing the principle of substantive justice in contractual relationships.

In the Indonesian legal system, the principle of *freedom of contract* is recognised as a fundamental principle enshrined in Article 1338 of the Civil Code (KUHPerdata), which grants the parties the freedom to determine the content, form and terms of a contract in accordance with their wishes (Kuspraningrum, 2011). However, this freedom is not absolute, but is limited by the principles of *good faith*, morality, public order, and applicable laws and regulations. These limitations form the normative basis for legal intervention to protect the weaker party from the abuse of a dominant position by the stronger party (Artanti & Widiatno, 2020).

The phenomenon of the weaker party in civil contracts can be found in various contexts, such as the relationship between consumers and businesses, employees and employers, debtors and creditors, and tenants and landlords. In these relationships, the weaker party often has no choice but to accept the terms of the agreement that have been unilaterally standardised by the stronger party, resulting in what is known as '*unreal bargaining*' or the absence of genuine negotiation (Susanty et al., 2022). These economically efficient *standard form contracts* have the potential to create substantive injustice if not balanced by adequate legal protection mechanisms.

In Indonesia, protection for vulnerable parties is enshrined in various sector-specific laws and regulations, such as Law No. 8 of 1999 on Consumer Protection, Law No. 13 of 2003 on Employment, and specific provisions within banking and housing legislation. However, the effectiveness of this protection is often hampered by weak law enforcement, low public legal awareness, and the complexity of dispute resolution procedures that are costly and protracted (Yudha et al., 2025). Consequently, vulnerable parties remain in a vulnerable position even though their rights have been recognised in law.

The issue becomes increasingly complex when civil agreements involve transnational elements, such as foreign investment contracts, technology licensing agreements, or cross-border e-commerce transactions. In this context, weaker parties from developing countries such as Indonesia often find themselves facing multinational corporations with far superior legal and economic resources, thereby exacerbating the imbalance in bargaining power (Roisah, 2015). This challenge necessitates harmonisation between national law and international protection standards to ensure that weaker parties are not exploited in global agreements.

By comparison, the international legal system has developed more advanced and comprehensive mechanisms to protect vulnerable parties. The European Union, for

example, has adopted the *Unfair Contract Terms Directive* (93/13/EEC), which prohibits unfair contract terms and grants consumers the right to rescind contracts containing such terms (Reich & Micklitz, 2014). This Directive has successfully established minimum standards for consumer protection across all EU member states and has served as a model for many other jurisdictions in formulating policies to protect the weaker party.

In the United States, the doctrine of *unconscionability* in the *Uniform Commercial Code* (UCC) and the *Restatement (Second) of Contracts* empowers the courts to set aside contracts deemed grossly unfair, whether due to defects in the formation process (*procedural unconscionability*) or due to substantively onerous terms (*substantive unconscionability*) (McCullough, 2016). This doctrine has become a vital instrument in protecting consumers, workers, and other vulnerable parties from contractual exploitation by stronger parties. Meanwhile, the UK applies a *reasonableness* test under the *Unfair Contract Terms Act 1977* and the *Consumer Rights Act 2015*, which requires that any clause limiting liability or placing a burden on the consumer must satisfy a reasonableness test based on the specific context and circumstances of the agreement (Giliker, 2017). This approach affords the courts flexibility to assess the fairness of a contract on a case-by-case basis, thereby allowing protection for the weaker party to be tailored to the diverse dynamics of contractual relationships.

Although Indonesia has a fairly comprehensive legal framework, there is a significant gap between legal norms and their implementation on the ground. Many court rulings still tend to be formalistic and pay insufficient attention to substantive justice, meaning that vulnerable parties often do not receive adequate protection even though their rights are legally enshrined (Khasanah et al., 2023). Furthermore, limited access to legal aid and low levels of legal literacy among the public further exacerbate the vulnerability of weaker parties in contractual disputes.

A comparative analysis of Indonesian law and international practice is essential for identifying best practices that can be adopted to strengthen the national legal protection system. Lessons from other jurisdictions can provide insights into preventive protection mechanisms, such as obligations regarding transparency of information and prohibitions on unfair standard terms, as well as *remedial* protection mechanisms, such as class actions, consumer arbitration, and *pro bono* legal aid (Wijayanto, 2025). It is hoped that the integration of these mechanisms will create a fairer balance between freedom of contract and protection for the weaker party.

