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Unfair Terms in Standard Digital Contracts: A Hidden Threat to Human Rights and Consumer Justice

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Abstract

The rise of standard-form digital contracts, such as clickwrap and browsewrap agreements, has changed the way contracts work in the contemporary world by putting efficiency ahead of justice. These contracts make it easier to scale up and access. However, they often include provisions that are not changeable and are unjust, which makes meaningful consent, consumer autonomy, and legal justice less likely. This study examines to explore the legal, ethical, and human rights dimensions of standard form digital contracts. This study uses legal research with comparative analysis of regulatory frameworks and judicial practices in the European Union, the United States, and Indonesia. The study identifies recurrent unfair clauses, including unilateral limitation of liability, forced arbitration, unilateral modification of terms, and excessive personal data exploitation. The findings reveal that formal consent mechanisms in digital contracts often function as legal fictions that obscure structural power imbalances and enable systematic violations of consumer rights and fundamental human rights, particularly the rights to privacy, information, and effective legal remedy. This article also contributes to the development of contemporary contract law by advancing a rights-based and substantive fairness approach to digital contracting, emphasising human dignity, autonomy, and equitable power relations as core standards for assessing contractual validity in the digital economy

I. Introduction

The rise and rapid growth of the digital economy have changed the legal and practical environment of contracts in an enormous way. Traditional ideas about how contracts are made, which include negotiation, mutual understanding, and informed permission, are being supplanted more and more by automated, standardised digital formats (Tejomurti, et al., 2025; Sulistyowati, et al., 2020). The developments are most clear in the widespread usage of clickwrap and browsewrap agreements, which require users to agree to terms and conditions that have already been set and do not allow for much discussion or change (Das, 2022; Kim, 2013).

Standard form digital contracts are usually set up to help digital service providers work more quickly and grow their businesses. Platforms may make things easier and save transaction costs by giving a large number of users the same terms. These contracts make it easy for consumers to quickly get digital goods and services with minimal effort (Sklaroff, 2017). However, the apparent convenience and efficiency of such arrangements mask deeper legal and ethical concerns, particularly in relation to fairness, consent, and consumer autonomy.

From a philosophical perspective, the validity of contractual consent is called into question inside the digital world. Classical contract theory underscores free consent and informed decision-making as fundamental elements of a legally valid obligation (Barnett, 1986). In contrast, digital contracts often reduce consent to a performative act—such as clicking "I agree"—regardless of whether the user has understood or even read the terms. This circumstance raises important considerations regarding whether this type of permission can be seen as valid in real terms (Kannengiesser, et al., 2021).

The moral basis of contract law is based on the idea of individual autonomy. When meaningful consent diminishes, this basis is weakened. If users are not truly free to negotiate or reject the conditions, their autonomy is undermined, and the ethical validity of the agreement is brought into question. Thus, even while these contracts may be acceptable in terms of procedure, they may not meet the moral requirements that make them enforceable in a legal system that respects rights.

Sociologically, standard-form digital contracts reflect and reinforce broader power imbalances within digital societies. Service providers—often multinational corporations with vast legal and technical resources—are in a dominant position compared to individual users, particularly those from digitally disadvantaged or socio-economically marginalised communities (Prabantarikso, 2024; De Lima, 2025). These imbalances reveal themselves in the way contracts are written, how easy they are to understand, and how long they are. They are often written in legal or technical language that is hard to understand. These dynamics are extremely prevalent in Indonesia. The Indonesian Internet Service Providers Association (APJII) surveyed in 2023 and found that more than 77% of internet consumers utilise e-commerce sites. However, more than 60% said they never read the terms and conditions (APJII, 2023). This widespread absence of information reveals how users in digital contracts are structurally disempowered,

especially those who don't know much about technology or do not have easy access to legal resources.

Juridically, the enforceability of standard form contracts has long been recognized by legal systems. However, enforceability should not be conflated with fairness. Many digital contracts contain clauses that limit liability, restrict consumer rights, compromise privacy, and curtail access to remedies. For example, some Indonesian e-commerce platforms impose arbitrary deadlines—such as a seven-day complaint window for defective products—which undermine the consumer's ability to seek redress in a reasonable and just manner (Maulana, 2025; Silalahi, et al., 2022). Indonesia has passed regulations to protect consumers, such as Law Number 8 of 1999 on Consumer Protection and the Electronic Information and Transactions Law (*ITE Law*). However, these laws are not always enforced well. Regulatory agencies and dispute resolution bodies sometimes lack the resources they need, and digital service providers still work with little supervision (Fibrianti, et al., 2023). Because of this, many customers do not have many options for holding companies accountable or getting help when they are faced with unfair contract conditions.

High-profile cases show how serious the problem exists. People started to pay attention to the MyPertamina mobile app in 2021 when users had to agree to share a lot of data in order to get fuel subsidies. The program gathered information about users' locations, devices, and how they used them, which raised serious concerns about data protection and user privacy. For a lot of users, opting out was not a real option because the app was linked to important services, which made the consent feel like it was forced (Khoiro, et al., 2025; Riofita, 2025; Atara, 2025).

The consequences of these actions extend beyond protecting consumers and into the area of human rights. The acceptance of unclear and unnegotiable digital contracts puts important rights at risk, like the right to privacy, the right to knowledge, and the right to a fair legal remedy. In developing digital economies like Indonesia, where regulatory capacity is uneven and social disparities are high, these worries are even worse. This makes it easier for rights to be violated under the pretence of legal formality.

This study aims to examine the legal, ethical, and human rights aspects of standard form digital contracts. It is directed by three interconnected research inquiries: (1) What are the common traits of unjust terms in digital contracts? (2) How much do these clauses go against the basic rights and principles of fairness in contracts? Moreover, (3) What duties do states and digital service providers have to make sure that digital contracts are fair and safe? This study seeks to advance a rights-based approach to digital contracting that fosters fairness, accountability, and democratic values within the digital economy by examining these questions through an interdisciplinary lens—rooted in philosophical inquiry, sociological examination, and legal critique.

This study contends that inequitable provisions in standard-form digital contracts represent an exploitation of contractual authority, compromising both consumer justice and the safeguarding of human rights. These types of contracts run against the basic

principles of modern legal systems by presenting coercion as consent and turning user autonomy into a commodity. In conclusion, Indonesia and other countries need tougher rules, more openness, and a move toward digital contract governance that puts people first.

