

Consumer Protection Law as an Extension of Civil Law Governance

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Abstract: *The Civil Code, designed in a private relationship that is assumed to be balanced, often fails to provide effective protection for consumers as the economically and informationally weaker party. In this context, Law Number 8 of 1999 concerning Consumer Protection is present as a corrective instrument that extends the power of civil law governance, while simultaneously translating the constitutional mandate of Article 28D paragraph (1) of the 1945 Constitution into the realm of civil relations. This research uses a normative legal research method with a statute approach and a conceptual approach. Analysis is carried out on the provisions of the Consumer Protection Law, the Civil Code, and constitutional norms, by examining legal principles, the theory of *lex specialis derogat legi generali*, and the doctrine of legal interpretation that has developed in judicial practice. The purpose of this research is to examine the position of the Consumer Protection Law in the Indonesian civil law system, and to reconstruct the legal interpretation of the relationship between the Consumer Protection Law and the Civil Code so that consumer protection can function optimally without eliminating the general character of civil law. The research findings indicate that the Consumer Protection Act (UUPK) functions as a *lex specialis*, expanding and correcting general civil law by restricting freedom of contract, reversing the burden of proof, and strengthening the responsibilities of business actors. A systematic and teleological reconstruction of interpretation is necessary to address the ambiguity of norms and inconsistencies in law enforcement, so that civil law can achieve fair legal certainty and substantive protection for consumers.*

Keywords: *Consumer Protection, Lex Specialis, Civil Law.*

INTRODUCTION

The legal relationship between consumers and business actors has been doctrinally situated from the outset within classical civil law, which focuses on agreements as the primary source of legitimacy for the emergence of rights and obligations. The Civil Code positions agreements as an expression of the free will of the parties, who are normatively considered equal, rational, and autonomous.¹ The principle of freedom of contract and the principle of consensualism in

this framework function as ideological pillars that affirm the neutrality of the law towards the interests of the parties.² However, these normative assumptions are essentially theoretical constructs born from a specific socio-economic context, namely an individualistic liberal society. When these constructs are applied ahistorically to modern economic realities, civil law has the potential to lose its critical power in addressing real inequalities.

¹ Susanti, N. (2024). Kepastian Hukum Penerapan Asas Kebebasan Berkontrak Dalam Sebuah Perjanjian Baku Ditinjau Berdasarkan Pasal 1338 Kitab Undang-Undang Hukum Perdata. *Indragiri Law Review*, 2(2), 33-39. <https://doi.org/10.32520/ilr.v2i2.32>

² Jatmiko, E. H. (2025). Penerapan Asas Kebebasan Berkontrak dalam Kontrak Bisnis di Indonesia. *Hukum Inovatif: Jurnal Ilmu Hukum Sosial dan Humaniora*, 2(3), 91-99. <https://doi.org/10.62383/humif.v2i3.1828>

In the dynamics of the modern economy, the relationship between consumers and businesses no longer takes place in a space of equal and personal transactions, but rather in a mass production system rife with corporate dominance. Contracts are no longer negotiated, but are unilaterally standardized through standard clauses imposed as prerequisites for transactions. From the perspective of contractual justice theory, this situation indicates a shift in relations from free agreement to structural compliance.³ Consumers have no real bargaining power to influence the content of the agreement, so the consent given is substantively fictitious. In this case, the principle of freedom of contract becomes an instrument of legitimizing inequality, no longer a means of legal emancipation.

The Civil Code, as a legal product inherited from the colonial era, was designed to regulate private relations in a relatively simple and balanced society.⁴ The norms of breach of contract and unlawful acts are formulated on the assumption that the parties have equal evidentiary capacity and equal access to legal resources. In consumer disputes, this assumption breaks down because consumers are almost always in an informationally, technically, and economically inferior position.⁵ The burden of proving fault on business actors becomes nearly impossible for consumers to effectively shoulder. As a result,

civil law operates in a formalistic manner, enforcing normative certainty while sacrificing substantive justice.

This formalistic approach reflects the epistemological limitations of classical civil law in interpreting the power relations behind contractual relationships. Civil law tends to view agreements as normative facts, detached from social context, yet agreements in consumer transactions are fraught with relations of domination. Critical legal theory asserts that law is never neutral but always operates within specific social structures.⁶ When civil law fails to recognize this inequality, it indirectly legitimizes exploitation disguised in the language of legality. This limitation is the philosophical and sociological basis for the emergence of the consumer protection regime.

Law Number 8 of 1999 concerning Consumer Protection was enacted as a normative response to the protection crisis in civil law. The Consumer Protection Law was not intended to replace civil law, but rather to address its structural flaws through a corrective approach. The principle of business actor responsibility, the prohibition of detrimental standard clauses, and the reversal of the burden of proof represent forms of state intervention in the private sphere to achieve justice.⁷ Theoretically, this step reflects a shift from a laissez-faire paradigm to a welfare-oriented private law paradigm. Thus, the UUPK extends

³ Prabantarikso, M. (2024). Tinjauan Sosio-Legal Atas Kontrak: Kajian Tentang Keterikatan Sosial (Social Embeddedness) Dan Keterikatan Institusional (Institutional Embeddedness) Pada Penegakan Kontrak. *Mimbar Hukum*, 36(2). <https://doi.org/10.22146/mh.v36i2.17201>

⁴ Suwasta, A. D., Juhana, U., Alfiany, T. F., & Mulyanti, A. S. (2024). *Pengantar hukum perdata*. Tohar Media.

⁵ Rohmannudin, R., Hidayatullah, I., Winario, M., & Putri, R. D. (2024). Analisis Yuridis Penyelesaian Sengketa Konsumen Berdasarkan UU No 8 Tahun 1999. *Journal of Legal Sustainability*, 1(2), 1-7. <https://el-emir.com/index.php/jols/article/view/29>

⁶ Zhorif, A., Syachputa, M. R., Varandi, V., Halimi, A., & Pratama, M. A. (2024). Studi Filsafat Dalam Gerakan Hukum Kritis: Analisis Filsafat Hukum Kritis Roberto Unger Dalam Konteks Amerika. *Praxis: Jurnal Filsafat Terapan*, 2(01). <https://journal.forikami.com/index.php/praxis/article/view/941>

⁷ Achmad, S., & Saleh, M. (2022). Kajian Yuridis Terhadap Klausula Baku Barang Yang Sudah Di Beli Tidak Dapat Ditukar Kembali Menurut Undang-Undang Nomor 8 Tahun 1999. *Commerce Law*, 2(2). <https://doi.org/10.29303/commercelaw.v2i2.2044>

the effectiveness of civil law to align with the demands of social justice.