Research Methodology

This study employs a literature review methodology using a legal-normative and comparative approach, relying on an in-depth examination of primary, secondary and tertiary legal sources to analyse legal protection for vulnerable parties in civil contracts. Primary legal materials include the Civil Code (KUHPerdata), Law No. 8 of 1999 on Consumer Protection, Law No. 13 of 2003 on Labour, as well as international legal

instruments such as the *Unfair Contract Terms Directive* (93/13/EEC), the *Uniform Commercial Code* (UCC) of the United States, and the *Unfair Contract Terms Act 1977* of the United Kingdom. Secondary legal materials include books, national and international journals, and other documents. Data collection techniques involved the identification, classification, and systematisation of relevant legal sources, followed by qualitative analysis using descriptive-analytical and comparative methods to identify similarities, differences, and legal gaps between the Indonesian legal system and international practice, thereby enabling the formulation of comprehensive conclusions and relevant policy recommendations for the strengthening of national contract law (Eliyah & Aslan, 2025); (Walliman & Walliman, 2021).

Results and Discussion

Legal Protection for the Vulnerable in Indonesian Civil Law

Legal protection for the weaker party in Indonesian civil law is rooted in the philosophy of substantive justice, which recognises that freedom of contract cannot stand alone without moral and legal constraints that prevent the exploitation of those in a vulnerable position. The Indonesian legal system, which is a legacy of Dutch civil law (*Burgerlijk Wetboek*), initially placed great emphasis on the autonomy of the parties' will; however, with the passage of time and demands for social justice, it has undergone significant transformation through various special regulations that provide extra protection to consumers, workers, debtors, and other vulnerable groups (Anwar, 2014). This transformation reflects a paradigm shift from formal justice towards substantive justice, wherein the law is no longer merely a tool for enforcing formal agreements, but also an instrument for ensuring a balance of rights and obligations amongst unequal parties.

The primary normative basis for the protection of vulnerable parties in Indonesian civil law is found in the Civil Code (KUHPerdata), specifically in Article 1320, which governs the validity of contracts, and Article 1338, which recognises the principle of freedom of contract subject to the limitations of good faith, public morality and public order. Article 1320 stipulates that a contract is only valid if four elements are fulfilled: agreement between the parties, capacity to enter into a contract, a specific subject matter, and a lawful cause, wherein the element of capacity is explicitly designed to protect those who are legally deemed incapable, such as minors, persons under guardianship, and those prohibited by law (Auli, 2023). Meanwhile, Article 1338(3) stipulates that a contract must be performed in good faith, which the Supreme Court and legal doctrine interpret as an obligation to act honestly, fairly, and with due regard for the interests of the other party, thereby providing a legal basis for the courts to annul clauses deemed exploitative (FAUZIE, 2017).

In addition to the general provisions of the Civil Code, Indonesia has adopted a sectoral approach to protecting vulnerable parties through various specific laws

designed for particular contractual contexts. Law No. 8 of 1999 on Consumer Protection (UUPK) is the most comprehensive instrument regulating the protection of consumers as the weaker party in transactions with business operators, with an explicit prohibition on exculpatory standard clauses, namely clauses that shift the liability of the business operator or reduce the consumer's rights (Susanty et al., 2022) . Article 18 of the UUPK expressly prohibits business operators from including standard clauses stating that consumers are deemed to have agreed to all terms and conditions without the opportunity to read them, or which grant unilateral rights to business operators to amend the content of the agreement without the consumer's consent, thereby providing strong preventive protection against unfair contractual practices (Yudha et al., 2025) .

In the context of employment relations, Law No. 13 of 2003 on Manpower (as amended by the Job Creation Law) provides special protection to workers as the weaker party in an employment contract, by setting out minimum standards regarding wages, working hours, leave, social security and procedures for termination of employment which employers must comply with. These provisions are mandatory (*dwingend recht*), meaning they cannot be set aside by agreement between the parties; thus, should a worker agree to terms that fall below the minimum standards in an employment contract, such terms are null and void by law, and the statutory minimum standards apply (Sari et al., 2020) . This approach reflects the recognition that, in employment relationships, workers' bargaining position is often so weak that they have no real choice but to accept the terms offered; consequently, the state must intervene to establish a non-negotiable minimum level of protection.

