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## Ethics and Compliance in Drafting Business Contract Agreements

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### **Abstract**

*Ethics and compliance are fundamental to the quality of business contract drafting and implementation. This article maps the relationship between ethical principles (honesty, transparency, responsibility, fairness) and Indonesia's legal compliance framework (the Civil Code, the Electronic Information and Transactions Law, and Government Regulation No. 71/2019 on Electronic Systems and Transactions, and the Financial Services Authority (OJK) governance regulations), while integrating research findings and current practices (OECD 2024–2025; World Bank 2023–2024; SNI ISO 37001:2016 standard). The analysis demonstrates that ethical and compliant contracts are not only valid and legally binding but also strengthen governance, reduce the risk of disputes, increase stakeholder trust, and support supply chain sustainability. The article offers a practical framework for principles-based contract drafting that aligns with legal, governance, anti-corruption, and sustainability due diligence requirements. Recommendations focus on the integration of ethics clauses, language compliance testing and certified electronic signatures, integrity risk assessments, and a measurable contract management plan. These findings are relevant to business actors, legal advisors, regulators, and compliance auditors.*

*Keywords: Business Ethics, Legal Compliance, Agreements, Business Contracts, Integrity Clauses*

### **1. Introduction**

A business contract is a fundamental instrument governing the legal relationship between the parties in a transaction. A contract is not merely an administrative document, but a legally binding "rules of the game" (binding agreement) that reflects the agreed-upon agreement, risk allocation, and dispute resolution mechanisms. In the context of the Indonesian legal system, contracts are firmly grounded in the Civil Code (KUH Perdata), specifically Article 1320, which stipulates four requirements for a valid agreement: agreement, capacity, a specific object, and a lawful cause (Subekti, 2023). Fulfillment of these four requirements is an indicator of a contract's legality and determines whether an agreement is legally enforceable.

However, developments in the modern business world—marked by globalization, digitalization, and market openness—bring new challenges to contract drafting. Business transactions are no longer limited to face-to-face interactions and physical documents; now, electronic contracts, digital signatures, and electronic evidence have become an integral part of commercial practice (PP No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions). These changes require business actors to understand new dimensions of legal compliance, including the validity of certified electronic signatures, digital document storage mechanisms, and jurisdictional arrangements appropriate to the cross-border nature of transactions.

On the other hand, business contracts must not only be legally valid but also ethically structured. Ethical principles—including honesty, transparency, fairness, and responsibility—are key to maintaining sustainable business relationships. A recent study by the OECD (2024) showed that companies that integrate ethical principles into contractual agreements experienced a significant reduction in the number of contractual disputes and increased partner satisfaction. This aligns with findings from the World Bank (2023), which confirmed that contracts drafted with integrity and adherence to good governance principles *can* reduce the risk of corruption, abuse of authority, and detrimental business practices.

The integration of ethical aspects into contracts also aligns with the development of corporate governance regulations in Indonesia. The Financial Services Authority (OJK), through POJK No. 17 of 2023 concerning the Implementation of Governance for Commercial Banks, underscores the importance of compliance risk management in every contractual relationship, including due diligence obligations towards third parties. National

standards such as SNI ISO 37001:2016 concerning the Anti-Bribery Management System (SMAP) also mandate the inclusion of anti-bribery clauses, violation reporting mechanisms, and clear sanctions in contractual documents. Thus, contracts are no longer viewed solely as legal agreements, but also as instruments for preventing integrity risks.

Another challenge is the increasing complexity of global supply chains. Indonesian companies engaged in international trade often face compliance requirements set by global standards, such as the OECD's *Responsible Business Conduct and ESG (Environmental, Social, and Governance)* principles. The OECD Due Diligence Guidance for Responsible Supply Chains (2024) recommends that companies incorporate sustainability clauses, supplier audit rights, and sanctions for ethical violations into their contracts. In Indonesia, this trend is beginning to be seen in companies listed on the Indonesia Stock Exchange, particularly those export-oriented and subject to international regulations.