The UUPK marks the transformation of civil law's function from merely regulating private relations to an instrument for equitable economic governance. From the perspective of legal theory as a means of social engineering, the UUPK not only resolves disputes but also shapes the behavior of business actors to be more responsible.⁸ The UUPK norms are preventive, repressive, and educational, something not explicitly addressed in the Civil Code. This demonstrates that modern civil law can no longer rely on a false sense of neutrality. Instead, it must consciously favor balance and protect the vulnerable.

Empirically, the high number of consumer disputes is a concrete manifestation of the failure of classical civil law governance. Repeated consumer complaints in the financial services, e-commerce, housing, and digital services sectors demonstrate a systemic pattern of violations.⁹ These disputes are generally rooted in standard clauses that eliminate business actors' responsibilities, non-transparent information, and exploitative business practices. This fact confirms that inequality in consumer relations is not an anomaly, but rather a product of a permissive legal structure. Therefore, the individualistic approach of civil law has proven inadequate to address consumers' collective problems.

This empirical data also demonstrates that without strong normative intervention, civil law has the potential to become a tool for legitimizing injustice. Formally valid standard

contracts can serve as a legal shield for businesses to avoid liability.¹⁰ In this context, the Consumer Protection Act (UUPK) serves as a corrective mechanism against abuses of freedom of contract. The shift in principle from caveat emptor to caveat venditor confirms that the burden of care no longer rests solely with consumers. This shift reflects the substantive justice orientation of modern civil law.

Normatively, consumer protection has a strong constitutional basis in the principles of the rule of law and social justice. Article 28D paragraph (1) of the 1945 Constitution affirms the right to fair legal protection, which cannot be reduced to mere formal certainty. In the economic sphere, legal justice demands protection against detrimental and exploitative business practices.¹¹ The Consumer Protection Law (UUPK) concretizes this constitutional mandate in the realm of private law. Therefore, consumer protection cannot be positioned as a mere sectoral policy, but rather as an integral part of the national legal framework.

Nevertheless, the relationship between the Consumer Protection Law (UUPK) and the Civil Code (KUH Perdata) still presents a serious problem in the form of normative ambiguity. In practice, there is no conceptual clarity regarding the boundaries and intersections between general civil law and consumer protection law. Law enforcement officials often face normative dilemmas in determining the legal basis to be used. This ambiguity creates room for inconsistent decisions and fragmented legal application.

⁸ Reza, E. O. (2024). Implementasi Peranan Badan Penyelesaian Sengketa Konsumen Berbasis Keadilan: Peluang dan Tantangan. *Jurnal Kepastian Hukum dan Keadilan*, 6(1), 30-49. <https://doi.org/10.32502/khk.v6i1.5360>

⁹ Yulianingsih, S., & Putra, R. K. (2024). Analisis Yuridis tentang Perlindungan Konsumen pada E-Commerce di Indonesia: Pendekatan Yuridis-Normatif. *Hakim: Jurnal Ilmu Hukum dan Sosial*, 2(4), 842-856. <https://doi.org/10.51903/hakim.v2i4.2204>

¹⁰ Sinaga, I. P. A., Anter, F. J. I., & Anjelika, V. (2025). Kedudukan Hukum Kontrak Baku Dalam Perlindungan Konsumen di Indonesia. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3(2), 248-259. <https://doi.org/10.61104/alz.v3i2.994>

¹¹ Avif, R. A. R., & Julijanto, M. J. M. (2026). PERLINDUNGAN KONSUMEN DALAM PERSPEKTIF SYARIAH: Kajian Pustaka Prinsip 'Adl, Sidq dan Larangan Gharar serta Riba. *JSE: Jurnal Sharia Economica*, 5(1), 324-336. <https://doi.org/10.46773/z7rjh495>

This normative ambiguity reflects the weak integration of the modern civil legal system.

The impact of this vague norm is not only technical but also systemic on civil law governance. When the Consumer Protection Act (UUPC) is not clearly positioned as an extension of civil law, law enforcement officials tend to revert to a classical, formalistic paradigm. Consequently, the spirit of protection and structural correction espoused by the UUPK is diminished. From the perspective of legal certainty theory, this situation actually creates uncertainty because norms are applied inconsistently.¹² Civil law has also lost its progressive function in protecting the interests of society.

Based on this overall description, a conceptual study of the Consumer Protection Act (UUPC) as an extension of the governance power of civil law is an academic necessity. The UUPK must be understood as part of the evolution of civil law toward a more responsive and equitable paradigm. Clarifying this position is crucial to addressing normative ambiguity and ensuring consistent legal application. Furthermore, strengthening the UUPK will maintain the relevance of civil law in addressing the complexity of contemporary economic transactions. Thus, civil law serves not only as a safeguard of certainty but also as an instrument of substantive justice and social benefit.

METHODOLOGY

This research uses a normative or doctrinal legal research method, which positions law as a norm or rule governing human behavior in society. Normative legal research focuses on the study of written law, legal principles, the systematics of legislation,

and the doctrines and opinions of legal experts. Soerjono Soekanto emphasized that normative legal research aims to discover legal principles, legal systems, and the level of legal synchronization, both vertically and horizontally.¹³ In this study, a normative approach is used to examine the position of the Consumer Protection Law as part of the civil law system, as well as to examine the normative relationship between the Consumer Protection Law and the Civil Code within the framework of modern civil law governance. Therefore, this study is not oriented towards measuring empirical behavior, but rather on a conceptual and normative analysis of the structure and function of legal norms.