II. Theoretical Framework and Literature Review

A. Theory of Contracts

The theory of contracts is essential for comprehending the concepts that regulate agreements between parties in both domestic and international settings. A contract is a legally binding agreement between two or more people that they all agree to. This principle is codified in numerous legal systems, particularly within civil law traditions exemplified by the German Civil Code (*Bürgerliches Gesetzbuch* - BGB) (Schuster, 1896) and the French Civil Code (Code Civil) (Halperin, 2021), which establish the basic rules governing contract

A basic principle of contract law is that contracts should be transparent and equal agreements between the parties. The classical liberal approach asserts that people should be able to negotiate agreements without outside interference as long as those conditions do not go against public order or morals. Article 1101 of the French Civil Code states that a contract is an agreement between two or more people to make, change, or end obligations. This principle is shown in that article. The understanding here is that both parties join the contract on equal terms, which means that their agreement is the most important portion of the deal (Halperin, 2021).

But in real life, the concept of freedom and equality is often distorted by differences in power between the parties involved. This is especially clear in situations where one side has a lot more power to negotiate than the other, like in employment contracts, consumer contracts, or some business deals. As will be discussed below, this imbalance might lead to exploitation or coercion, which makes the agreement less fair.

The theory of inequality of bargaining power emphasises the difficulties arising from disparities in negotiating strength among parties. Legal experts have researched this idea a lot, especially in the area of consumer law (Barnhizer, 2005). Economists and legal scholars alike recognize that when one party has greater bargaining power, the resulting contract may be skewed in favor of the stronger party, leading to terms that are not mutually agreed upon in a truly free sense.

Researchers like Hillman (2012) argue that these differences are generally caused by people not having equal access to information, having different amounts of financial or strategic power, or marketplaces that are too big for one company to control. This is especially clear in adhesion contracts, which are agreements written by one party (typically a corporation or institution) that the other party (the consumer or employee) must accept without any changes. For example, if the consumer wants to get products or services, they may have no choice but to sign the contract. This means that the weaker party's permission is forced.

Therefore, the legal system has come up with ways to deal with these power disparities, especially through the ideas of fairness and unconscionability. In the United States, for instance, courts may not execute contracts that are judged unconscionable, meaning they are too one-sided and take advantage of the weaker party's lack of bargaining strength. The Unfair Commercial Practices Directive (2005/29/EC) of the European Union has the same goal: to protect consumers against unfair contract conditions that come up because one side has more bargaining power than the other (Durovic, 2014).

Standard form contracts (also known as adhesion contracts) are a prevalent feature in modern commerce, particularly in digital markets. These contracts are pre-drafted by one party, usually the supplier or service provider, and presented to the other party on a "*take it or leave it*" basis, without the opportunity for negotiation. A standard form contract, according to legal scholar E. Allan Farnsworth, is a contract in which the terms are set by one party and accepted by the other without modification. These contracts are designed for efficiency and convenience, allowing businesses to streamline transactions with a large number of customers or clients. Common examples include terms of service agreements for online platforms, mobile phone contracts, and insurance policies (Farnsworth, 2006).

Standard form contracts are often criticised for not being clear or fair, even if they are easy to use. Because these contracts give one side more power than the other, they often leave consumers open to terms they do not fully understand or agree to. Because these contracts are "take it or leave it," consumers cannot negotiate or even fully understand what the conditions mean.

B. Relevance in the Digital Ecosystem

Standard form contracts are now even more common in the digital age. The fast growth of e-commerce, mobile apps, and online services has made these contracts a hot topic in legal and moral discussions. Before customers can use any features or information on digital sites, they frequently have to agree to long, complicated terms of service. These contracts, which are usually in the form of click-wrap agreements, are often not negotiable and are not reviewed by users frequently.

Since digital platforms are becoming more important, people need to rethink how we govern standard form contracts. For instance, the European Union's General Data Protection Regulation (GDPR) has rules that are meant to make businesses more open and responsible when it comes to how they acquire, use, and keep consumer data. The GDPR requires firms to have clear permission from customers, which indirectly addresses the problems of standard form contracts that do not allow for informed consent.

Legal scholars argue that standard form contracts in the digital world need to change so that they better protect the rights and interests of consumers. For example, the European Court of Justice's decision in the "Google Spain" case (C-131/12) stressed

the right to be forgotten and the need for better partnerships between consumers and digital platforms, especially when it comes to personal data (Frantziou, 2014; Kulk & Borgesius, 2014).

C. Human Rights Framework

The human rights framework offers an essential perspective for examining the legal foundations of consumer rights, privacy, and access to justice. This framework stresses that everyone has rights and dignity that must be maintained in all legal dealings, including contracts.

1. The Right to Consumer Protection

International human rights law recognizes the right to consumer protection as a key part of protecting people's economic well-being. The United Nations Guidelines for Consumer Protection, which were first published in 1985 and updated in 2015, list a number of rules that businesses must follow to keep consumers safe from unfair tactics, dangerous products, and misleading ads. These rules stress the importance of being open, having the right to get correct information, and being able to get help if someone gets hurt (Harland, 1987).

In many jurisdictions, national laws reflect these international standards. For instance, the Consumer Protection Act in India (Rajanikanth, 2017) and the Consumer Rights Act in the United Kingdom (Hilton , 2006) both include provisions to protect consumers from unfair contract terms and practices. Additionally, the European Union's Consumer Rights Directive (2011/83/EU) offers robust protections against abusive contractual terms, especially in situations involving distance selling or online transactions.

2. The Right to Privacy, Information, and Access to Justice

The right to privacy is a basic human right that goes hand in hand with consumer protection. This is especially true in the digital world. The International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR) are two international agreements that safeguard the right to privacy and data. In the digital age, when firms are turning personal data into a commodity, these rights have become even more important.

The ICCPR, under Article 17, protects individuals from arbitrary interference with their privacy, family, home, or correspondence. The provision stated that: "*No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation; Everyone has the right to the protection of the law against such interference or attacks*" (Art 17(1)-(2) ICCPR, 1966).

Similarly, the UDHR, under Article 12, guarantees the right to privacy. The provision direclty stated that: "*No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks*" (Art

12 UDHR, 1948). This protection is especially pertinent in the context of digital contracts, where users may unknowingly or unwillingly provide personal data to platforms that exploit this information for commercial gain.

Additionally, the right of access to justice is critical in ensuring that individuals have the ability to challenge unfair contract terms or seek redress for breaches of privacy. The right to an effective remedy is enshrined in international human rights law, including Article 8 of the European Convention on Human Rights and Article 25 of the ICCPR. It stated that: "*Everyone has the right to respect for his private and family life, his home and his correspondence; There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others*" (Art 8(1)-(2) ECHR, 1950). This provision underscores the need for accessible legal mechanisms to address grievances related to contract violations, particularly in the context of digital platforms where consumers often face significant barriers to enforcement.

