
THE ENFORCEABILITY OF DIGITAL CONTRACT: A COMPARATIVE ANALYSIS ON INDONESIA AND NEW ZEALAND LAW

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ABSTRACT

The age of digitalization has impacted paper contracts as it is being replaced by digital contracts. Therefore, not understanding the different interpretation of digital contracts in both countries could result in a flawed contract. A flawed contract could make it difficult and confusing for the party concerned to meet their end which could lead to a breach of contract. The injured party would then demand damages, specific performance, cancellation, or restitution. This paper intends to provide a comparative analysis and explanation about the enforceability of digital contracts within the New Zealand and Indonesian contract law. The research method used in this paper is normative legal research with comparative legal research. New Zealand and Indonesian law have some similarities but there are differences that still need to be considered in order to ensure the enforceability of digital contracts.

Keywords: enforceability, digital contract, contract law

INTISARI

Era digitalisasi telah memengaruhi kontrak kertas dengan digantikannya oleh kontrak digital. Maka, tidak memahami perbedaan interpretasi kontrak digital di kedua negara dapat mengakibatkan kontrak cacat. Kontrak yang cacat dapat mempersulit dan membingungkan pihak terkait untuk memenuhi prestasi mereka sehingga dapat menyebabkan wanprestasi. Pihak yang dirugikan kemudian akan menuntut ganti rugi, pemenuhan kembali, pembatalan, atau restitusi. Makalah ini bermaksud untuk memberikan analisis komparatif dan penjelasan tentang keberlakuan kontrak digital dalam hukum kontrak Selandia Baru dan Indonesia. Metode penelitian yang digunakan dalam penulisan ini adalah penelitian hukum normatif dengan penelitian hukum komparatif. Hukum Selandia Baru dan hukum Indonesia memiliki beberapa kesamaan tetapi ada perbedaan yang masih perlu dipertimbangkan untuk memastikan keberlakuan kontrak digital.

Kata kunci: keberlakuan, kontrak digital, hukum kontrak

INTRODUCTION

The age of digitalization is progressing rapidly due to globalization and technological advancement. Paper documents are transforming into its digital form. As a result, electronic transactions and the use of digital contracts have become more apparent, replacing traditional paper contracts gradually over time. Conventional contracts itself may eventually become obsolete because of the usability of digital contracts. The speed and ease of use of digital contracts support this suggestion along with other advantages. A small example of this occurs in electronic shopping or e-shopping. Around 1.92 billion e-shopping transactions were made in 2019 alone (Statista, 2020) which equals 1.92 billion digital contracts. A survey suggests that 85 out of 119 final year students, who were students with a job, more than half of them experienced electronic contracting (Tărchilă & Nagy, 2015). Those numbers will continue to increase as people start replacing conventional contracts with digital contracts. While the transition to digital form provides advantages over the conventional way, it also raises new legal challenges, especially in different legal systems (Sasso, 2016).

As the form of contract changes, how it moves around the world also changes. Digital contracts can move around between countries without much boundaries because it is no longer limited by time and distance like paper contracts. The seemingly instantaneous nature of digital contracts causes it to become more accessible and much easier to come by between different jurisdictions. However, this change of legal system can influence the enforceability of digital contracts, even more when it is sent from a civil law country to a common law country and *vice versa*.

The enforceability of digital contracts is determined by the validity of contracts. Therefore, understanding the requirements for valid contract formation is essential to understand digital contracts enforcement. In this matter, the civil law system and common law system have different approaches. The most basic elements of contract formation in common law are offer, acceptance, and consideration. This is usually elaborated again through case laws and statutes of their own countries. Unlike in common law, civil law countries have distinct perceptions of contract law depending on each country's civil codes so it is not homogenous (Sasso, 2016). Consequently, studying the difference of digital contracts enforcement that exists between both legal systems helps ensure the contracts that go back and forth between those two can be properly enforced.

This paper intends to provide a comparative analysis and explanation about the enforceability of digital contracts within New Zealand and Indonesian contract law based on the following questions: how digital contracts are enforced according to New Zealand and Indonesian law; when digital contracts are formed; and how electronic signature affects the enforceability of digital contracts.

The objective of this paper is to describe the validity of contracts pursuant to New Zealand and Indonesian law along with how it is interpreted on digital contracts as well as the limitation of digital contracts. Furthermore, research on the dispatch and reception of digital contracts, and also

the time of contract formation in the digital world is included. In addition, the influence of the electronic signature is also researched with the types and forms of electronic signature.