The approaches used in this research include a statutory approach and a conceptual approach. The statutory approach is used to examine the norms contained in the Consumer Protection Law (UUPK), the Civil Code (KUH Perdata), and relevant constitutional provisions to identify any ambiguities in their regulations. Meanwhile, the conceptual approach is used to analyze the principles, theories, and doctrines of civil law and consumer protection, referring to the views of experts such as Peter Mahmud Marzuki, who stated that a conceptual approach is important for constructing legal arguments when positive norms do not provide adequate clarity.¹⁴ The legal materials used consist of primary legal materials in the form of statutory regulations, secondary legal materials in the form of scientific literature, legal journals, and expert opinions, and tertiary legal materials as supporting materials. All of these legal materials were analyzed qualitatively using systematic and teleological interpretation methods to produce a coherent and argumentative legal construction.

RESULTS AND DISCUSSION

¹² Bhakti, T. S. (2025). Kepastian Hukum dalam Pengujian Formil Undang-Undang oleh Mahkamah Konstitusi di Indonesia terkait Inkonsistensi Putusan, Batas Waktu Pengujian, dan Implikasi Pembatalan Undang-Undang. *Jurnal Ilmiah Global Education*, 6(4), 2859-2870. <https://doi.org/10.55681/jige.v6i4.4693>

¹³ Sukmawan, Y. A., & Damayanti, D. (2025). Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum. *Notary Law Journal*, 4(3), 114-128. <https://doi.org/10.32801/nolaj.v4i3.116>

¹⁴ Muhtar, M. H. BAB 5 Penelitian Hukum Normatif. *Metode Metode Penelitian Penelitian Hukum Hukum*, 57.

Normative Construction of Consumer Protection Law in the Indonesian Civil Law System

Law Number 8 of 1999 concerning Consumer Protection occupies a strategic position in the hierarchy of Indonesian legislation as a law that is equal to other laws, including the Civil Code. Based on Law Number 12 of 2011 concerning the Formation of Legislation, the Consumer Protection Law is subordinate to the 1945 Constitution of the Republic of Indonesia and the Decrees of the People's Consultative Assembly (MPR), but has the same binding force as other laws. This position emphasizes that the Consumer Protection Law is not merely a technical sectoral regulation, but rather a primary legal norm that specifically regulates civil relations. Within the legal system, the Consumer Protection Law must be read as part of the national private law structure.¹⁵ Therefore, UUPK has strong normative legitimacy to regulate, limit, and correct the practice of civil legal relations in consumer transactions.

In the Indonesian civil law system, the Consumer Protection Act (UUPK) is a special civil law (*lex specialis*) that overrides general civil law (*lex generalis*) as stipulated in the Civil Code. The principle of *lex specialis derogat legi generali* stipulates that if there is a conflict between general provisions and special provisions, the special provisions shall take precedence.¹⁶ The Civil Code, particularly Book III on Contracts, serves as the basic law governing agreements in general, while the Consumer Protection Act specifically regulates transactions between businesses and

consumers. This position demonstrates that the Consumer Protection Act does not negate the validity of the Civil Code but rather complements it with more contextual protection norms. Thus, the Consumer Protection Act operates as a corrective instrument within the national civil law system.

The Consumer Protection Act's character as a special civil law is reflected in its explicit regulatory focus on protecting consumers as the structurally weaker party. Unlike the Civil Code, which is based on the assumption of equality before the law, the Consumer Protection Act consciously recognizes the unequal bargaining power of modern transactions.¹⁷ The recognition of this inequality represents a significant paradigmatic shift in Indonesian civil law. The law no longer enforces formal equality but instead intervenes in private relations to achieve substantive justice.¹⁸ Thus, UUPK is a manifestation of modern civil law that is responsive to socio-economic realities.

The UUPK's corrective function against the Civil Code is evident in the limitations on the principle of freedom of contract, as stipulated in Article 1338 of the Civil Code. In classical civil law, freedom of contract is seen as a key pillar of the parties' autonomy, making the contents of an agreement as binding as law.¹⁹ However, in consumer transactions, this freedom is often monopolized by businesses through standard, take-it-or-leave-it contracts. The Consumer Protection Law (UUPK) corrects this dominance by prohibiting standard clauses that are detrimental to consumers, as stipulated in Article 18 of the UUPK. Clauses

¹⁵ Widjaja, V., & Soemartono, R. G. P. (2023). Implementasi UU Perlindungan Konsumen dan UU Kepailitan terhadap konsumen properti pemegang PPJB. *Syntax Literate: Jurnal Ilmiah Indonesia*, 8(10), 13773. <http://dx.doi.org/10.36418/syntax-literate.v6i6>

¹⁶ Fadly, F., Ramadhan, M. Z., & Nur, F. (2026). Konsistensi Keberadaan Asas *Lex Specialis Derogat Legi Generalis* dalam KUHP Nasional. *Jejak digital: Jurnal Ilmiah Multidisiplin*, 2(1), 1711-1718. <https://doi.org/10.63822/jtjnd41>

¹⁷ Sari, P., & Harahap, M. Y. (2024). EKSISTENSI ASAS KONSENSUALISME DALAM PERJANJIAN KERJA SAMA BAGI

HASIL PERKEBUNAN KELAPA BERDASARKAN KUHPERDATA. *Jurnal Hukum Lex Generalis*, 5(10). <https://doi.org/10.56370/jhlg.v5i10.544>

¹⁸ Lestari, S. I., & Rahmadani, N. P. (2024). Implikasi Hukum Masyarakat Dalam Penegakan Keadilan Sosial di Era Modern: Studi Kasus Putusan Nomor 93/Puu-Xx/2022. *Jurnal Ilmiah Wahana Pendidikan*, 10(24), 647-658.

¹⁹ Syafridi, F. (2024). Analisis Sistem Penyusunan Kontrak Menggunakan Asas Kebebasan Berkontrak Dalam Hukum Perdata. *AL-DALIL: Jurnal Ilmu Sosial, Politik, dan Hukum*, 2(3), 17-24. <https://doi.org/10.58707/aldalil.v2i3.879>

that shift responsibility or limit consumer rights are declared null and void, thus eliminating absolute freedom of contract.

The principles of consumer protection formulated in Article 2 of the Consumer Protection Law, namely the principles of benefit, justice, balance, and legal certainty, serve to both strengthen and correct classical civil law principles. The principle of balance, for example, directly limits the dominance of the principle of freedom of contract by demanding proportionality between the parties' rights and obligations.²⁰ Civil law no longer merely assesses the formal validity of a contract, but also assesses its substantive fairness. In this context, the principle of balance becomes a normative instrument to prevent exploitation legalized by contracts. The Consumer Protection Act thus shifts the orientation of civil law from formal certainty to substantive justice.