D. Literature Review

Digital interactions in contemporary times are defined by the increasing use of standard digital contracts, which are often seen as click-wrap, browse-wrap, and terms-of-service agreements. Hillman and Rachlinski's (2002) foundational research shows that users hardly ever read these contracts because they are too long, too complicated, and their terms cannot be changed. In the same way, Ben-Shahar and Schneider (2015) call this the "no-reading problem," saying that it makes it impossible to give meaningful permission. These publications jointly underscore the intrinsic power inequality in digital contracting while predominantly concentrating on procedural matters rather than their overarching moral consequence.

Following this foundation, scholars in the future examined how digital businesses exploit contract terms to keep their dominant position. Bar-Gill's examination of behavioural exploitation demonstrates how companies create terms that exploit cognitive biases (Bar-Gill, 2006). In contrast, Richards and Hartzog (2019) contend that privacy-related clauses frequently serve not as protective measures but as instruments for extensive data collection. These investigations show that unjust terms are not random; they are carefully designed to give businesses the most benefit. But they mostly talk about contract law or consumer behaviour when they talk about how people are unfairly treated, and they do not go into human rights issues.

In parallel, there has been growing interest in how digital technologies impact fundamental rights. Mantelero (2018) offers a rights-based critique by showing how contractual consent facilitates intrusive data processing that undermines privacy and personal autonomy. Meanwhile, Robinson and Stuart (2007) highlight the risk of discriminatory profiling enabled by broad contractual permissions for data sharing and

algorithmic decision-making. Although this body of work addresses important rights-related concerns, its focus remains primarily on privacy and anti-discrimination, without systematically integrating the role of unfair contractual terms as a structural mechanism contributing to rights violations.

A regulatory study has revealed that current consumer-protection frameworks may inadequately address the issues presented by digital contracting practices. Studies of the EU Unfair Contract Terms Directive show that it doesn't operate well with automated and globally uniform digital contracts. Studies of data protection frameworks like the GDPR show that enforcement is still a problem. There is even less research on protecting consumers in the Global South, which shows that there is a gap in knowing how unfair conditions affect users in places with poorer regulatory ability or lower digital literacy. This regulatory mismatch indicates the necessity for a more integrated framework that connects contract equity, platform authority, and rights safeguarding.

The literature collectively presents significant, although disjointed, insights on the functioning of unjust terms in digital contracts, with the majority of studies focusing on either contractual imbalance, consumer vulnerability, or particular human rights implications in isolation. An integrative perspective is absent that considers unjust terms as a concealed structural menace that concurrently erodes consumer justice and a wider spectrum of human rights, including access to justice, equality, and informational autonomy. This research fills that vacuum by combining ideas from contract law, digital rights scholarship, and human rights philosophy to explain how daily digital agreements cause cumulative damages that go beyond what we usually think of as unjust treatment of consumers.

III. The Rise of Unfair Terms in Digital Contracts in Indonesia

As the digital economy in Indonesia grows quickly, people are relying more and more on digital contracts, especially standard form agreements like click-wrap and browse-wrap contracts. Service providers in e-commerce, digital platforms, and telecommunications regularly employ these contracts. They are often shown to customers as terms that must be agreed to in order to use a service or buy a product. These agreements are easy to use, but they also make it hard to be fair, open, and safeguard consumers. In Indonesia's legal landscape, unfair conditions in digital contracts that take advantage of the power imbalance between firms and customers are becoming more and more of a problem.

The Indonesian legal framework, though evolving, still faces challenges in addressing the emergence of unfair terms in digital contracts. This section looks at some common examples of unfair conditions in digital contracts in Indonesia. It also looks at how these clauses are treated under Indonesian law and points out the structural inequities that exist in digital contracting.

A. Examples of Unfair Clauses

Unfair clauses in digital contracts refer to terms that create imbalances between the contracting parties, particularly favoring the business or service provider. These terms often disadvantage consumers by limiting their rights or imposing unreasonable obligations. Below are some common examples of unfair clauses in digital contracts in Indonesia:

1. *Unilateral Limitation of Liability Clauses*

One of the most common examples of unfair clauses in digital contracts in Indonesia is the unilateral limitation of liability. These clauses often serve to protect businesses from being held accountable for damages or losses suffered by consumers. In many cases, digital service providers include disclaimers that absolve them of responsibility for issues such as service interruptions, data breaches, or failures in product delivery. For example, e-commerce platforms or online service providers might include provisions that limit their liability in the event of a technical glitch or a breach of contract, thereby protecting themselves from claims by consumers who experience financial loss (Calloway, 2012). These clauses effectively shield businesses from the consequences of their own negligence, leaving consumers with little to no recourse. Such practices undermine the protection of consumer rights and breach the principle of fairness in contract law.

In Indonesia, the Consumer Protection Law (Law Number 8 of 1999 on Consumer Protection) establishes that businesses are obligated to provide quality products and services. However, the law has not been entirely effective in addressing the complexity of digital contracts, particularly with regard to consumer claims in cases of data loss or inadequate services.

2. *Unrestricted Transfer of Personal Data*

The unrestricted transfer of personal data is another common unfair term in digital contracts, particularly in relation to Indonesian e-commerce platforms and social media services. Many businesses include clauses that allow them to collect, process, and transfer personal data without explicit consent or sufficient transparency. These clauses often grant service providers the right to share consumer data with third parties—such as advertisers or business affiliates—sometimes without clearly informing the consumer about the extent of this data-sharing or how it will be used.

Indonesian laws like Law Number 11 of 2008 on Electronic Information and Transactions (ITE Law) and the Personal Data Protection Law (Law Number 27 of 2022) regulate the use of personal data. However, in practice, the enforcement of these laws remains inconsistent, and consumers may unknowingly agree to terms that grant businesses significant control over their personal information. The Personal Data Protection Law, which is a step toward addressing these concerns, mandates explicit consent for data collection, yet many digital platforms still embed such clauses in a way that makes it difficult for consumers to opt out or exercise

their rights. Additionally, these clauses often include vague language that may mislead consumers about how their data will be processed, shared, or sold. This lack of clarity disproportionately impacts users who are not fully aware of the data privacy risks they are consenting to when entering into digital contracts.

3. ***Waiver of the Right to Sue (Forced Arbitration)***

A particularly contentious clause found in many digital contracts is the forced arbitration clause, which requires consumers to resolve disputes through arbitration rather than through the court system. In Indonesia, such clauses are often included in contracts related to online services, mobile apps, and digital content platforms.

While arbitration is generally designed to be a quicker and more cost-effective alternative to litigation, forced arbitration clauses frequently benefit service providers, as they can limit consumers' ability to seek judicial recourse, and arbitration procedures are often more opaque and private than court trials. For example, an online shopping platform may include a clause that mandates that any disputes between the consumer and the platform must be resolved through arbitration, effectively removing the consumer's access to public courts and any potential for class-action lawsuits.