The importance of ethics and compliance in business contracts is also reflected in the increasing number of commercial disputes stemming from weak contractual clauses. Data from the Indonesian National Arbitration Board (BANI) in 2024 showed that approximately 37% of disputes handled related to contracts' non-compliance with applicable law or violations of business ethics clauses. This demonstrates that without careful planning, contracts can become a source of risk rather than a mitigation tool.

Based on these realities, this study is relevant for exploring in depth how ethical and compliance principles can be integrated into business contract drafting in Indonesia. The goal is to provide a comprehensive understanding of the relationship between legal norms, good governance principles, and ethical business practices, and to offer a practical framework that businesses can adopt to minimize legal and reputational risks.

By combining normative studies—which examine relevant regulations and standards—and an empirical review of best practices from cutting-edge research, this article is expected to serve as a scientific reference and practical guide for academics, legal practitioners, compliance managers, and policymakers. This approach also strengthens the research's contribution to the development of business law that is adaptive to technological dynamics and global market needs, while ensuring that every business contract drawn up is not only legally valid but also based on the values of integrity and sustainability.

## 2. Literature Review

### 2.1. Basic Theory Underlying Ethics and Compliance in Business Contracts

#### a. Agency Theory

Agency theory explains the relationship between principals (capital owners) and agents (managers or authorized parties) that can potentially give rise to conflicts of interest. Jensen and Meckling (1976) assert that contracts are formal instruments for regulating the rights, obligations, and risk sharing between principals and agents. In a business context, contracts that do not integrate ethical principles can trigger opportunistic behavior (*moral hazard*), such as information manipulation or misuse of resources (Eisenhardt, 1989). Therefore, the principles of openness, fairness, and accountability are important components that must be reflected in contractual clauses (Ghazali, 2023).

#### b. Business Ethics Theory

Business ethics is based on moral principles that govern the behavior of business actors. According to Crane and Matten (2019), the application of ethics in contracts aims to build long-term trust, avoid fraudulent practices, and create *fair dealing* between parties. In Indonesia, this principle synergizes with national policies such as *Good Corporate Governance* (GCG) regulated by the Financial Services Authority (OJK) (2023), which demands transparency and accountability in every contractual relationship.

#### c. Compliance Theory

Compliance in business law is defined as the act of adhering to applicable regulations, standards, and guidelines, both nationally and internationally (Tyler, 2006). The application of compliance in contracts includes verifying the legality of legal entities, compliance with sector regulations, and integrating international standards such as ISO 37001:2016 for bribery prevention (Sutanto, 2024).

## 2.2. Related Legal and Regulatory Framework

### a. Civil Code (KUH Perdata)

Article 1320 of the Civil Code stipulates four conditions for a valid agreement: (1) agreement, (2) capacity, (3) a specific object, and (4) a lawful cause. Violation of these conditions results in the agreement being void or subject to cancellation (Subekti, 2023). This emphasizes that compliance with substantive law is an absolute requirement in drafting a contract.

### b. Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PP PSTE)

This PP regulates the validity of electronic documents and electronic signatures as legal evidence. According to Article 11, a certified electronic signature has the same evidentiary force as a handwritten signature. This is crucial in the increasingly dominant digital contracts (Kusuma, 2024).

### c. Financial Services Authority Regulation (POJK) No. 17 of 2023

This OJK Regulation emphasizes the application of GCG principles in all business relationships, including contracts with third parties. Clauses related to transparency, risk management, and third-party audits are increasingly becoming requirements in the financial sector (OJK, 2023).

### d. Indonesian National Standard (SNI) ISO 37001:2016

This standard sets out the requirements for an anti-bribery management system, including an integrity policy, a whistleblowing mechanism, and anti-bribery clauses in contracts (BSN, 2024).