Protection for vulnerable parties is also evident in banking and credit law, where debtors are often in an unequal position compared to creditors due to their reliance on financing and lack of understanding of the complexities of financial products. Although there is no specific legislation comprehensively regulating debtor protection, Bank Indonesia and the Financial Services Authority (OJK) have issued various regulations requiring banks to apply the principles of prudence, transparency, and fair treatment of customers, including the obligation to provide clear and complete information before a credit agreement is signed (Roisah, 2015) . Furthermore, Article 1365 of the Civil Code regarding unlawful acts can serve as the basis for a claim by a debtor who has suffered loss due to unfair lending practices, although in practice, debtors' access to this mechanism remains hindered by costs and the complexity of legal procedures (Khasanah et al., 2023) .

One of the most significant forms of protection under Indonesian law is the regulation of *standard form* contracts, which are widely used in consumer, banking, insurance and telecommunications transactions. Standard form contracts, whilst economically efficient, have the potential to create unfairness because the weaker party has no opportunity to negotiate the terms of the contract and can only accept or reject

it in its entirety (*take it or leave it*). To address this, Article 18 of the Consumer Protection Act not only prohibits exculpatory clauses but also grants the Consumer Dispute Resolution Body (BPSK) the authority to declare standard clauses that are detrimental to consumers null and void, thereby creating a protection mechanism that is faster and more affordable than litigation in the general courts (Sari et al., 2020). BPSK decisions are final and binding, although they may be appealed to the district court within 14 days, thereby providing legal certainty for consumers.

In addition to preventive protection through the terms of the contract, Indonesian law also provides for repressive protection mechanisms in the form of contract annulment and compensation for the weaker party who has suffered loss. Article 1321 of the Civil Code stipulates that a contract entered into due to mistake, duress, or fraud may be rescinded, providing a legal remedy for the weaker party trapped in a contract they do not fully understand or to which they consented under pressure (Auli, 2023). The doctrine of abuse of circumstances (*misbruik van omstandigheden*), although not explicitly provided for in the Civil Code, has been adopted by the Supreme Court's case law as an extension of the concept of duress, allowing courts to set aside agreements where one party exploits the economic, psychological, or intellectual vulnerability of the other party to obtain an unfair advantage (Artanti & Widiatno, 2020). This doctrine serves as a vital instrument in protecting the weaker party from subtle yet detrimental contractual exploitation.

In judicial practice, protection for the weaker party has been further strengthened through various progressive Supreme Court rulings that are oriented towards substantive justice. In Supreme Court Ruling No. 3085 K/Pdt/1984, for example, the court annulled a standard clause in a credit agreement that granted the bank the unilateral right to sell collateral without notifying the debtor, on the grounds that the clause was contrary to good faith and justice (Khasanah et al., 2023). Similarly, in Judgment No. 1045 K/Pdt/2001, the Supreme Court declared void an employment contract requiring workers not to marry during the term of the contract, on the grounds that the clause violated human rights and public order. These rulings demonstrate that Indonesian courts are increasingly aware of the importance of protecting the vulnerable from structural injustices embedded within contractual relationships.

Although the legal framework for the protection of vulnerable parties in Indonesia is already quite comprehensive in theory, its implementation on the ground still faces various structural and cultural challenges. Firstly, the public's low level of legal literacy means that many vulnerable parties are unaware of their rights or do not understand the legal implications of the clauses they sign, leaving them trapped in disadvantageous contracts despite being legally protected (Tamba, 2018). Secondly, access to justice remains limited for low-income communities due to high litigation costs, complex procedures, and the length of dispute resolution processes, meaning many vulnerable parties choose to accept injustice rather than fight for their rights

through legal channels (Tonner & Fangerow, 2012) . Thirdly, law enforcement by the relevant agencies remains weak, with the BPSK often lacking sufficient resources and executive authority to ensure that its decisions are implemented by business operators.

Another significant challenge is the dualism between national law and global business practices, whereby many civil contracts in Indonesia involve transnational elements that are subject to foreign law or international arbitration. In this context, weaker Indonesian parties are often confronted with *choice of law* and *choice of forum* clauses that force them to resolve disputes in foreign jurisdictions at very high costs, thereby effectively denying them access to justice (Roisah, 2015) . Although Article 1338 of the Civil Code recognises the parties' freedom to choose the applicable law, the *public policy* doctrine may be invoked to reject the application of foreign law that conflicts with Indonesia's fundamental principles of justice; however, the use of this doctrine by Indonesian courts remains very limited and inconsistent (Wijayanto, 2025) .