The principle of justice in the UUPK also functions as a correction to the dominance of the principle of *pacta sunt servanda* which binds the parties absolutely.²¹ Under the Civil Code, valid agreements must be complied with regardless of whether their contents are fair. The Consumer Protection Act breaks this absolutism by establishing fairness as the evaluative parameter for the content of consumer agreements. Contracts must not only arise from agreement but also reflect good faith and protect the vulnerable party. Thus, the law no longer merely enforces promises but also assesses their moral and social legitimacy.

The principles of benefit and legal certainty in the Consumer Protection Law further emphasize the shift in the function of civil law in consumer transactions. The

principle of benefit requires that every regulation and implementation of consumer protection provide real benefits, not just one-sided gains for businesses.²² This is realized through the obligation of business actors to provide accurate, clear, and honest information regarding the goods and services they trade. Meanwhile, the principle of legal certainty is strengthened through regulations on business actors' responsibilities, including a reversal of the burden of proof and a trend toward strict liability. These regulations provide legal certainty for consumers who previously faced structural uncertainty.

Overall, the position of the UUPK in the Indonesian civil law system indicates a fundamental transformation in the way the law regulates private relations.²³ The Consumer Protection Law (UUPK) exists as a *lex specialis* that not only complements but also corrects the weaknesses of conventional civil law, which relies too heavily on formal equality. The principles of consumer protection strengthen the principles of classical civil law by incorporating dimensions of social justice and substantive balance. State intervention through the UUPK reflects a shift from a *laissez-faire* paradigm to a modern civil law oriented toward protecting the vulnerable. Thus, the UUPK can be understood as an extension of civil law governance to address the complexities of contemporary economic transactions.

The corrective nature of the norms in the Consumer Protection Law (UUPK) emerged as a direct response to the structural inequality in contractual relations between businesses and consumers. This inequality stems not only from differences in bargaining power but also from information asymmetry and the dominance of

²⁰ Ayuningsih, N., Faturrahman, M. F. Z., Aulia, V., & Rajib, R. K. (2025). Problematika Asas kebebasan Berkontrak dalam Perancangan Kontrak Jual Beli: Telaah terhadap Posisi Tawar Para Pihak. *Politika Progresif: Jurnal Hukum, Politik dan Humaniora*, 2(4), 23-39. <https://doi.org/10.62383/progres.v2i4.2656>

²¹ Haq, M., & Felandry, D. (2024). Prinsip Strict Liability Pelaku Usaha Dalam Rangka Mewujudkan Asas Keadilan Dan Kepastian Hukum Bagi Konsumen Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan

Konsumen. *Jotika Research In Business Law*, 3(2), 86-96. <https://doi.org/10.56445/jrbl.v3i2.151>

²² Fista, Y. L., Machmud, A., & Suartini, S. (2023). Perlindungan Hukum Konsumen Dalam Transaksi E-commerce Ditinjau dari Perspektif Undang-Undang Perlindungan Konsumen. *Binamulia Hukum*, 12(1), 177-189. <https://doi.org/10.37893/jbh.v12i1.599>

²³ Zainudin, Z. (2025). The Urgency of Reforming Indonesian Civil Law in the Digital Era. *Jurnal Tana Mana*, 6(2), 187-193. <https://doi.org/10.33648/jtm.v6i2.1051>

economic resources by businesses. Classical civil law, based on the assumption of formal equality between the parties, has proven inadequate to provide substantive protection for consumers.²⁴ The Consumer Protection Act (UUPC) emerged as a form of state intervention into the private sphere to correct injustices legitimized by contracts. This intervention marked a paradigm shift in civil law from formal neutrality to normative support for the weaker party. Thus, the UUPK's corrective nature is a logical consequence of the failure of purely contractual mechanisms to guarantee justice.

The prohibition on standard clauses, as stipulated in Article 18 of the Consumer Protection Law, is the most explicit corrective instrument against the dominance of the principle of freedom of contract. Standard clauses are essentially "private laws" unilaterally drafted by businesses and imposed on consumers without equal opportunity for negotiation. The Consumer Protection Law expressly prohibits clauses that transfer responsibility, refuse to return goods, or are subject to unilateral change at a later date.²⁵ This prohibition demonstrates that freedom of contract is no longer understood as absolute, but rather as a freedom limited by justice and propriety. By declaring the clause null and void, the Consumer Protection Act (UUPK) asserts that formal agreements cannot justify exploitative contractual substance. This norm also positions the law as the guardian of contractual ethics in modern transactions.

The nullity provision in Article 18 paragraph (3) of the Consumer Protection Act

has fundamental normative implications in contract law. The prohibited clause is deemed never to have existed in the first place, thus requiring no prior court decision to annul it. This doctrine directly shifts the principle of *pacta sunt servanda*, which previously held the agreement to be the supreme law for the parties.²⁶ In consumer protection, compliance with contracts is no longer the ultimate goal; instead, contractual fairness is a value that must be upheld. Thus, the Consumer Protection Law establishes a preventive protection mechanism that prevents injustice from the contract formulation stage. This demonstrates that modern civil law is not only repressive, but also corrective and preventive.

In addition to the prohibition on standard clauses, the reversal of the burden of proof is a corrective instrument that significantly changes the face of civil evidentiary law. In the general civil law system, the burden of proof rests with the party suing, namely the consumer.²⁷ However, in consumer disputes, this principle creates injustice because consumers lack access to technical information, production processes, or safety standards for goods and services. The Consumer Protection Law, through Articles 22 and 28, corrects this situation by placing the burden of proof on business actors. This reversal is not merely a procedural convenience, but rather a form of legal affirmation against real structural inequalities. With this instrument, civil law is no longer procedurally neutral but consciously favors substantive justice.