Although the Indonesian Arbitration Law (Law Number 30 of 1999) recognizes the validity of arbitration agreements, scholars have argued that the widespread inclusion of forced arbitration clauses in digital contracts may unfairly favor companies that have the resources and expertise to navigate arbitration proceedings, leaving consumers with few options for redress.

4. ***Unilateral Modification Clauses***

Unilateral modification clauses—where businesses reserve the right to change the terms of a contract at any time—are another common feature of digital contracts in Indonesia. This means that the terms of service, pricing, or privacy policies can be altered by the service provider without prior consent from the consumer. For instance, an online streaming service may change its subscription fee, its content offerings, or its data-sharing policies without informing users in a timely or transparent manner.

In Indonesia, the Consumer Protection Law (Law Number 8 of 1999) prohibits businesses from including one-sided, unfair contract terms, but these regulations often fail to address the specific challenges posed by digital contracts. Such clauses are especially problematic in digital contexts where services are delivered on an ongoing basis and where consumers have limited control over contract terms. Users may feel forced to accept these changes or lose access to the service altogether. Additionally, the Electronic Information and Transactions Law (*ITE* Law) recognizes the importance of clear, consistent terms in digital contracts. However, in practice, many digital platforms include clauses that grant them the discretion to

alter the terms unilaterally, undermining the principle of mutual consent that is central to contract law.

B. Structural Inequality in Digital Contracting

The structural inequality in digital contracting in Indonesia is largely a result of the inherent imbalance of bargaining power between consumers and service providers. This imbalance often manifests in "take-it-or-leave-it" contracts, where consumers have little or no opportunity to negotiate the terms and must accept them if they wish to access the services or products offered. In many cases, consumers do not have the legal or practical means to challenge or alter these terms, further exacerbating the inequality.

1. Consumers as the Weaker Party (Take-it-or-Leave-it Contracts)

A key feature of digital contracts in Indonesia is the "*take-it-or-leave-it*" nature of the agreement. In this type of contracting, service providers set the terms, and consumers must either accept the terms or forgo the service. This practice is common across various industries, including e-commerce, telecommunications, and digital content.

In Indonesia, the Consumer Protection Law attempts to address the imbalance of power by prohibiting unfair business practices and requiring businesses to act in good faith. However, the enforcement of these laws remains problematic in the digital space. Consumers often find themselves with limited bargaining power, particularly in markets dominated by a few large platforms, where alternatives may be scarce or unavailable. For example, consumers may be forced to accept the terms of a popular e-commerce platform like Tokopedia or Bukalapak, knowing that the costs of opting out may outweigh the benefits (Matnuh, 2021; Arifin, et al., 2021; Arifin & Buana, 2025).

Furthermore, the rapid adoption of digital services, combined with the complexity of digital contracts, makes it challenging for consumers to fully understand the terms they are agreeing to. The sheer volume of terms and conditions in online agreements often discourages consumers from reading them thoroughly, and businesses benefit from this lack of engagement. As a result, consumers are frequently left unaware of the potential risks, such as the excessive collection of personal data or the waiver of their right to legal action.

2. Lack of Transparency and Consumer Understanding

One of the most significant barriers to fair contracting in the digital space is the lack of transparency and consumer understanding. In Indonesia, digital contracts are often lengthy, complex, and filled with legal jargon that makes it difficult for consumers to comprehend the full extent of the terms they are agreeing to. Tolegenov, et al (2024) and Pertiwi (2024) highlighted that this issue is compounded by the fact that many consumers may not be aware of their rights under Indonesian law, or they may lack the resources to seek legal advice before entering into such agreements.

Under the Consumer Protection Law, businesses are required to provide clear and understandable information about the terms and conditions of their products or services. However, in the case of digital contracts, the reality is often very different. For example, privacy policies are frequently presented in dense, legal language, and terms of service are often hidden behind click-wrap agreements that are accepted without any meaningful understanding by the user. Moreover, the proliferation of digital services, along with the constant updating of terms and conditions, further complicates consumers' ability to stay informed about their rights. Even when changes to contracts are made, businesses often fail to provide clear notifications to users, leaving them unaware of modifications that may affect their rights or obligations.

While Indonesia has made strides in regulating digital contracts—such as through the Personal Data Protection Law and the Electronic Information and Transactions Law—there remains a significant gap between these legal frameworks and the realities of digital contracting. Consumers continue to face challenges in understanding and navigating the terms of digital contracts, which leads to a lack of agency and increased vulnerability to unfair practices.

IV. Legal and Human Rights Implications

The proliferation of digital contracts in Indonesia, while advancing economic efficiency and innovation, has given rise to serious legal and human rights concerns. Digital contracts—particularly standard-form or adhesion contracts—frequently contain unfair clauses that undermine consumer rights, compromise personal data, and restrict access to justice. These contracts often reflect a structural imbalance between service providers and users, resulting in a lack of informed consent, legal remedies, and privacy safeguards.

A. Legal Doctrines and Consumer Protection

i. Invalid or Void Clauses under Consumer Protection Law

In Indonesia, consumer protection is primarily governed by Law No. 8 of 1999 on Consumer Protection (*Undang-Undang Perlindungan Konsumen* or hereinafter written to *UUPK*). Article 18 of this law explicitly prohibits business actors from including standard clauses that transfer responsibility, impose unilateral obligations, or waive the consumer's right to legal recourse. Such clauses, if found to violate consumer rights or public order, may be declared null and void.

According to Hernoko (2019), the enforceability of a contract is contingent upon the balance of bargaining power and the observance of good faith. He argues that digital contracts, by their very nature, often violate the principle of contractual justice due to their unilateral and non-negotiable structure. When a service provider includes a disclaimer clause that absolves itself of all liability, particularly in situations involving negligence or technical failure, it undermines the essential fairness expected in

contractual relations (Hernoko 2019; 2016). For instance, a user subscribes to a domestic cloud storage service and, by clicking "*agree*," accepts terms that include a clause stating the provider is not responsible for any data loss. When the user later experiences total data loss due to a server failure, the company invokes this clause to deny liability. Under Article 18 UUPK, such a clause is unenforceable and the service provider remains liable for damages resulting from its own negligence.

ii. Standards of Transparency and Comprehensibility

Article 4 of the UUPK obliges businesses to provide consumers with clear, accurate, and honest information. This includes the obligation to ensure that contractual terms are understandable and not misleading. Yet in practice, digital contracts are often drafted in overly complex legal language, making them inaccessible to the average user.