## 3. Research Methods

This research uses a normative juridical approach combined with secondary empirical analysis. The normative juridical approach is used to examine positive legal provisions governing business contract agreements in Indonesia, such as the Civil Code (KUH Perdata), Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, Financial Services Authority Regulation Number 17 of 2023 concerning the Implementation of Governance for Commercial Banks, and the Indonesian National Standard ISO 37001:2016 concerning Anti-Bribery Management Systems. This review is conducted through a literature review that includes laws and regulations, legal textbooks, scientific articles, and official publications from government agencies and international organizations related to ethics and compliance in business contracts.

Meanwhile, secondary empirical analysis was conducted by reviewing previous research results and recent reports from credible institutions such as the OECD, the World Bank, the Indonesian National Arbitration Board (BANI), and case studies published in SINTA-accredited national journals. This secondary data was used to examine trends in the application of ethics and compliance in business contract drafting practices, including evaluating the effectiveness of integrity clauses, third-party audit mechanisms, and the implementation of electronic signatures in digital contracts.

Data collection was conducted systematically by identifying primary sources (statutory regulations, national and international standards) and secondary sources (journals, research reports, best practice documents). The collected data were then analyzed qualitatively and descriptively, outlining the concepts, principles, and practices of ethical and compliance-based business contract drafting and comparing them with applicable legal provisions and standards. This approach enabled researchers to identify gaps between legal norms and field practices, while simultaneously formulating applicable recommendations.

To maintain data validity, source triangulation was conducted by comparing information obtained from legal literature, academic research results, and official reports from international institutions. The analysis process also utilized content analysis of contract texts and clauses related to ethics and compliance, which served as case studies. With this method, the research is expected to provide a comprehensive and in-depth picture of how ethics and compliance principles can be effectively integrated into the preparation of business contracts, both in physical and digital formats, and is relevant for practitioners, academics, and policymakers.

## 4. Results And Discussion

### 1. Current Conditions of the Implementation of Ethics and Compliance in Business Contracts in Indonesia

A review of 27 contract documents from various sectors—banking, construction, procurement of goods and services, and international trade—shows that the implementation of ethics and compliance principles remains uneven. In highly regulated sectors such as banking and finance, contracts generally include anti-bribery clauses, *compliance statements*, and external audit mechanisms. This aligns with the obligation to implement Good Corporate Governance (GCG) and comply with Financial Services Authority (OJK) Regulation No. 17/POJK.03/2023.

In contrast, in the small and medium enterprise (SME) sector, the majority of contracts still focus on price, product/service specifications, and timeframe, without including provisions governing the ethical behavior of the parties. Limited access to legal counsel, low legal literacy among business actors, and the perception that ethics clauses do not directly impact profits are key inhibiting factors. Research by Putra & Sari (2024) confirms this, finding that only 18% of SME contracts include integrity clauses or prohibitions on gratuities.

### 2. Integration of Ethics in Contract Clauses

Ethics clauses in business contracts are not merely formalities, but rather preventive measures against legal and reputational risks. An analysis of government procurement contracts shows that *Integrity Pacts*, which prohibit bribery, commit to transparency, and require reporting violations, have successfully reduced the potential for bribery at the tender stage (LKPP Report, 2023).

However, in the private sector, the integration of ethics clauses remains partial. In some goods distribution contracts, ethics clauses are only included in general statements such as "The parties are committed to conducting business honestly and in compliance with applicable laws," without any enforcement mechanisms or strict sanctions. However, according to the OECD (2024), the effectiveness of ethics clauses depends heavily on clear definitions of violations, reporting mechanisms, and clear legal consequences.

### 3. Legal Compliance: Between Norms and Practices

Legal compliance in business contracts includes compliance with national regulations, international agreements, and specific technical standards. Normatively, Article 1320 of the Civil Code stipulates four requirements for a valid agreement: agreement, capacity, a specific object, and a lawful cause. However, research by the Indonesian National Arbitration Board (BANI, 2023) found that 21% of contract disputes arise from violations of one of these elements, particularly the element of "lawful cause," which relates to business activities prohibited by law.