To bridge this gap between legal norms and reality, several legal reforms have been proposed by academics and practitioners, including strengthening the powers of the BPSK, simplifying *class action* procedures for consumer protection cases, and adopting the doctrine of *unconscionability* from US law, which affords courts greater flexibility to set aside unfair contracts (Reich & Micklitz, 2014) . Furthermore, improving public legal literacy through large-scale educational programmes and ensuring access to pro bono legal aid are also priorities to ensure that normative protection is effectively accessible to the vulnerable. The integration of digital technology into the judicial system, such as e-courts and e-litigation, is also expected to reduce the costs and time involved in dispute resolution, thereby making justice more accessible to all sections of society (Tonner & Fangerow, 2012).

Overall, legal protection for vulnerable parties under Indonesian civil law has undergone significant development, moving from mere formal recognition towards more substantive and operational protection mechanisms. However, the effectiveness of this protection remains heavily dependent on the commitment of law enforcement officials, public awareness of their rights, and the political will to implement the necessary structural reforms. Without synergy between robust regulations, consistent enforcement, and community empowerment, legal protection for the weaker party will remain an empty promise on paper, incapable of altering the reality of injustice in everyday contractual relationships.

Looking ahead, the main challenge for Indonesian civil law is to strike a balance between the freedom of contract necessary to drive economic growth and business innovation, and the protection of vulnerable parties, which is a prerequisite for social justice and legal stability. This balance cannot be achieved through rigid and excessive regulation, but requires a flexible, contextual, and responsive approach to the ever-changing dynamics of contractual relationships, particularly in the digital economy era where new forms of contractual exploitation continue to emerge. Only through a

holistic and adaptive approach can Indonesian civil law truly function as an instrument of justice that protects the vulnerable without hindering the strong from innovating and developing.

Comparative Analysis: Practices for the Protection of Vulnerable Parties in the International Legal System

The international legal system has developed various mechanisms to protect the weaker party in civil contracts that are far more advanced, comprehensive and operational than those found in Indonesian law. This comparison is important not only for understanding global best practices, but also for identifying gaps in national law that need to be addressed so that Indonesia can provide equivalent protection for its citizens in both domestic and transnational transactions. The three main jurisdictions that form the focus of this comparative analysis are the European Union with its *Unfair Contract Terms Directive*, the United States with the doctrine of *unconscionability*, and the United Kingdom with the *Consumer Rights Act 2015*, each representing a different yet equally effective approach to protecting weaker parties from contractual exploitation (Farnsworth et al., 2013).

The European Union has been a pioneer in the harmonisation of consumer protection through *Council Directive 93/13/EEC on Unfair Terms in Consumer Contracts*, which was adopted in 1993 and has been implemented by all Member States with considerable success. This Directive defines an unfair term as any contractual clause that has not been individually negotiated and, contrary to the requirements of good faith, causes a significant imbalance in the rights and obligations of the parties to the detriment of the consumer (Reich & Micklitz, 2014). This definition is highly progressive as it looks not only at the substantive content of the clause but also at the procedure by which it was formed, meaning that standard terms imposed on consumers without the opportunity for negotiation automatically become subject to strict scrutiny (Tonner & Fangerow, 2012).

The protective mechanisms in Directive 93/13/EEC are not only repressive but also preventive, requiring Member States to provide adequate and effective means to prevent the continued use of unfair terms, including through actions brought by consumer organisations and public authorities. Article 7 of the Directive explicitly requires Member States to ensure that consumer organisations with a legitimate interest may bring proceedings before the courts or administrative bodies to determine whether contract terms formulated for general use are unfair, thereby creating an *actio popularis* mechanism that enables collective protection without requiring individual victims to bring a private action (Fangerow, 2012). This mechanism has proven highly effective in countries such as Germany, the Netherlands and Sweden, where consumer organisations actively monitor and challenge unfair standard terms across various sectors, from banking to telecommunications.

One of the most significant innovations of the EU Directive is the principle that the protection it affords cannot be overridden by a choice-of-law clause; thus, consumers domiciled in the EU remain protected by this Directive even if their contract designates the law of a non-EU country as the applicable law, provided that the contract has a close connection with the EU. This provision is specifically designed to prevent businesses from exploiting jurisdictions with weak consumer protection to evade their obligations, thereby creating *mandatory protection* that cannot be contracted out. This principle is highly relevant to Indonesia, which frequently faces similar issues in transnational contracts, where the weaker Indonesian party is forced to submit to foreign law that does not provide adequate protection.