In line with this situation, Adolf (2024) emphasizes that legal clarity is not merely a procedural requirement, but a substantive protection of consumer autonomy. In his view, digital platforms that deliberately obscure critical information—such as data-sharing practices or dispute resolution mechanisms—are engaging in constructive deception. In this context, for example, a mobile health application collects user data and reserves the right to share it with "*third parties for service optimization*," without clearly identifying who these third parties are or what "*optimization*" entails. The lengthy privacy policy is written in technical language. This lack of clarity violates the standard of informed consent and contravenes both *UUPK* and Law Number 27 of 2022 on Personal Data Protection (*PDP* Law), which mandates that consent must be specific, informed, and freely given.

B. Human Rights Violations in Digital Contracting

The inclusion of unfair terms in digital contracts does not only breach national consumer protection laws; it also raises significant human rights concerns. These violations often relate to informed consent, access to effective remedies, and privacy, which are all protected under Indonesia's Constitution and international human rights instruments.

i. Violation of the Right to Informed Consent

Informed consent is a foundational principle in both contract law and human rights law. It requires that individuals voluntarily agree to contractual terms with full knowledge of their implications. In the context of digital contracting, informed consent is often undermined by the presentation of long, complex terms that users must accept in order to access services (Pallocci, et al., 2023).

According to Djafar (2019) stated that many digital platforms in Indonesia engage in what he calls "*consent formalism*", where user agreement is obtained through a checkbox or click mechanism without ensuring that the user actually comprehends the content. This, he argues, transforms consent into a legal fiction, devoid of the meaningful autonomy it is supposed to protect as emphasiez by Leong & Suyeishi (2013). Leong and

Suyeishi (2013) critique the legal system's overreliance on formalistic indicators of consent—like signed forms—arguing that such *consent formalism* often ignores whether consent is truly informed or voluntary. They propose reforms to ensure consent reflects genuine understanding, especially in contexts with power imbalances or complex legal language. For example, a parent signs up for an educational application for their child. The application's terms allow access to the child's microphone and camera data for "interactive features." However, the implications of this access—such as continuous recording and data storage—are not clearly stated. The parent consents without understanding the extent of surveillance. This constitutes a violation of the right to informed consent, particularly concerning sensitive data and children's rights.

ii. Denial of the Right to Effective Legal Remedy

Many digital contracts contain forced arbitration clauses that prohibit consumers from seeking redress through public courts. These clauses often designate foreign jurisdictions, impose procedural barriers, or preclude class actions. Such restrictions violate the consumer's right to an effective legal remedy, which is protected under Article 28D of the Indonesian Constitution and international human rights law, including Article 8 of the Universal Declaration of Human Rights (UDHR) and Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR).

Hamilton (2016) argues that mandatory arbitration clauses, especially those imposed without negotiation, constitute a *de facto denial of justice*, particularly for low-income consumers who lack the means to pursue arbitration. At this context, for instance, an Indonesian consumer experiences fraud on a global e-commerce platform. The platform's terms of service require all disputes to be resolved through arbitration in Singapore. The cost and complexity of initiating arbitration abroad effectively bars the consumer from seeking redress, thereby violating their right to access justice.

iii. Threats to the Right to Privacy

Digital contracts often authorize extensive data collection and sharing practices that pose serious risks to the right to privacy, as protected under Article 28G(1) of the 1945 Indonesian Constitution, Article 17 of the ICCPR, and the Personal Data Protection Law (PDP Law). Iman (2024) notes that many digital platforms in Indonesia engage in *data commodification* without sufficient legal safeguards. He argues that the lack of specificity and transparency in data clauses—especially regarding data sharing with third parties—facilitates systematic privacy violations under the guise of user consent. For example, a fintech application requests access to a user's contact list, photos, and location as part of its onboarding process. The user, eager to access loan services, accepts the terms without understanding that the data will be used for micro-targeting and may be shared with data brokers. This practice not only violates statutory consent requirements under the *PDP* Law but also infringes upon the user's right to privacy.

V. Regulatory Responses and Challenges

A. Existing Legal Responses

i. The European Union: Directive on Unfair Terms in Consumer Contracts

The European Union has been a leader in regulating unfair contractual terms, particularly through Directive 93/13/EEC on Unfair Terms in Consumer Contracts, which provides legal protection for consumers against unfair standard contract terms imposed by sellers or suppliers, whether in digital or offline settings. Under that Directive, a contract term that has not been individually negotiated may be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the rights and obligations of the parties, to the detriment of the consumer. The Directive requires that all standard contractual terms be drafted in plain, intelligible language and that any ambiguity is interpreted in favor of the consumer.

Furthermore, the Directive has been amended by Directive (EU) 2019/2161, part of the "New Deal for Consumers," which seeks to modernize and enhance enforcement of consumer protection rules. Among its new obligations is for Member States to impose effective, proportionate, and dissuasive penalties for non-compliance, especially for cross-border cases. The EU regime also provides for remedies: unfair terms are not binding on consumers, but only insofar as the rest of the contract can continue without them.

In digital contexts, EU law explicitly applies to online standard form contracts, including click-wrap agreements, terms of service, software licenses, and the like. Because the digital environment tends to favor sellers drafting boilerplate contracts, the requirement of fair terms, good faith, transparency, intelligibility, and consumer rights to challenge unfair terms has particular importance. The EU's Unfair Terms Directive (UTD) works in tandem with other directives, like the Consumer Rights Directive and the Unfair Commercial Practices Directive, to ensure that consumers have adequate protection not only at the point of entering a contract but also regarding information disclosure, the right of withdrawal, and redress (Weatherill & Bernitz, 2007).

Moreover, EU Member States are required to furnish judicial or administrative means to prevent the continued use of unfair contract terms. Organizations with a legitimate interest (for example, consumer associations) may take legal action to invalidate unfair clauses or to seek injunctions preventing their future use. Also, the EU has emphasized the need for penalties that are dissuasive, especially for traders whose terms are used in many contracts or where harm to consumers extends across borders. Thus, the EU regulatory response is relatively advanced, offering a legal framework that both defines unfair terms, mandates standards of clarity and good faith, provides for non-binding of unfair terms, and imposes obligations on Member States to enforce and punish violations. This framework is relevant as a point of comparison for other jurisdictions confronting unfair terms in digital contracts (Howells, 2014).

ii. ***United States: Doctrine of Unconscionability and Related Rules***

In the United States, rather than a single unified statute for unfair terms, doctrine comes largely through common law and the Uniform Commercial Code (U.C.C.), especially Section 2-302, supplemented by judicial decisions. Unconscionability is the key doctrine: a contract or term may be voided if it is both procedurally and substantively unconscionable. Procedural unconscionability concerns how the contract was formed (e.g. unequal bargaining power, hidden terms, lack of negotiation, misleading presentation), while substantive unconscionability concerns the content of the contractual term itself (e.g. excessively one-sided, shocking, oppressive) (Roszkowski, 2001).