Furthermore, the development of digital contracts presents new challenges. Although the ITE Law and Government Regulation No. 71 of 2019 regulate the validity of electronic signatures, the practice of using uncertified digital signatures remains, making their validity vulnerable to judicial disputes. A 2023 survey by the Ministry of Communication and Informatics showed that 37% of business actors using digital contracts do not understand the difference between certified and uncertified electronic signatures.

### 4. Challenges of Ethics and Compliance Implementation

From the analysis results, the main challenges of implementing ethics and compliance in business contracts in Indonesia can be grouped into four categories:

1. Structural Barriers – Lack of explicit legal obligations for all types of contracts to contain ethics clauses, except in highly regulated sectors.
2. Cultural Barriers – Business culture tends to prioritize personal relationships and compromise outside of contracts, so formal clauses are considered less important.
3. Technical Barriers – Low legal literacy and technical ability to draft contracts according to standards.
4. Obstacles to Oversight – Weak audit mechanisms and enforcement of sanctions for violations of ethical clauses.

This phenomenon shows a gap between adequate legal norms and their implementation in the field.

### 5. Comparative Case Study: Indonesia and International Standards

A comparison with practices in the European Union reveals significant differences. In Europe, ethics clauses in business contracts generally refer directly to the EU Directive on Anti-Corruption and the UN Global Compact,

with strict enforcement through regular audits. In Indonesia, although there is reference to ISO 37001:2016 on Anti-Bribery Management Systems, its implementation remains voluntary and is not yet a mandatory part of most contracts.

Case studies of multinational companies operating in Indonesia show that when ethics clauses comply with global standards, contract breach rates can be reduced to below 5% per year (OECD, 2024). Conversely, in domestic contracts without strong ethics clauses, breach rates can reach 18% per year.

#### 6. Effective Ethics and Compliance Implementation Model

From the synthesis of study results and best practices, an effective implementation model includes:

- The detailed structure of the ethics clause includes definitions of violations, reporting mechanisms, sanctions, and commitments of the parties.
- Full compliance with national and international laws, including ISO standards and anti-corruption conventions.
- Independent oversight through periodic third-party audits.
- The use of legal technologies such as certified electronic signatures and *blockchain*-based *smart contract systems*.
- Business ethics education and training for all parties involved.

With this model, business contracts not only function as legal tools, but also as instruments for risk control and the formation of a healthy business culture.

#### 5. Discussion

The application of ethics and compliance in the drafting of business contracts in Indonesia reflects a tension between the need to protect the legal interests of the parties and the reality of a business culture still heavily influenced by personal relationships and informal practices. This study's findings indicate that, despite the national legal framework being adequate, the application of ethics clauses and compliance mechanisms is not yet fully widespread.

Normatively, **Article 1338 of the Civil Code** grants the parties freedom of contract as long as it does not conflict with the law, public order, and morality. However, this freedom is often misinterpreted as unlimited freedom, resulting in the neglect of ethical and compliance aspects. However, in modern contract theory, as outlined by Fried (2015), contracts serve not only as a tool for recording agreements but also as an instrument for continuously regulating the behavior of the parties, including preventing potential abuse of authority or unethical practices.

**Business ethics** perspective, integrating the principles of honesty, openness, and accountability into contracts is crucial for building long-term trust. An OECD study (2024) showed that companies that consistently incorporate a *Code of Conduct* into their agreements with business partners experience up to a 35% increase in partner retention compared to companies that do not. This finding is relevant in the Indonesian context, where most business disputes are triggered by unclear clauses and unethical behavior, rather than purely technical violations of regulations.

However, the implementation of ethics clauses in Indonesia still faces several fundamental obstacles. First, **structural barriers** include the lack of an explicit obligation for all types of contracts to include ethics clauses, except in certain sectors such as government procurement. Second, **cultural barriers**, where business relationships are often built on familial principles, so enforcing ethics clauses is considered to be detrimental to personal relationships. Third, **technical barriers**, such as the limited ability of small business owners to draft contracts that meet legal and ethical standards.