METHODS

Legal research is “the process of locating the law that applies to the question raised by the facts of the case” (Sonata, 2016). The legal research in this paper is done using legal normative/doctrinal methods that include the research of law principles, research of legal systematics, legal comparison, and study of legal history (Sonata, 2016).

This paper makes use of primary and secondary legal sources as the basis for argumentation. The primary legal source consists of Indonesian regulations, New Zealand statutes and the secondary legal source consists of law journals, law reports, and law books (Highline College Library). The law report is made by the New Zealand Law Commission which is a joint project between the University of Otago Faculty of Law, University of Canterbury, and the Australian Legal Information Institute and it is taken from the New Zealand Legal Information Institute.

The comparative legal research in this paper is based on New Zealand contract law as the representative of common law and Indonesian contract law as the representative of civil law. Comparative legal research is “a research to compare the laws of a certain country with the laws of another country” (Marzuki, 2016).

RESULTS AND DISCUSSION

Common law originated in England around the eleventh century. It is also known as Anglo-Saxon law, Anglo-American law, or unwritten law. As the British Empire colonized much of the world, it implemented its legal system in the colonies so New Zealand naturally inherited common law as a former colony of the British Empire when it declared independence. The unique characteristic of common law is the application of judicial decisions as the main source of law hence why it is named unwritten law but even so, New Zealand still utilizes written law, such as statutes. The use of judicial decisions as a source of law is based on the doctrine of precedent or *stare decisis* which states that a judge must refer to previous judicial decisions when passing out a verdict. If there are no related judicial decisions, the verdict must be based on common sense and justice (Gandhi & Mulyati, 2016).

The origin of Indonesian legal system traces back to the *Corpus Juris Civilis* which is a collection of law compiled during the reign of Justinian I and afterward, it became the legal foundation for most of European countries, notably the Netherlands which then brought the legal system to Indonesia. It has gone through adaptation in the course of history until it has developed to what is now known as neo-Roman law, Romano-Germanic law, Continental law, or simply as Civil law. The unique characteristic of civil law is that all the rules and laws are codified in civil codes where the courts will define and interpret the law within the code to settle cases. The purpose of written law in Indonesia is to ensure legal certainty and at the same time, to limit the authority of a judge (New Zealand Law Commission, 1998).

This paper will be divided into four subsections, namely “Validity of Digital Contracts”, “Timing of Digital Contracts”, “Role of Electronic Signature in Digital Contracts”, and “Legality of Wrap Contracts”.

1. Validity of Digital Contracts

Contracts in New Zealand are required to fulfill the following conditions in order to be legally binding: the parties intended to create legal relations; there is an offer which is accepted by the other party; the contract is supported by valuable consideration; and the terms within the contract must be certain (New Zealand Law Commission, 1998).

In order to tackle the legal challenges that emerge from digitalization, the New Zealand Legislation enacted the Electronic Transaction Act 2002 which was then put together into the Contract and Commercial Law Act 2017 (CCLA) along with other related statutes. The purpose of the CCLA is to ensure electronic contracts can be functionally equivalent to paper contracts and to ensure that electronic contracts have the same legal effect as paper contracts as well as to assert the time of electronic communications (Article 207 of CCLA). This purpose is realized through a provision in the CCLA which states information whether in electronic form or electronic communications does not affect its legal effect, according to (Article 211 of CCLA). It can be deduced, based on those provisions, that electronic contracts are the same as paper contracts legally and one form of contract is not favored over the other. Therefore, the legal requirements that apply to paper contracts also applies to digital contracts in New Zealand.

Yet, the CCLA puts limitations on digital contracts for certain documents, as specified in Schedule 5 of the CCLA. To name a few, documents like wills, power of attorney, documents made under oath, bills of lading, and warrants still require manual ink signature. On the contrary, documents that can use electronic contracts are commercial contracts, employment contracts, and consumer agreements.

The issue of digital contracts regarding contractual intention is faulty programmed intention. A faulty programmed intention is defined as an offer or acceptance made by a computer that does not reflect the intention of a user due to malfunction. In this case, does it mean that there is no contract because there is no intention from one party? The CCLA does not explicitly regulate this but it is assumed that by programming intention into the computer, the user has shown intention so it still constitutes as a contract (New Zealand Law Commission, 1998).