Classic U.S. cases illustrate this. For instance, Williams v. Walker-Thomas Furniture Co. (D.C. Cir. 1965) remains a foundational case in which the court considered the enforceability of a contract that allowed a creditor to repossess all items under a payment plan if the debtor defaulted on any payment—even if some items were nearly paid off. The case is often taught to show the combination of procedural and substantive unconscionability: whether the weaker party had meaningful choice and whether terms are so unfair as to "shock the conscience" (Francish, 1966; Fleming, 2016).

Other more recent cases engage digital contracts and arbitration clauses. For example, Bragg *v.* Linden Research, Inc. (2007) challenged a mandatory arbitration clause in an end-user license agreement (EULA) for an online virtual world, finding issues of unconscionable terms or unfair arbitration demands (Nejaim & Novikov, 2022). Also, the U.S. Supreme Court in AT&T Mobility LLC *v.* Concepcion (2011) dealt with class action waivers in arbitration clauses, holding that the Federal Arbitration Act preempts state law decisions that deem class-action waivers invalid. Although this is more of a limitation on what state unconscionability doctrine can enforce, the case shows tension between doctrine and enforceability in digital/standard form settings.

In addition, U.S. courts often look at "*dark patterns*" or deceptive user interface design in digital contracts, particularly where consent to terms is obtained in a way that misleads or traps consumers. Though these may not always be framed explicitly under unconscionability, procedural unfairness is increasingly recognized as relevant (Dickinson, 2024). Hence, the U.S. regulatory response is more decentralized, reliant on case law, with varying standards across states, but has developed a robust doctrine of unconscionability which can be applied in digital settings. However, as we will see, there are challenges in its application and enforcement, especially given the ubiquity and automation of digital contracting.

iii. **Indonesia: Consumer Protection and Electronic Information/Transaction Laws**

In Indonesia, legal responses to unfair terms in digital contracts are more recent, more fragmented, and face unique challenges. Two major statutory frameworks are relevant: Law Number 8 of 1999 on Consumer Protection (*UUPK*), and Law Number 11 of 2008 on Electronic Information and Transactions (ITE Law) (with revisions) as well as

more recent laws such as Law Number 27 of 2022 on Personal Data Protection (*PDP* Law). The *UUPK* provides broad protection for consumers, including the requirement that business actors conduct their affairs in good faith (it is among the general principles), disclosure obligations, and the possibility of invalidating unfair contract terms. However, it lacks detailed, digital-contract-specific provisions (e.g. click-wrap, online arbitration clauses, etc.). Its enforcement has also been weak in practice due to lack of specialization, limited consumer awareness, and logistical barriers in bringing claims. Research has indicated that e-commerce transactions pose new challenges for UUPK which were not envisioned when it was enacted in 1999.

The *ITE* Law (Law Number 11 of 2008, and its subsequent amendments) governs electronic information/transaction platforms, responsibilities of intermediary service providers, information privacy, and sanctions for misuse of digital platforms. While it touches upon some issues relevant to unfair terms—for example, the need for consent for certain types of data processing, obligations for information provision, and prohibitions for certain misuse—the ITE Law does not directly regulate many of the standard form contract issues (e.g. unilateral modification, arbitration waiver, liability limitation) with the level of detail found in EU law or U.S. doctrine.

The PDP Law (Law Number 27 of 2022) strengthens consumer/personal data rights in Indonesia, especially regarding collection, use, transfer, consent, rights to be forgotten, etc. But again, its provisions focus more on data protection than full spectrum of unfair contract terms. Many problematic contractual clauses in digital contracts—such as forced arbitration, unilateral modifications, or broad disclaimers—are not yet explicitly addressed by regulation or judicial precedent in Indonesia. Thus, while Indonesia possesses a statutory basis for regulating unfair terms and some protections relevant to digital contracts, its legal responses are relatively underdeveloped compared to the EU, and less consistent in addressing the full range of digital contracting issues.

B. Gaps and Challenges

i. Weak Enforcement and Judicial Capacity

One major gap across jurisdictions, including Indonesia, is the weakness of enforcement mechanisms. Even where laws exist that nominally prohibit unfair contract terms or require transparency, the capacity of consumers to assert rights is limited. This arises for several reasons:

a) Courts may be unaware or ill-equipped to adjudicate on complex digital contract clauses, especially around data practices, arbitration agreements, or smart contracts. Expertise in cyber law, data protection, and digital commerce may be uneven among judges and legal practitioners.
b) The cost of bringing litigation or arbitration, especially for small claims, may exceed the amount at stake or what consumers can practically bear. Many digital contracts bind consumers to arbitration in distant locations or require fees that are prohibitive.

c) Monitoring and regulatory oversight may be underfunded or understaffed. Even in jurisdictions with strong legal frameworks, regulatory authorities may have limited powers or resources to investigate, sanction, or proactively review standard digital contracts to detect abusive clauses.

In the Indonesian context, studies (such as on consumer legal literacy and on enforcement of consumer protection in online settings) have pointed to legal uncertainty, delay in dispute resolution, limited awareness among consumers, and weak administrative oversight as key impediments. The *UUPK* also lacks specialized judicial or quasi-judicial bodies for many digital contracting disputes, making effective enforcement harder (Toyi & Hamidun, 2025).

ii. **Regulatory Divergence Among Jurisdictions**

A further challenge is the divergence of regulatory standards among jurisdictions. While the EU has harmonized many rules and Germany, France, UK (for instance) enforce them in similar spirit, U.S. states differ greatly in how unconscionability is applied, what arbitration clauses are permitted, and how data protection is regulated. Indonesia's regulation adds yet another distinct system, which sometimes lags behind or lacks explicit provisions for modern digital contracting practices (Rahman, et al., 2024; Subagyono, et al., 2024). This divergence creates practical problems:

a) Global digital platforms often operate across multiple jurisdictions and may adopt a lowest-regulation approach, implementing general terms that aim to satisfy minimal legal obligations.
b) Consumers may be subject to terms drafted under legal regimes less protective of their rights; international or cross-border contracting (i.e. when an Indonesian consumer contracts with a foreign platform) may mean that foreign law applies (choice of law / forum selection) which may disadvantage local consumers.
c) Harmonization is difficult: differences in legal culture, judicial doctrine, enforcement infrastructure, consumer awareness, and legislative priorities mean that even when laws exist, their implementation diverges significantly.

iii. ***Low Digital Legal Literacy Among Consumer***

The effectiveness of any regulation depends heavily on consumer awareness and understanding. Low levels of legal and digital literacy undermine consumers' ability to anticipate, identify, and challenge unfair clauses, as highlighted by Setha (2025) and Hidayat (2025) that:

a) Many consumers do not read terms of service or end user license agreements due to their length, complexity, or opacity. Even when they do, the use of dense legalese, technical terms, or vague wording makes it difficult to understand what rights they are waiving or what obligations they are assuming.
b) In Indonesia, empirical work shows that many consumers engaging in e-commerce transactions are unaware of key rights under *UUPK, ITE Law, or PDP* Law, such as

the right to clear product information, withdrawal rights, liability of service providers, and rights regarding personal data.

c) Digital platforms often design user interfaces to encourage acceptance of terms without scrutiny ("*click-through*" or "*scroll-to-accept*" without meaningful notice). This exacerbates the informational asymmetries and reinforces consumers' weaker bargaining position.