The gap between legal norms and practice is clearly evident in BANI (2023) data, which shows that 64% of contract disputes in the services sector do not include adequate dispute resolution clauses. This indicates a lack of business awareness of the importance of establishing contracts that are not only legally valid but also provide ethical mechanisms for conflict resolution.

From a **legal compliance perspective**, adopting certified electronic signature technology and *smart contracts* can be a solution to ensure document integrity and simplify audits. However, a 2023 survey by the Ministry of Communication and Information Technology showed that business actors' literacy regarding the differences

between certified and uncertified electronic signatures remains low, which has implications for the weak legal standing of digital contracts in court.

Lessons learned from international practice show that the successful implementation of ethics and compliance in contracts depends heavily on the existence of an independent oversight system. In the European Union, for example, ethics clauses are often accompanied by mandatory third-party audits and periodic reporting. This model is rarely implemented in Indonesia, except in multinational companies or those that have adopted the ISO 37001:2016 standard on Anti-Bribery Management Systems.

Thus, to strengthen the implementation of ethics and compliance in business contracts in Indonesia, a comprehensive strategy is needed that includes:

1. Reformulation of contract clauses that contain specific and operational ethical principles.
2. Improving legal and ethical literacy for business actors, especially in the SME sector.
3. Adopt legal technology that supports transparency and accountability.
4. Strengthening independent oversight mechanisms to ensure compliance with contracts.

Without systematic improvements in these four aspects, business contracts have the potential to remain mere formality documents that are not fully capable of preventing unethical practices or protecting the parties from legal risks.

## 6. Conclusion

Based on the research and discussions conducted, it can be concluded that the application of ethics and compliance in the drafting of business contracts in Indonesia is still at an uneven stage of development. Normatively, the legal framework governing business contracts, whether through the Civil Code, sectoral regulations, or adopted international provisions, already provides an adequate basis for protecting the interests of the parties. However, the practical implementation of ethics clauses and compliance mechanisms still faces various obstacles, including structural, cultural, technical, and supervisory barriers. An analysis of contracts across various sectors shows that highly regulated sectors, such as banking, finance, and government procurement, have been more consistent in including ethics and compliance clauses, even incorporating clear audit and sanction mechanisms. Conversely, small and medium-sized businesses still view ethics clauses as non-essential add-ons, resulting in contracts that tend to lack provisions for business conduct with integrity. This phenomenon demonstrates a significant gap between existing legal norms and the reality on the ground. In addition, developments in technology and digital contracts bring new opportunities and challenges. On the one hand, the use of certified electronic signatures and *smart contracts* Blockchain-based technologies can improve security, transparency, and accountability. On the other hand, low legal literacy and awareness of legally valid technological standards can weaken the protections contracts should provide. From a global business ethics perspective, this study's findings demonstrate that the successful integration of ethical and compliance principles into contracts depends not only on the wording of the clauses, but also on effective implementation and oversight mechanisms. International best practices, such as those implemented in the European Union and by multinational companies, demonstrate that incorporating a *code of conduct*, independent audits, and business ethics training can significantly reduce contract breach rates. Therefore, to increase the effectiveness of business contracts as a legal instrument and control of business behavior in Indonesia, strategic steps are needed in the form of: 1) Drafting detailed, operational ethical clauses, accompanied by enforcement mechanisms, 2) Improving legal and ethical literacy through systematic training for business actors in all sectors, 3) Strengthening regulations that require the existence of ethics clauses in all strategic business contracts, 4) Implementation of legal technology in accordance with national and international legal standards, 5) Development of a sustainable independent oversight system. With a combination of regulatory reform, increased business capacity, and the adoption of appropriate technology, it is hoped that business contracts in Indonesia can evolve from mere formal legal documents into instruments that are truly capable of maintaining integrity, building trust, and supporting the sustainability of business relationships.

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