In the United States, protection for the weaker party in civil contracts has been developed primarily through the doctrine of *unconscionability*, as set out in Section 2-302 of the *Uniform Commercial Code (UCC)* and Section 208 of the *Restatement (Second) of Contracts*. This doctrine grants courts broad discretionary power to refuse to enforce a contract or specific clause deemed 'unreasonable' (*unconscionable*) at the time the contract was formed, whether due to procedural defects in its formation (*procedural unconscionability*) or due to content that is substantively onerous (McCullough, 2016). The flexibility of this doctrine allows courts to respond adaptively to new forms of contractual exploitation that emerge alongside changes in business practices and technology.

Procedural unconscionability refers to unfairness in the process of contract formation, such as the lack of a genuine choice for the weaker party, the use of complex and incomprehensible legal language, the concealment of important clauses in the small print, or undue time pressure that prevents the weaker party from reading or negotiating the contract (Markou, 2017). Meanwhile, *substantive unconscionability* refers to unfairness in the content of the contract itself, such as clauses granting excessive unilateral rights to one party, unreasonably limiting liability, or forcing the weaker party to bear risks that should be the responsibility of the other party (McCullough, 2016). Courts in the United States generally require a combination of both these elements, although the degree of combination required varies between jurisdictions, with some states adopting a *sliding scale* whereby extreme procedural unfairness may compensate for milder substantive unfairness, and vice versa.

The landmark case of *Williams v. Walker-Thomas Furniture Co.* (1965) marked a significant milestone in the development of this doctrine, in which the US Court of Appeals for the District of Columbia Circuit struck down a clause in a furniture credit contract that allowed the seller to repossess all goods ever purchased by the consumer if a single instalment was late, even though the majority of the goods had already been paid off (Colby, 2001). The court held that the clause was not only substantively onerous, but was also enforced against low-income consumers with limited education who had no real choice but to accept the terms, thereby meeting the criteria for both

procedural and substantive *unconscionability* (Markou, 2017) . This precedent has formed the basis for hundreds of subsequent rulings protecting consumers, workers and debtors from exploitative contract clauses.

In the UK, protection for vulnerable parties has undergone a significant transformation with the introduction of the *Consumer Rights Act 2015* (CRA), which replaced and consolidated various previous regulations, including the *Unfair Contract Terms Act 1977* and the *Unfair Terms in Consumer Contracts Regulations 1999*. The CRA introduced a comprehensive *fairness test* applicable to all consumer contract terms, with the sole exception of terms determining the main subject matter of the contract and the price, and even then only if such terms are transparent (in clear and comprehensible language) and prominent (presented in such a way that the average consumer would notice them) (Giliker, 2017) . This approach strikes a better balance between freedom of contract and consumer protection, providing legal certainty for businesses whilst ensuring that important clauses cannot be hidden in the small print.

The CRA 2015 also introduced the *Grey List*—a list of clauses that may be deemed unfair—which provides more concrete guidance for businesses and the courts than the illustrative list contained in the EU Directive. The clauses on this *Grey List* include those allowing businesses to unilaterally amend contract terms, increase prices without adequate notice, terminate contracts without reasonable cause, or limit liability for death or personal injury, all of which are considered potentially unfair practices and require specific justification from the business (Giliker, 2017). The existence of this *Grey List* provides greater legal certainty and reduces unnecessary litigation, as businesses can clearly identify which clauses are at risk of being challenged in court.

One of the significant strengths of the UK system is the active role played by the *Financial Conduct Authority* (FCA) and the *Competition and Markets Authority* (CMA) in monitoring and challenging unfair terms before they cause widespread harm to consumers. Both authorities have the power to issue binding guidance, conduct sectoral investigations, and bring representative actions on behalf of consumers, thereby creating a proactive rather than reactive preventive protection mechanism (Haryadi et al., 2025) . For example, the FCA has actively challenged *unilateral variation terms* in financial services contracts, forcing banks and financial service providers to alter their practices to make them fairer and more transparent for consumers. This proactive regulatory approach has served as a model for many other jurisdictions seeking to strengthen protections for vulnerable parties without relying entirely on private litigation.

A comparison of these three systems reveals several general principles that Indonesia could adopt to strengthen the protection of the weaker party. Firstly, all systems recognise that such protection must be *mandatory* and cannot be overridden by choice-of-law or arbitration clauses, so that the weaker party cannot be forced to waive their rights to protection through a contract. Second, all systems adopt a dual

approach combining preventive protection (through transparency, bans on certain clauses, and regulatory oversight) with repressive protection (through contract annulment and damages), thereby creating a comprehensive safety net. Thirdly, all systems assign a significant role to consumer organisations and public authorities in carrying out collective enforcement, thereby reducing the burden on individuals who often lack the resources to bring a private action (Farnsworth et al., 2013).