The doctrine of consideration is a crucial part of New Zealand contracts which states that both parties have to give something of value (New Zealand Law Commission, 1998). For this reason, New Zealand law recognizes bilateral contracts only thus unilateral contracts cannot be enforced in New Zealand. Bilateral contracts are contracts in which both parties are legally required to fulfill their promises whereas unilateral contracts are contracts in which only one party has legal obligation and the other has legal rights (Sasso, 2016).

Meanwhile, the contract law in Indonesia states four conditions for a contract to be legally binding: agreements between parties; capacity to conduct legal relation; a certain object; and a legal cause (Article 1320 of *Kitab Undang-Undang Hukum Perdata* (KUHPer), 2013). The first two conditions are called subjective conditions because it is concerned with the contracting parties while the last two are called objective conditions because it is concerned with the substance of the contract.

Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (UU ITE) acknowledges that digital contracts have the same legal effect as paper contracts (Article 5(1) of UU ITE). The legal conditions of digital contracts is elaborated further in *Peraturan Pemerintah Nomor 71 Tahun 2019 tentang Penyelenggaraan Sistem dan Transaksi Elektronik* (PP PSTE). The regulation states that digital contracts are legally binding if there is an agreement between the parties; the parties have legal capacity to conduct legal action; there is a certain object discussed in the contract; and the object does not contradict the law (Article 47(2) of PP PSTE). A journal argues that the fourth condition does not specifically refer to legal cause therefore it is deemed missing (Putri & Budiana, 2018). However, KUHPer constitutes as law (Bawono, 2012), which means that the legal cause condition still applies to this provision even though it is not directly stated. In the end, the legal conditions of contracts apply to both paper contracts and digital contracts in the same way under Indonesian contract law.

Likewise, Indonesian law also restrains the use of digital contracts for certain forms of documents. Documents that need to be in written form, in the form of notarial deed, or deed made by an official does not enjoy the aforementioned provision (Article 5(4) of UU ITE). This also goes for authentic deeds (*akta otentik*) and private deeds (*akta di bawah tangan*) because both parties have to be present during the signing (Putri & Budiana, 2018). To support this argument, digital contracts are contracts *inter absentes* which mean that the parties do not meet face to face (Sasso, 2016).

Indonesian contract law does not regulate on the matter of faulty programmed intention but mistake is one of the reasons why a contract can be invalid (Article 1321 of KUHPer). Contractual mistakes can happen in two ways, either it is about the substance of a contract or it is about the involving parties (Subekti, 2003). For example, a person programmed a computer to buy any car if it is below Rp100.000 but due to malfunction, the computer purchased a car for Rp1.000.000. Based on this interpretation, the person can claim that he never wanted to purchase the car and it was a mistake.

Whereas contracts in New Zealand require valuable consideration to have a binding force, contracts in Indonesia require a legal cause (Pejovic, 2001). Contracts with illegal because do not have legal power (Article 1335 of KUHPer). Since the doctrine of consideration does not apply, Indonesian law recognizes both unilateral contracts and bilateral contracts.

All in all, both Indonesian and New Zealand jurisdictions have roughly the same idea about what makes a contract legally binding. An agreement is the most basic requirement in both jurisdictions. While New Zealand jurisdiction breaks agreement into offer and acceptance, it is the agreement

that matters in the end. Certainty is also required in both jurisdictions where New Zealand jurisdiction requires certain terms while Indonesian jurisdiction requires certain objects. New Zealand jurisdiction requires valuable consideration also called good and valuable consideration which means that the contracting parties must offer something of value and something that is permitted by the law. This coincided with the Indonesian requirement that a contract must have a legal cause. However, New Zealand jurisdiction does not recognize unilateral agreement because of the doctrine of considerations. The biggest difference lies in legal relation in regards to faulty programmed intention. Since legal relation in New Zealand jurisdiction sees intention as the only requirement to conduct one, a programmed intention constituted as intention regardless of whether it is faulty or not. On the opposing jurisdiction, the start of a legal relation is based on capacity rather than intention. The previous statement does not apply but a faulty programmed intention may be counted as a mistake.