The responsibilities of business actors, as stipulated in Article 19 of the Consumer

²⁴ Khokim, M. I. (2025). Perlindungan Hukum terhadap Konsumen dalam Perjanjian Baku di Indonesia. *Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora*, 4(2), 506-515. <https://doi.org/10.55606/jurish.v4i2.4977>

²⁵ Achmad, S., & Saleh, M. (2022). Kajian Yuridis Terhadap Klausula Baku Barang Yang Sudah Di Beli Tidak Dapat Ditukar Kembali Menurut Undang-Undang Nomor 8 Tahun 1999. *Commerce Law*, 2(2). <https://doi.org/10.29303/commercelaw.v2i2.2044>

²⁶ Syamsiah, D., Bao, R. M. B., & Yuliana, N. F. (2023). Dasar Penerapan Asas *Pacta Sunt Servanda* Dalam Perjanjian. *Jurnal Hukum Das Sollen*, 9(2), 841-848. <https://doi.org/10.32520/das-sollen.v9i2.2988>

²⁷ Syam, M. (2023). Politik Hukum Pembuktian dalam Penyelesaian Sengketa Konsumen di Indonesia. *UNES Law Review*, 6(1), 1497-1509. <https://doi.org/10.31933/unesrev.v6i1.946>

Protection Law, reinforce this corrective nature through a more progressive compensation regime. Business actors are required to provide compensation for consumer losses without having to wait for conventional proof of fault.²⁸ While still doctrinally based on fault liability, the strengthening of the reverse burden of proof and the tendency toward strict liability make this responsibility more effective. This norm encourages businesses to apply the principles of prudence and social responsibility in all economic activities. Thus, business actors' responsibilities are not merely reactive but also preventive. Civil law, through the Consumer Protection Law (UUPK), serves as a risk management mechanism in economic transactions.

These three instruments the prohibition on standard clauses, the reversal of the burden of proof, and the responsibility of business actors form an inseparable normative whole. These instruments work simultaneously to balance the relationship between consumers and business actors, both at the pre-contractual, contractual, and post-contractual stages. The Consumer Protection Act (UUPK) norms not only protect consumers after a loss has occurred but also prevent further losses through unfair contractual restrictions. Thus, the UUPK has emerged as a special civil law (*lex specialis*) that limits the applicability of general civil law for the sake of justice. This corrective character demonstrates that modern civil law is no longer sufficiently reliant on formal rationality. Law is required to be present as an instrument of correction to unequal social realities.

Furthermore, the existence of the Consumer Protection Act (UUPK) marks the expansion of civil law's function from merely regulating private relations to becoming an

instrument for governing justice in modern economic activity. Classical civil law prioritizes individual interests and contractual freedom as its primary values.²⁹ However, in a modern economy characterized by large corporations, standard contracts, and mass markets, this approach has actually given rise to systemic injustice. The consumer protection regime forces civil law to transform into a tool for regulating equitable markets. The law no longer merely resolves disputes but also directs the behavior of economic actors. Thus, civil law functions as an instrument of economic governance.

This expanded function is also reflected in the strengthening of the principles of good faith and propriety, which apply not only to the contract implementation stage but also to the pre-contractual stage. Misleading information, manipulative advertising, and non-transparent offers are positioned as violations of civil law. This demonstrates that modern civil law recognizes the ethical dimension of economic transactions. Justice is no longer understood as an end result, but as a process that must be maintained from the outset. In this regard, the Consumer Protection Law compels business actors to act responsibly socially, not solely economically.³⁰ Civil law is a normative instrument to balance market efficiency and social justice.

Normative synchronization between the Consumer Protection Law, the Civil Code, and the 1945 Constitution further strengthens the legitimacy of consumer protection in the national legal system. Article 28D paragraph (1) of the 1945 Constitution guarantees the right to fair legal certainty and equal treatment before the law.³¹ This norm serves as the constitutional basis for the validity of the Consumer

²⁸ Michelle, J. G., Aurelia, S. F., & Dimas, G. V. (2022). Pertanggungjawaban Ganti Rugi Atas Barang Yang Tidak Sesuai Berdasarkan Asas Itikad Baik. *Jurnal Ilmu Hukum: Alethea*, 6(1), 39-50. <https://doi.org/10.24246/alethea.vol6.no1.p39-50>

²⁹ Octavian, V. R. (2024). Teknik Dasar Pembuatan Kontrak Hukum: Melindungi Hak Dan Kewajiban. *Jurnal Ilmiah Penelitian*

Mahasiswa, 2(6), 567-573. <https://doi.org/10.24246/alethea.vol6.no1.p39-50>

³⁰ Setiawan, J., & Afrita, I. (2025). Tanggung Jawab Hukum Pelaku Usaha Atas Produk Cacat Tersembunyi. *The Juris*, 9(1), 217-233. <https://doi.org/10.56301/juris.v9i1.1676>

³¹ Karwur, C. E. T. (2024). Pemenuhan hak memperoleh kesehatan ditinjau dari pasal 28 h ayat

Protection Law (UUPK) as a civil protection instrument. The UUPK can be understood as an operational elaboration of the principle of constitutional justice in the private sphere. Thus, consumer protection is not merely a sectoral policy, but rather a constitutional mandate. This synchronization demonstrates that civil law does not exist separately from constitutional values.

Overall, the UUPK's corrective nature, the expansion of civil law's functions, and constitutional synchronization form a unified and progressive normative framework. The UUPK not only complements the Civil Code but also transforms it to be relevant to the dynamics of the modern economy. Civil law is no longer neutral toward inequality but is consciously directed toward realizing substantive justice. Consumer protection is a concrete manifestation of the principle of a rule of law oriented toward welfare and social justice. By establishing consumers as protected legal subjects, the UUPK extends the governance power of civil law. This is the face of modern civil law, which is not only normatively valid but also constitutionally just.

Reconstruction of Legal Interpretation of the Position of the Consumer Protection Law as Lex Specialis in Civil Law

The principle of *lex specialis derogat legi generali* is a fundamental principle in the Indonesian legal system that serves to maintain order and consistency of norms when two legal regulations govern the same object. In civil law, this principle serves as a methodological instrument for determining which norm should

take priority when there is an overlap between general provisions in the Civil Code and specific provisions in sectoral laws.³² Law Number 8 of 1999 concerning Consumer Protection (UUPK) was born in response to the inability of the Civil Code to address the complexity of consumer-business relations in the modern economy. Therefore, theoretically, the UUPK should be positioned as *lex specialis*, overriding the general norms of the Civil Code as long as they specifically regulate consumer legal relations. This placement is not derogatory to the Civil Code as a whole, but rather corrective to classical civil norms that have the potential to perpetuate structural inequality. Thus, the principle of *lex specialis* functions as an internal mechanism of the civil law system to maintain substantive justice without damaging the dogmatic structure of contract law.