C. The Role of the State and Platforms

i. Obligations of the State to Ensure Contractual Fairness

Given the structural imbalance in digital contracting, the state has both normative and legal obligations to ensure fairness. These obligations arise under national constitutions (in Indonesia, e.g. constitutional rights to due process, equal protection, dignity), consumer protection statutes, and international human rights law.

a) States must enact clear laws that protect consumers from unfair contractual practices, including clauses that limit liability unilaterally, grant excessive modification rights, force arbitration without fairness, or transfer personal data without limits.

b) The state must ensure regulatory institutions have adequate resources, powers, and technical expertise to examine standard contracts used by digital platforms, issue guidelines, carry out audits, and enforce sanctions.

c) State should provide accessible dispute resolution mechanisms—courts, administrative bodies, consumer protection agencies, or specialized tribunals—that are affordable, efficient, and accessible, especially for digital contracts where consumer harm may be widespread but individually minor.

In the Indonesian legal system, this role is embedded in UUPK and PDP Law, but whether regulation, enforcement, and oversight have kept pace with the volume, scale, and complexity of digital contracts remains questionable.

ii. Corporate Responsibility: Platforms' Obligations, CSR, and Due Diligence

Digital platforms and corporations have obligations beyond mere compliance with minimal legal requirements. In many legal systems, corporate social responsibility (CSR) or due diligence obligations, whether voluntary or mandatory, are increasingly expected in how digital service providers design their contract terms.

a) Platforms should adopt transparent, user-friendly contract design: use of plain language, summaries, highlighting key terms (especially those that limit rights, impose obligations, or modify contract unilaterally), notification of changes, etc.

b) Due diligence requires platforms to review the terms offered to consumers to ensure that they do not contain abusive clauses, and that they comply with relevant statutes and best practices. Platforms operating internationally should anticipate that their terms may be scrutinized under multiple legal regimes, and hence design for high standards.

c) CSR frameworks may include commitments to fairness, user rights, and digital ethics. Some platforms publish transparency reports showing how many disputes are raised under their terms, how many contracts or clauses are modified or removed due to regulatory or consumer complaints, etc.
d) There is also an emerging expectation from international human rights law that corporations employing digital technology respect rights to privacy, data protection, and effective legal redress. This may imply external auditing, independent oversight, and greater accountability.

iii. ***Emerging Regulatory Trends and Innovations***

Some governments and regulatory authorities are trying out new methods to deal with the problems caused by unfair conditions in digital contracts. These new methods go beyond traditional laws and lawsuits.

a) Regulatory agencies may issue model contracts, standardized terms, or "blacklists/grey lists" of unfair terms which are per se prohibited or suspect. This can help reduce variation and limit harmful clauses at source.
b) Courts or regulators increasingly consider *interface design* (how contract terms are presented) and *dark patterns* (UI/UX tricks that mislead consumers) as factors in assessing unfairness or unconscionability.
c) There are proposals in some jurisdictions (including some states in the U.S.) for specialized consumer digital rights laws that explicitly regulate online standard form contracts, forced arbitration, class action waivers, data transfer requirement clauses, unilateral modification clauses, etc.
d) Some platforms themselves are beginning to adopt best practices, often under regulatory pressure or in response to consumer advocacy: e.g. clearer notification of term changes, options for opt-out of certain data uses, internal grievance mechanisms, etc.

Table 1. Comparison of Regulatory Regimes on Unfair Terms in Digital Contracts

Aspect	European Union	United States	Indonesia
Primary Legal Instrument	Directive 93/13/EEC on Unfair Terms in Consumer Contracts	Common law (Doctrine of Unconscionability), U.C.C. §2-302	Law No. 8/1999 (UUPK), Law No. 11/2008 (ITE Law), Law No. 27/2022 (PDP Law)
Scope of Application	Applies to all non-negotiated (standard-form) consumer contracts, including digital	Applied case-by-case in contract disputes; no central statute	Applies to consumer contracts; not always specific to digital contexts
Definition of Unfair Terms	Terms that create a significant imbalance contrary to good faith	Terms that are both procedurally and substantively unconscionable	Terms violating good faith, public order, or consumers' rights
Examples of Prohibited Clauses	Blacklists & grey lists (e.g. unilateral modification, excessive penalties)	Case law dependent; e.g. unfair arbitration clauses, extreme waivers	Clauses limiting liability, denying rights to complain, hidden fees (UUPK Art. 18)
Transparency Requirement	Terms must be written clearly and intelligibly; interpreted against trader if ambiguous	No statutory requirement, but complexity may support procedural unconscionability	Obligation to provide clear, accurate, and understandable info (UUPK Art. 4)
Consent & Notification	Consumers must be informed; material changes require renewed consent	Clickwrap & browsewrap must show real notice; dark patterns scrutinized	Consent must be explicit and informed, especially for data processing (PDP Law)
Enforcement Mechanism	National regulators and courts; collective actions allowed	Case-by-case litigation; limited class actions due to arbitration clauses	BPSK (Consumer Dispute Resolution Body), courts; enforcement weak in practice
Data Privacy Integration	GDPR applies alongside contract law; user rights central	Sector-specific data laws (e.g., HIPAA, CCPA); not unified	PDP Law protects personal data; overlaps with consumer law but lacks full harmonization
Cross-border Regulation	Strong extraterritoriality (e.g., GDPR); harmonization within EU	Patchy, varies by state; no federal preemption of unconscionability	Limited; jurisdiction and applicable law often defer to provider's terms
Overall Strength	High: Harmonized, proactive, enforceable	Medium: Reactive, fragmented, business-favored	Low–Medium: Legal tools but no enforcement or digital clarity.