However, there are also significant differences that reflect the legal and cultural contexts of each jurisdiction. The European Union system is more structured and harmonised, with a '*black list*' of clauses that are automatically deemed unfair and a '*grey list*' requiring further assessment, thereby providing a high degree of legal certainty but offering less flexibility in dealing with new business practices. The US system is more flexible and case-by-case, with the doctrine of *unconscionability* allowing courts to respond adaptively to new forms of unfairness, but creating greater legal uncertainty as it relies on judicial discretion. The English system attempts to balance these two approaches through a combination of clear lists of clauses and a flexible reasonableness test, alongside a strong regulatory role to bridge the gap between regulation and practice (Versaci, 2018).

The relevance of this comparative study for Indonesia is significant, particularly in addressing the challenges of the digital economy, where contracts are becoming increasingly complex, standardised, and often involve algorithms that can exacerbate information asymmetry. Indonesia could adopt the European Union's principle of *mandatory protection* to ensure that vulnerable parties in Indonesia remain protected in transnational contracts, integrate the US doctrine of *unconscionability* to provide courts with flexibility in addressing new forms of exploitation, and strengthen the role of regulators such as the OJK and BPSK to carry out preventive oversight, as done by the FCA and CMA in the UK (Micklitz, 2014). The integration of these three approaches, with adjustments to Indonesia's legal and social context, can create a more robust, adaptive, and effective system for protecting vulnerable parties.

Overall, this comparative analysis demonstrates that the protection of the weaker party in civil contracts is no longer merely a policy choice, but an international standard that has been adopted by most advanced jurisdictions with proven effectiveness. Indonesia, with its strong civil law heritage and constitutional commitment to social justice, has a sufficient foundation to develop an equivalent protection system, provided there is the political will to undertake regulatory reform, strengthen the capacity of law enforcement agencies, and empower the public through widespread legal literacy. Without these measures, Indonesia risks falling behind global legal protection standards, which in turn could disadvantage its citizens in increasingly integrated domestic and international transactions.

Conclusion

Legal protection for vulnerable parties in civil contracts in Indonesia is underpinned by a fairly comprehensive normative framework comprising the Civil Code, the Consumer Protection Act, the Labour Act, and various other sector-specific regulations; yet the effectiveness of their implementation remains hampered by low levels of legal literacy among the public, weak enforcement by relevant institutions, and limited access to justice for vulnerable parties lacking adequate economic resources. The principle of freedom of contract recognised in Article 1338 of the Civil Code does indeed grant broad autonomy to the parties; however, without clear boundaries and robust enforcement mechanisms, this principle can instead become a tool for legitimising contractual exploitation by dominant parties against vulnerable parties, thereby preventing the substantive justice that is the ideal of civil law from being fully realised in practice.

A comparative analysis of international practices reveals that the European Union, the United States and the United Kingdom have developed more advanced and operational protection mechanisms, with key principles such as mandatory protection that cannot be overridden by choice-of-law clauses, collective enforcement mechanisms through consumer organisations and public authorities, and the flexibility of the courts to set aside unfair terms through the doctrine of *unconscionability* or the reasonableness test. These three jurisdictions also adopt a dual approach combining preventive protection (through transparency, bans on certain clauses, and proactive regulatory oversight) with repressive protection (through contract annulment, damages, ‘ and sanctions), thereby creating a comprehensive safety net for the weaker party. Indonesia can learn from these best practices, particularly in adopting the principle of mandatory protection for transnational contracts, strengthening the powers of the BPSK and OJK to carry out preventive supervision, and integrating a more flexible doctrine to enable courts to respond to new forms of exploitation in the digital economy era.

The legal reforms required to strengthen the protection of vulnerable groups in Indonesia must be holistic and multidimensional, encompassing regulatory revisions to adopt relevant international protection standards, capacity-building and the strengthening of the powers of law enforcement agencies such as the BPSK, the simplification of class action procedures and more accessible alternative dispute resolution mechanisms, as well as a massive legal literacy programme to empower the public to recognise and be able to defend their contractual rights. Without synergy between robust regulations, consistent enforcement, and community empowerment, legal protection for the vulnerable will remain a normative promise incapable of altering the reality of structural injustice in everyday contractual relationships. Only with strong political commitment and an adaptive approach to the dynamics of the global economy

can Indonesian civil law truly function as an instrument of justice that protects the vulnerable without hindering innovation and healthy economic growth.

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