Normatively, the relationship between the Consumer Protection Act and the Civil Code reflects the dialectic between liberal general civil law and protective-oriented special civil law. The Civil Code, particularly Book III, is built on the principles of freedom of contract and formal equality of the parties, as reflected in Article 1338 of the Civil Code.³³ However, in modern consumer transactions dominated by standard agreements, this principle loses its sociological relevance because consumers lack real bargaining power. The Consumer Protection Act (UUPK) then emerged as a *lex specialis*, restricting freedom of contract by prohibiting detrimental standard clauses, reversing the burden of proof, and strengthening the responsibilities of business actors.³⁴ The implications of applying the *lex specialis* principle here are not merely

1 undang-undang dasar negara republik indonesia tahun 1945. *Lex privatum*, 13(2). <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/54002>

³² Triputri, D. H., Mofea, S., Yulviani, D., & Pratama, R. (2023). Analisis Yuridis Terhadap Penerapan Sanksi Pidana Bagi Pelaku Penipuan Dalam Transaksi Elektronik Berdasarkan Asas *Lex Specialis Derogat Legi Generali* Ditinjau Dari Kuhp Dan UU ITE. *Lex Veritatis*, 2(01), 42-51. https://ejournal.unis.ac.id/index.php/JournalMahasi_swa/article/view/3462

³³ Hifni, M. (2024). Aspek Hukum Perjanjian Asuransi Dalam Perspektif Hukum Perdata Di Indonesia. *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam*, 6(1), 25-32. <https://doi.org/10.47435/al-ahkam.v6i1.2677>

³⁴ Harahap, R. S. P., & Chrisanta, F. (2023). Pembatasan Klausul pada Perjanjian Baku dalam Upaya Perlindungan Konsumen melalui Undang-Undang Perlindungan Konsumen. *Jurnal Hukum Lex Generalis*, 4(4), 323-338. <https://doi.org/10.56370/jhlg.v4i4.371>

normative but paradigmatic, shifting the orientation of civil law from formal neutrality to favoring the weaker party. Therefore, determining the applicable norms in consumer disputes should always prioritize the Consumer Protection Act (UUPK) as a special law embodying the value of corrective justice.

The application of the *lex specialis* principle in the UUPK also obtains strong constitutional legitimacy through Article 28D paragraph (1) of the 1945 Constitution, which guarantees the right of every person to legal certainty and fair treatment.³⁵ This constitutional norm positions consumer protection as part of human rights in the economic sector, not merely a private interest. Thus, the Consumer Protection Act serves not only as a sectoral law but also as an instrument for operationalizing constitutional values in the civil law realm. The reversal of the burden of proof and the strengthening of business actors' responsibilities in the Consumer Protection Act are concrete manifestations of the principle of "fair treatment" as mandated by the constitution. If, in consumer disputes, judges continue to prioritize the Civil Code without considering the Consumer Protection Act, such decisions could potentially conflict with the constitutional principle of fair legal protection. Therefore, the principle of *lex specialis* in this context must be understood not only dogmatically but also constitutionally.

Although theoretically and normatively, the UUPK's position as *lex specialis* is relatively clear, the practice of civil law enforcement demonstrates a serious problem in the form of normative ambiguity (*vage normen*). This ambiguity is particularly evident in the unclear scope of the UUPK's applicability, both in terms of the subject, object, and type of protected transactions. The

definition of "consumer" as an end-user not intended for trade is often interpreted narrowly, thus excluding parties who are in a factually weak position, such as MSMEs or small resellers.³⁶ In this context, the *lex specialis* principle is ineffective because the specific norms themselves are not sufficiently clear to address interpretation gaps. This ambiguity creates room for business actors to avoid responsibility by hiding behind formalistic interpretations. As a result, the protective purpose of the Consumer Protection Law is diminished in judicial practice.

The problem of normative ambiguity is also evident in the application of Article 18 of the Consumer Protection Law, concerning the prohibition of standard clauses and the concept of "null and void." Normatively, standard clauses that violate the Consumer Protection Law should be deemed never to have existed in the first place and do not require a court decision to declare them null and void.³⁷ However, in practice, many judges still associate the cancellation of an agreement with Article 1266 of the Civil Code, which requires a court decision. This difference in approach creates legal inconsistency and uncertainty, while also weakening the effectiveness of the *lex specialis* principle. This ambiguity in the meaning of "null and void" indicates a friction between the general civil law regime and consumer protection law. When this friction is not resolved through systematic interpretation, the Consumer Protection Law loses its corrective power. In such circumstances, consumers are again placed in a legally inferior position.

Furthermore, normative ambiguity also arises from regulatory fragmentation and overlap between the Consumer Protection Law (UUPK) and other sectoral laws. In disputes

³⁵ Fairuzaidan, A. A., & Asari, A. (2025). Menyeimbangkan Perlindungan Paten dan Hak Konsumen Dalam Impor Paralel Obat di Indonesia. *JURNAL USM LAW REVIEW*, 8(3), 1621-1642.
<https://doi.org/10.26623/julr.v8i3.12789>

³⁶ Siahaan, S. P. S., Panjaitan, H., & Jayadi, H. (2023). Perlindungan Konsumen pada Transaksi E-Commerce dalam Perspektif Azas Kebebasan Berkontrak. *Jurnal Hukum to-ra: Hukum Untuk*

Mengatur dan Melindungi Masyarakat, 9(Special Issue), 291-312.
<https://www.ejournal.fhuki.id/index.php/tora/article/view/515>

³⁷ Harahap, R. S. P., & Chrisanta, F. (2023). Pembatasan Klausul pada Perjanjian Baku dalam Upaya Perlindungan Konsumen melalui Undang-Undang Perlindungan Konsumen. *Jurnal Hukum Lex Generalis*, 4(4), 323-338.
<https://doi.org/10.56370/jhlg.v4i4.371>

involving financial services, housing, or digital transactions, conflicts often arise between the UUPK and sectoral regulations, which have different protection standards. In such situations, the UUPK is often marginalized on the grounds of the existence of sector-specific regulations, even though these regulations do not provide equal protection for consumers. This phenomenon creates a normative paradox, where the *lex specialis*, which should protect consumers, is instead trumped by other, less protective *lex specialis*. Without a clear interpretative framework, the principle of *lex specialis derogat legi generali* becomes a source of legal uncertainty.³⁸ This shows that the main problem is not only in the written norms, but also in the legal interpretation methodology used by law enforcement officers.