The previous comparative table (see Table 1) highlighted the strengths and weaknesses of the current legal systems in the European Union, the United States, and Indonesia when it comes to dealing with unjust conditions in digital contracts. The EU's system is very consistent and has a lot of power to enforce the law. The U.S. has a lot of case law, but it is not very organised. Indonesia is still developing, and its regulatory frameworks are still adjusting to the complexities of protecting digital consumers. Because digital commerce is becoming more important and there are structural problems between consumers and platform providers, Indonesia needs a stronger, more responsive, and more digital-focused regulatory system right away. Several specific legislative interventions might be recommended to increase the protection of Indonesian consumers in digital contractual interactions, based on the observed gaps and lessons drawn from international best practices.

First and foremost, it is essential to revise the Consumer Protection Law (Law Number 8 of 1999, hereinafter written to *UUPK*) to explicitly address the unique features of standard-form digital contracts. While the current law provides a foundational framework for general consumer rights, it lacks the conceptual tools to deal with "click-wrap," "browse-wrap," and other forms of non-negotiated digital agreements. A revised *UUPK* should clearly define what constitutes a digital standard-form contract and provide tailored provisions that reflect the realities of online transactions. For example, the revised law should adopt a system of blacklists and greylists of contract terms considered automatically void or presumptively unfair—such as unilateral modification clauses, forced arbitration without transparency, and broad disclaimers of liability. Moreover, transparency obligations should go beyond formal disclosures, requiring that terms be presented in plain language, with key clauses highlighted and explained in advance of contract formation. These steps would help reduce asymmetry in bargaining power and improve informed consent among consumers.

Along with changing the law, Indonesia should set up a central monitoring organisation, like the proposed Consumer Digital Rights Commission, to keep an eye on and regulate how contracts are made in digital markets. This entity could work as a mix of an agency that sets standards, enforces them, and supervises them. Some of its main jobs would be to approve or review standard terms used by big platforms, issue compliance guidelines, and look into abusive practices. The commission might work with other regulatory bodies, such as the Ministry of Communication and Digital Affairs, the Financial Services Authority, and the new Personal Data Protection Authority, to make it easier to enforce rules across sectors and cut down on jurisdictional fragmentation. This kind of institutional structure is like the centralised structures used in the EU, where national consumer protection bodies are very important for enforcing Directive 93/13/EEC and related requirements.

A third area of change has to do with how well users give their consent and how well the interface is designed in digital contracts. Many contracts that customers agree

to with only one click contain unfair provisions that are not carefully read. To fix this, Indonesia should make it obligatory for consent frameworks to say that consent must be explicit, informed, and able to be taken back. Also, dark patterns—deceptive or manipulative user interface designs that push users to accept bad terms—should be against the law, as is the case in the EU and some U.S. states. Platforms should also have to get fresh consent every time they make big changes to a contract, like collecting more data, limiting liability, or adding new restrictions on user rights.

The Indonesian regulatory structure needs to be more consistent across sectors, especially between data protection law and consumer contract law. The Personal Data Protection Law (PDP Law) and the *UUPK* are currently separate laws with some parts that are the same, but not merged. To make things more consistent, future laws or regulations should make sure that using personal data in a contract in a way that is against the law might lead to consumer protection measures, such as making specific sections illegal or imposing fines. For instance, any aspect of a contract that allows data to be shared with other parties should have explicit ways for people to opt out, privacy effect assessments, and rights to delete or change the data. Such integration would bring Indonesia in line with worldwide standards, as those outlined in the OECD Privacy Guidelines and the UN Guidelines for Consumer Protection.

It is also crucial to make enforcement mechanisms stronger and make it easier for people to get justice. In reality, a lot of people don't have the money, knowledge, or institutional support to fight unfavourable terms. The government could fix this by making it easier for people to get legal assistance, making it easier to settle disputes, and looking into the idea of creating digital small claims courts or a fully *online Badan Penyelesaian Sengketa Konsumen* (e-*BPSK*) system. Consumer groups would be able to fight systemic abuses in digital contracts if they could use collective redress mechanisms like group litigation or representative actions. This is especially true in high-volume areas like e-commerce, finance, and digital content services. Legal reform should also allow for large fines to be imposed on platforms that often use unfair contract terms. This circumstance would make the punishment more effective.

Another approach to make things better is to push for corporate responsibility and best practices on digital platforms. The government, through the Ministry of Communication and Digital Affairs or the new Consumer Digital Rights Commission, could create voluntary standards of behaviour or certification programs for businesses that agree to make contracts fair. Platforms that set up internal contract review systems, publish transparency reports, and give users access to rights dashboards tools that let consumers see and manage their contracts and data preferences in real time could be given incentives like public recognition, better procurement status, or tax breaks. These voluntary standards would not take the place of legal requirements; instead, they would work with them to encourage firms to operate ethically.

It also needs to put a lot of emphasis on public awareness and education. Inferior levels of legal and digital literacy among consumers continue to be a structural

impediment to effective protection. The government should lead a national campaign to teach people about their rights under digital contracts. This campaign could use a variety of media and target diverse kinds of people. Adding lessons on digital rights to school, university, and community legal services would help people be more resilient in the long run. Working with civil society groups, legal aid foundations, and consumer advocacy groups could help this project reach even more people by turning complicated legal material into simple, easy-to-understand advice that is specific to Indonesia.

Finally, Indonesia should work with other countries in the area and around the world to make sure that digital contracts are fair. In the ASEAN context, a regional framework for digital consumer protection—similar in spirit to the EU directives—could streamline standard-setting and improve cross-border enforcement. Indonesia might also work to get consumer digital rights added to international trade agreements. It could also take part in global forums like UNCITRAL, UNCTAD, and the World Trade Organisation, where new rules for digital commerce and platform governance are being made. International harmonisation would help both consumers and businesses that do business across borders by making things clearer and more stable.

VI. **Conclusion**

The presence of unfair clauses in Indonesia's digital standard-form contracts indicates a structural imbalance that undermines consumer protection, genuine consent, and fundamental rights in a digital economy driven by platforms. Consumers are nonetheless constrained by contracts that limit their legal options and allow for massive data extraction, which makes the Consumer Protection Law, the *ITE* Law, and other relevant laws less effective. A comparative research reveals that Indonesia's framework is inferior to more stringent systems, including the European Union's ban on exploitative provisions and rights-based consent under the GDPR, as well as Australia's penalty-driven enforcement against unfair digital contracts. These models reveal that Indonesia's current protections are still inadequate to address evolving risks in digital contracting. Therefore, legal changes are needed to make the *UUPK's* rules about digital contract terms more precise, to make consent standards stronger in line with more modern data protection laws, and to make sure that the PDP Law has adequate remedies for data misuse in contracts. It is important to strengthen enforcement mechanisms, especially by giving consumer dispute bodies more power and digital skills, and by teaching people more about their rights as consumers. Digital contracts can run from being tools of power to tools that support fairness, freedom, and an open digital economy through reforms that focus on rights and compare different systems.

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