2. Timing of Digital Contracts

The main issue with the change of communication form is the drastic change in time of dispatch and receipt as it generates uncertainty surrounding the moment of contract formation (Ibrahim et al., 2007). It is important to know when digital contracts are sent and when it is received in order to determine when it is formed. To avoid any misunderstanding, an information system is defined as a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications, and the means of electronic communication in this context is electronic mail (email).

There are different theories regarding when a contract is formed. First, the declaration theory states that a contract is formed when the offeree expresses acceptance but does not take into account whether the offeror is aware of this or not. Second, the information or dispatch theory states that the formation of a contract happens when the acceptance comes to the attention of the offeror. Third, the reception theory states a contract is formed when the acceptance is received by the offeror regardless of his/her awareness of the acceptance. Fourth, if not the most popular theory in common law countries, is the postal rule which states that a contract is formed when the offeree sends the acceptance to the offeror (Sasso, 2016).

It is clear that the postal rule applies in New Zealand as in other common law countries within the scope of paper contracts (New Zealand Law Commission, 1998). According to the CCLA, in the context of digital contracts, the time of dispatch is set when the email has left the sender's information system and entered an information system outside the control of the sender, then it is received when the email enters the information system of the receiver or it comes to the attention of the receiver (Article 213(1) and 214 of CCLA). In this sense, the postal rule still applies and digital contracts are formed when the acceptance is sent.

On the other side, it is well established that contracts in Indonesia are formed when an agreement is reached between parties based on the consensualism principle (Subekti, 2005). It is then further explained that contracts are exactly formed when the acceptance is received by the offeror,

meaning that Indonesian law adopts the reception theory (Subekti, 2005). In terms of digital contracts, according to UU ITE, delivery happens when an email is sent and has entered an external information system then reception happens when the email enters the information system of the receiver (Article 8(1) and 8(2) of UU ITE). Based on those provisions, digital contracts are formed when the acceptance is received in the offeror's inbox regardless if the offeror is aware of it or not which is consistent with the reception theory. However, this may cause some concern for the offeree. When an email is sent, the information system simply states that the email has been sent but it does not confirm that the email is received or not. While email may seem like it is immediately received when sent, email is not regarded as an instantaneous form of communication because there is a distance between the outbox and the inbox. Generally speaking, an email goes from the initial information system to the final information system through a third party information system. Anything can happen during this transmission, including a malfunction in the internet, corrupted data, or a virus, where the email can potentially be delayed or even lost. If it is delayed, the contract would still be formed eventually but the offeree does not know exactly when it is formed. Even so, an email can be delayed for days or weeks, the offeree may already assume losses by the time the email is received, considering the time-sensitive nature of business. If it is lost, the contract would never form and it could have the same consequences or worse. Yet again, the offeree won't know if the email is lost. A simple solution regarding the lack of reception notification can be done by adding confirmation when the email is read, like the two blue ticks on WhatsApp (Mahmudova, 2019).

That being said, New Zealand and Indonesia implements different timing of contract formation. This can be problematic when an email comes from New Zealand to Indonesia or the other way around. New Zealand jurisdiction assumes that the contract is formed when they send it to Indonesian jurisdiction but the other jurisdiction recognizes contract formation when it is received by the offeror. A way out of this is to include a provision within the contract which states specifically when the contract will be formed or choose between which time of contract formation will be used for the contract.

3. Role of Electronic Signature in Digital Contracts

Since there is no mandatory requirement to put down electronic signature on digital contracts because oral contracts are also legally binding, how important is electronic signature actually? There are four identified issues that keep digital contracts from being used which is authenticity, integrity, confidentiality, and reliability. The issue of authenticity concerns about who is actually involved in electronic transactions. It is not known who exactly is on the other side because they cannot be seen directly. The issue of integrity concerns about whether electronic communications can be sent and received unaltered during transmission. There is no way of telling if a digital contract has been changed by a third party. The issue of confidentiality concerns about the interception of digital contracts by a third party. It may not be known whether someone took a look at digital contracts during transmission. The issue of reliability concerns whether digital

contract is guaranteed by the law or not. All of these reasons cause people to distrust digital contracts because they doubt its enforceability (Braley, 2001).