The ambiguity of norms in the application of the Consumer Dispute Resolution Law (UUPK) as *lex specialis* also directly impacts the effectiveness of consumer dispute resolution mechanisms. The Consumer Dispute Resolution Agency (BPSK), designed as a fast and simple forum, often loses its authority because its decisions are overturned by general courts. These overturns are generally based on the assessment that the dispute being handled constitutes a pure breach of contract, which should be subject to the Civil Code. This practice reflects the lack of conceptual understanding regarding the scope of the UUPK as a special law. As a result, consumers are once again trapped in lengthy, expensive, and formalistic civil litigation processes. In this case, the principle of *lex specialis* fails to fulfill the efficiency and protection functions that are the *raison d'être* for the UUPK. This uncertainty ultimately harms consumers, the very parties that should be protected.

The problem of normative ambiguity in the application of the Consumer Protection Act as *lex specialis* shows that formal recognition of the principle of *lex specialis derogat legi generali* is not sufficient to guarantee effective

consumer protection. A more systematic and constitutional interpretative approach is needed so that the Consumer Protection Act truly functions as an extension of civil law. An interpretation that places the Consumer Protection Act within the framework of Article 28D paragraph (1) of the 1945 Constitution will strengthen its legitimacy and applicability in practice.³⁹ Without such efforts, the UUPK risks becoming a symbolic norm, strong on paper but weak in implementation. Therefore, discussions of *lex specialis* in the context of the UUPK cannot be separated from the problem of norm ambiguity and the need for a reconstruction of legal interpretation oriented toward substantive justice.

A systematic reconstruction of the relationship between the Consumer Protection Law and the Civil Code must begin with an understanding that both legal instruments exist within the same civil law system, not in a mutually exclusive relationship. A systematic approach positions the Consumer Protection Law as an integral part of national contract law, serving to expand, correct, and enrich the general norms of the Civil Code. Within this framework, the Civil Code remains the normative foundation of civil relations, particularly in regulating the principles, structure of contracts, and contractual mechanisms. However, the Consumer Protection Law exists as a protective layer that operates at certain points where classical civil law fails to provide substantive justice. Therefore, a systematic interpretation rejects the sharp dichotomy between general civil law and consumer protection law, instead viewing them as a single normative entity with a hierarchical-functional nature. With this approach, the Consumer Protection Law functions as an extension of the power of civil law, strengthening the legitimacy and relevance of the Civil Code in the context of the modern economy.

³⁸ Herlina, I. S. (2025). Harmonisasi Asas Legalitas Formal dengan Pengakuan Hukum yang Hidup di Masyarakat (Living Law) dalam Kitab Undang-Undang Hukum Pidana Nasional. *Jurnal Hukum Lex Generalis*, 6(7). <https://doi.org/10.56370/jhlg.v6i7.2078>

³⁹ Fairuzaidan, A. A., & Asari, A. (2025). Menyeimbangkan Perlindungan Paten dan Hak Konsumen Dalam Impor Paralel Obat di Indonesia. *JURNAL USM LAW REVIEW*, 8(3), 1621-1642. <https://doi.org/10.26623/julr.v8i3.12789>

In the context of contract law, a systematic interpretation of the reconstruction reveals a paradigm shift from the principle of absolute freedom of contract to a conditional freedom of contract. Article 1338 of the Civil Code historically reflects the spirit of classical liberalism, which assumes equality of the parties in a contract. However, the reality of consumer transactions shows that this assumption of equality is fictitious due to the dominance of business actors in determining the content of standard agreements. The Consumer Protection Act, through Article 18, limits the scope of freedom of contract by prohibiting standard clauses that are exonerative and detrimental to consumers, even declaring them null and void. In a systematic interpretation, this limitation should not be understood as a rejection of the principle of freedom of contract, but rather as an internal correction of deviations from that principle. Thus, the Consumer Protection Act does not undermine the legal framework of contracts, but rather restores the principle of freedom of contract to its ethical purpose, namely to create justice and balance between the parties.

Systematic interpretive reconstruction is also evident in the regulation of the burden of proof and legal responsibility. The Civil Code, through Article 1865 of the Civil Code and Article 163 of the Legal Procedures Act, places the burden of proof on the party alleging a right or loss. This principle is theoretically sound, but in consumer disputes, it creates structural barriers for consumers who are economically and informationally disadvantaged.⁴⁰ The Consumer Protection Law (UUPK) reconstructs this principle by implementing a reversal of the burden of proof and the concept of product liability, which in practice approaches a strict liability regime. In a systematic interpretation, this provision should

be understood as an expansion of civil liability, not a deviation from civil law principles. The reversal of the burden of proof reflects the adjustment of civil law to the complexity of modern economic relations. Therefore, the UUPK serves as an adaptive instrument that maintains the effectiveness of civil law in protecting consumer interests.

The relationship between breach of contract and unlawful acts has also been reconstructed through a systematic interpretation of the Consumer Protection Act. In the Civil Code, breach of contract and unlawful acts are dogmatically separated based on the source of the obligation and the form of the violation.⁴¹ However, in consumer disputes, this distinction often becomes irrelevant because consumer losses can arise from both breaches of contract and acts that violate general legal obligations. The Consumer Protection Law integrates the two regimes by establishing concrete standards for compensation and deadlines for fulfillment. A systematic interpretation of the Consumer Protection Law demonstrates that consumer protection law seeks to simplify access to justice for consumers without becoming bogged down in the formalities of legal classification. Thus, this reconstruction strengthens the remedial function of civil law and places the restoration of consumer rights as its primary objective. This confirms that the Consumer Protection Law does not abolish the Civil Code, but rather operationalizes it more responsively.

Systematic interpretation also has implications for reconstructing the consumer's position as a subject of civil law. In classical civil law, legal subjects are positioned neutrally without considering power relations and structural inequalities.⁴² The Consumer Protection Law explicitly recognizes this

⁴⁰ Loke, W. E. (2022). KEKUATAN PERJANJIAN SEBAGAI ALAT PEMBUKTIAN MENURUT HUKUM ACARA PERDATA DI INDONESIA. *LEX ADMINISTRATUM*, 10(2). <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/40525>

⁴¹ Siregar, M., Kamello, T., Purba, H., & Sembiring, R. (2023). Pemisahan Gugatan

Wanprestasi dan Perbuatan Melawan Hukum dalam Perspektif Hukum Materiil dan Penerapan di Pengadilan. *Locus Journal of Academic Literature Review*, 532-548. <https://jurnal.locusmedia.id/index.php/jalr/article/view/187>

⁴² Putri, J. T., Wulandari, D. F., & Genedin, T. (2026). Ketimpangan di Balik Lembar Kontrak: Analisis Sosio-Legal Perjanjian Finance di

inequality and positions consumers as normatively deserving of special protection. A systematic interpretation asserts that this recognition does not contradict the principle of equality before the law, but rather represents a manifestation of corrective justice. Consumers are not treated preferentially without justification, but are protected because they are in an objectively weak position. Thus, civil law moves from formal neutrality to contextual justice. This reconstruction enriches the concept of the civil law subject with sociological and ethical dimensions.

In addition to systematic interpretation, teleological interpretation is crucial for strengthening consumer protection. Teleological interpretation focuses on the purpose of the law, not solely on the textual content of the norm.⁴³ In the context of the Consumer Protection Law (UUPK), the primary objective of its creation is to create substantive justice and protect consumers as vulnerable parties. Therefore, any interpretation of the UUPK provisions must be directed toward realizing these objectives. This approach allows consumer protection law to remain relevant in the face of the dynamics of digital transactions and new business models. With a teleological interpretation, gaps or limitations in the norms can be progressively filled without violating the existing legal system.

The relevance of teleological interpretation is increasingly evident in electronic transactions and the digital economy. When the Consumer Protection Law was drafted, online transaction models were not yet as developed as they are today. However, the consumer protection objectives contained in the Consumer Protection Law allow its norms to be interpreted broadly to encompass digital businesses and e-commerce platforms. A teleological interpretation allows judges to

position digital platforms as business actors responsible for the security, information, and honesty of transactions.⁴⁴ With this approach, the law keeps pace with technological developments. Consumer protection is not limited by the physical form of the transaction, but by the substance of the economic relationship that occurs. This emphasizes the flexibility and adaptability of the Consumer Protection Law within the civil legal system.

Teleological interpretation also strengthens consumers' rights to accurate, clear, and honest information. The purpose of the Consumer Protection Law (UUPK) to increase consumer awareness and independence demands high standards of transparency from business actors. In practice, teleological interpretation allows for an expansion of the meaning of appropriate information, including the obligation to use language that is easily understood and not misleading. This approach goes beyond the formality of providing information and assesses the substance and honesty of that information. Thus, consumer protection goes beyond procedural compliance but also encompasses the ethical and moral aspects of transactions. This strengthens the substantive dimension of justice in civil law.

Systematic and teleological interpretation reconstruction has direct implications for the certainty and consistency of law enforcement. On the one hand, this approach can reduce formal certainty by granting judges greater discretion. However, on the other hand, this approach actually increases substantive certainty by making legal decisions fairer and more contextual. Legal certainty is no longer understood solely as textual certainty, but as the certainty of rights protection. With consistent and objective-based interpretation, court decisions can establish a stable pattern of jurisprudence. Therefore, interpretive reconstruction demands a high level of

Indonesia. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), 7166-7177. <https://doi.org/10.61104/alz.v4i1.4408>

⁴³ Aini, N., Siregar, A. R. M., Wiguna, R., & Siregar, R. F. A. (2026). Metode Penafsiran dalam Penemuan Hukum oleh Hakim di Indonesia. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), 1634-1643. <https://doi.org/10.61104/alz.v4i1.3303>

⁴⁴ Mulyawan, A. W., Abubakar, A., & Irham, M. (2025). Digitalisasi Dan Keadilan Transaksional Dalam Al-Qur'an: Telaah Tafsir Dan Implikasi Terhadap E-Commerce Syariah. *Jurnal Tana Mana*, 6(1), 321-330. <https://doi.org/10.33648/jtm.v6i1.999>

professionalism and ethical responsibility from law enforcement officials.

Ultimately, the implications of interpretive reconstruction for civil law governance indicate a paradigm shift from rigid law to responsive law. The Consumer Protection Act (UUPK), through systematic and teleological interpretation, serves as a bridge between classical civil law and the justice needs of modern society. This reconstruction strengthens the legitimacy of civil law as an instrument of social justice in economic activities. Consistency in law enforcement is no longer measured by the uniformity of the text, but by the harmony of the values of justice embodied. Thus, interpretive reconstruction does not weaken legal certainty, but rather transforms it into just and meaningful legal certainty.

CONCLUSION

The Consumer Protection Law essentially represents a paradigm shift in Indonesian civil law, shifting from a regime focused on formal certainty to a legal system that prioritizes substantive justice. The existence of the Consumer Protection Law as a *lex specialis* emphasizes that civil law can no longer be understood solely as a neutral regulator of private relations, but rather as a corrective instrument for addressing structural inequalities in the contractual relations between consumers and businesses. By restricting freedom of contract, prohibiting detrimental standard clauses, reversing the burden of proof, and strengthening the responsibilities of businesses, the Consumer Protection Law extends the effectiveness of civil law to align with the principles of balance and protection of the vulnerable. However, the effectiveness of this function remains hampered by unclear norms and inconsistent interpretations in law enforcement practices, particularly in relation to the Civil Code and other sectoral regulations. Therefore, a systematic and teleological reconstruction of interpretation is urgently needed to fully integrate the Consumer Protection Law into the fabric of national civil law. Without such reconstruction, the Consumer Protection Law risks being reduced

to a symbolic norm that loses its corrective power, leading civil law to become trapped in formalism that deviates from the constitutional mandate of justice and fair legal protection.

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