The United Nations Commission on International Trade Model Law on Electronic Commerce sets out a general rule of thumb on the functions of electronic signature: to identify a person; to provide certainty as to the personal involvement of that person in the act of signing; to associate that person with the content of a document; to prove a party's intention to be bound by the terms of the signed contract; to prove a person's intention to endorse the authorship of a text; to prove a person's intention to associate himself or herself with the content of a document written by someone else; and to indicate the time and place of signature (Article 7 of UNCITRAL Model Law on Electronic Commerce). The CCLA states that electronic signature serves to identify a person and to indicate that person's approval (Article 209 of CCLA). The UU ITE defines electronic signature as an electronic information that is attached to another electronic information which functions as a verification and authentication tool (Article 1 no. 12 of UU ITE). Essentially, electronic signature works as a proof of a person's intention to be bound by digital contracts; as the identification of a person; and as a verification and authentication tool for the content of digital contracts.

The enactment of the CCLA and the UU ITE has given electronic signature its validity in New Zealand and Indonesia. This addresses the issue of legal reliability. Electronic signature under the CCLA is required to be able to identify the signer and to indicate their approval (Article 226 of CCLA). The CCLA laid out measures to secure the integrity of electronic signature: the electronic signature must only be linked to the signer; the electronic signature was made by the signer without undue influence; and any changes made to the electronic signature must be detectable (Article 228 of CCLA). Similarly, the UU ITE also regulates electronic signature itself and how to maintain its integrity. Electronic signature must be linked to the signer only; electronic signature was made under the full control of the signer; any changes after it was made must be detectable; the electronic signature must be identified with the signer (Article 11 of UU ITE). The security measures stated in the UU ITE requires every party related to an electronic signature to ensure that the system is inaccessible for any unauthorized third party; prevent the use of electronic signature by unauthorized third party; inform all interested parties in the case of breach or potential damages; and ensure the integrity and reliability of electronic certificate in the case it is used to support a electronic signature, according to article 12 of UU ITE. This addresses the issue of authenticity, integrity, and confidentiality.

Those provisions can be said to have overcome the problems mentioned earlier. With the legality of electronic signature being secured, this would help towards the enforceability of digital contracts. Without electronic signature, the doubt about digital contracts would remain and it would not be fully utilized.

Keep in mind that electronic signatures are different from digital signatures. Digital signature is a more secure form of authentication combined with cryptology. A digital signature works by using a matching private key and public key. A private key encrypts the information, making it unintelligible and then, a public key is used to decrypt the information, making it comprehensible

(New Zealand Law Commission, 1998). However, it still helps to combat the previously mentioned problems.

4. Legality of Wrap Contracts

Electronic signature can come in forms of scanned manual signature; electronically drawn signature; typed name; “I Agree/I Accept” button; and any other form of electronic medium to indicate acceptance. Traditionally, ink signatures and seals/stamps are the most commonly used form of signatures in paper contracts but in the digital world, the form of signatures has expanded greatly thanks to the fast development of the internet. The internet has given birth to what is known as wrap contracts which can be broken down into click wrap, scroll wrap, browse wrap, and sign-in wrap (Bartuska, 2019). Basically, each of these digital contracts have their own way of acquiring signatures from the users. For example, click-wrap contracts asked for signature by requesting you to click something, usually a “I Agree/I Accept” button, and that clicked button becomes your signature. Scroll wrap contracts are click wrap contracts with an additional step in which the users have to scroll first before they can click the button. This is usually found in terms and conditions. Browse wrap contracts do not ask for your signature directly, instead it is assumed that by using their website or service, you have agreed to be bound by their terms and conditions. Lastly, sign-in wrap contracts require the users to create an account and by doing so, the users have agreed to their terms and conditions.

How is the legality of wrap contracts? A click-wrap contract constitutes as a digital contract and clicking the button can be interpreted as signing (Gatt, 2002). Therefore, the people of the internet are giving out their signature unconsciously on a daily basis. This should give an idea of how electronic signature may come in different shapes and forms.

Now how do wrap contracts fare under Indonesian law? Electronic transactions can be done using a digital contract or other forms of contract (Article 47(1) of PP PSTE). A digital contract is described as a contract made through an electronic system (Article 1 number 15 of PP PSTE). The provision acknowledges the existence of digital contract and wrap contract, by definition, falls under the regulation. As previously mentioned, there are four conditions for a valid digital contract (refer to subsection 1). The regulation adds that a digital contract must at least contain the following clauses: identities of the parties; object and specification; electronic transaction conditions; price and cost; cancellation procedure; choice of law for dispute settlement (Article 48(3) of PP PSTE). Other than that, the regulation requires the contract to be made in Indonesian (Article 48(1) of PP PSTE). Therefore as long as all these conditions are fulfilled then a wrap contract can be constituted as a legal contract in Indonesia.

Meanwhile in New Zealand, there is no statute or case law that specifically refers to wrap contracts. For now, the legality of wrap contracts refer to the five conditions required by New Zealand regulation mentioned before. If all five conditions are fulfilled then a wrap contract is as binding as any other form of contracts. Other common law countries have had a few sayings on the matter.

Generally, the enforceability of wrap contracts depends on whether a party has signed and read the terms of the contract (Johansson, 2014).

The context in wrap contracts is usually a business to consumer relation. Contracts in business to business relations are explained thoroughly and both parties are aware of their rights and obligations. Quite the opposite in a business to consumer relation. The most common known problem of wrap contracts is that many people who bind themselves to a wrap contract do not even realize they have done that. It usually happens in a browse wrap contract where the terms are not clearly visible on the website. This is the issue of adequacy of notice (O’Sullivan, 2014). For example, a website called “ABC Store” will ask you to turn off ad blocker if you wish to continue using their website. Afterward, the website will ask if you want notification. However, there is no hint of “terms and conditions”. After scrolling down a few times, you will find it at the bottom section of the website. The terms state that by using their website, the user has agreed to be bound by their terms even if he was aware of it. This is an example of inadequacy of notice where the website fails to inform the user of any terms and conditions. The user could argue that he did not intend to create a legal relation as he did not know there was one. This can render the contract unenforceable. That being said, while a wrap contract is a digital contract by definition however wrap contracts should be approached differently.

CONCLUSION

Legislators around the world are proposing to create global laws as it is becoming more relevant by each passing day due to globalization (Pejovic, 2001). As a result of this, New Zealand and Indonesian law have some similarities however there are still a few differences on the subject of enforceability of digital contracts. It is these differences that need to be considered. Regarding the validity of digital contracts, the doctrine of consideration is what separates the civil law system and the common law system. Because of it, New Zealand jurisdiction cannot enforce unilateral contracts, only bilateral contracts are enforceable. Meanwhile, both unilateral contracts and bilateral contracts are enforceable in Indonesian jurisdiction. In terms of the timing of digital contract, New Zealand jurisdiction utilises the postal rule which means that contract formation occurs when the acceptance is sent while on the other side, it utilizes the reception theory which means that a contract is formed when it is received by the offeror. About the legality of wrap contracts, wrap contracts fall under PP PSTE by definition therefore it is legally acknowledged under Indonesian regulation. On the other hand, New Zealand jurisdiction does not specifically separate between wrap contracts and digital contracts and it refers to the same requirements that applies to digital contracts for now.

The validity of digital contracts has been established by enacting the CCLA and the UU ITE to make sure that digital contracts have legal effect. Digital contracts are treated the same as paper contracts because of it. There are still different conditions on what makes digital contracts legally binding between the two countries, especially concerning the doctrine of consideration. Indonesian contract drafters should know about this doctrine and avoid sending unilateral contracts to New Zealand because it is not recognized there and cannot be enforced.

New Zealand law adopts the postal rule and relies on the time of dispatch to determine the time of contract formation meanwhile Indonesian law adopts the reception theory and relies on the time of receipt for that matter. The time gap between the two countries may cause confusion as to when digital contracts are formed. This can be resolved by including a clause which specifies the time of contract formation, either based on the postal rule or the reception theory.

Electronic signature plays a serious role in the enforceability of digital contracts. First, it makes digital contracts more reliable and increases the use of it in electronic transactions. Second, it helps ensure digital contracts can be enforced by maintaining its authenticity, integrity, confidentiality, and reliability.

The fast development of the internet and the emergence of wrap contracts may lead to another set of new legal challenges. There is no denying that other types of wrap contract could appear. Paying close attention to the growth of wrap contracts and preparing the necessary regulation should be something to consider.

Ultimately, even when civil law countries and common law countries are pushing to unite the law in order to create universal laws. In reality, these differences still exist regardless and should be taken into consideration by contract drafters, in this case, from New Zealand and Indonesia. Ignoring these existing differences would prove fatal to the enforceability of digital contracts and may lead to unnecessary costs and damages. In the long run, the creation of a universal contract law will greatly benefit both law systems, which can remove the difficulties caused by the differences aforementioned.

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