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## **The Santiago Principles and The Inadequacy in The Establishment of Danantara as Indonesia's SWF**

ALSA LC Unpad: Nino Yelo Susanto, et. al.

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## **ALSA English Dictionary : Pure Civil Law**

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## THE SANTIAGO PRINCIPLES AND THE INADEQUACY IN THE ESTABLISHMENT OF DANANTARA AS INDONESIA'S SWF

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### Abstract

In order to stabilize and enhance the use of state funds, many countries have established their own Sovereign Wealth Funds as the medium to invest globally in various types of assets. The recognition of the establishment of Sovereign Wealth Funds led to the use of Santiago Principles (“SP”) as an internationally endorsed framework for ensuring the operational adequacy of SWFs. The establishment of Danantara, under Law No. 1 of 2025, represents the manifestation of this global phenomenon. While Danantara aims to amplify the profitability of State-Owned Enterprises (“SOEs”) and attract foreign investment, when compared to The Indonesia Investment Authority (INA), occurs critics regarding the adequacy of its supervisory policies and the ability to fully comply with the SP, specifically the principles of independence. This research engages a comparative analysis with the Kuwait Investment Authority (KIA), one of the oldest and most established Sovereign Wealth Funds, to evaluate differences in governance structures, transparency standards, and the implementation of operational independence. The research aims to assess the adequacy of Danantara’s legal and institutional framework in aligning with the SP as international best practice.

**Keywords: Sovereign Wealth Funds, Santiago Principles, Danantara, Investment.**

### I. Background

In this modern world, there is a system created with the aim of maximizing the utilization of the use of state funds. Generally, state funds are obtained from taxes paid by people, profits from imports and exports and country’s foreign exchange reserves. In order to maximize those funds, an organization was established called the Sovereign Wealth Funds (“SWFs”). SWFs are state owned investment mediums that invest globally in various types of assets ranging from financial to real to alternative assets.<sup>1</sup> SWFs began with the commodity stabilization funds such as those established in the pre 1980s like The Kuwait Investment Authority (“KIA”), which were designed to smooth out the government spending during periods of volatile

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<sup>1</sup>Bader Alhashel, “Sovereign Wealth Funds: A literature review”, *Journal of Economics and Business*, 2014, p.

commodity prices<sup>2</sup>. SWFs have gained international recognition in the funds system as the global source of funds and the attention of economic experts.

The establishment of the majority SWFs in the world are either saving funds for future generation or fiscal stabilization funds with only a handful of pension reserve funds. Some countries may not have only one SWFs, they could have multiple SWFs with different objectives such as the Russian Federation.<sup>3</sup> The Russian Federation splits its former petrodollar stabilization fund into two entities, the Russian Reserve Fund (RRF) which runs to stabilizing funds intended to cover the deficits in budget from drops in oil prices and the National Wealth Fund (NWF) which seeks long term returns.<sup>4</sup> Each SWFs have their own unique investment strategy, they are grouped into three broad categories. Some SWFs such as Qatar Investment Authority, operate with narrower and more active investment mandates, often acquiring larger stakes in individual companies to promote national strategic interests including the local economic development.<sup>5</sup> Despite being recognized as a distinct category of investors, SWFs exhibit significant internal diversity, a characteristic that is continually expanding.

Since their importance in the international monetary and financial system has been globally recognized, SWF has undergone numerous developments. During the initial phase of the development of SWF, the absence of clear guidelines and governing principles posed significant challenges to their structure and operations. This is proven by the international liquidity crisis which severely threatened the capital reserves of many global banks in 2007.<sup>6</sup> To address this issue, several representatives of Sovereign Wealth Funds across the world met at IMF Headquarters in Washington, D.C. from April 30th through May 1st of 2008.<sup>7</sup> From these meetings, the SP emerged as the globally accepted standards for governance, investment, and risk management practices for SWFs that contains 26 Generally Accepted Principles and Practices (GAPP).<sup>8</sup>

These principles are widely regarded as the most appropriate and effective guidelines for supporting the governance and operations of SWFs. This recognition stems from several key factors, the SP represents a voluntary yet globally endorsed

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<sup>2</sup>Bernardo Bortolotti, Veljko Fotak and William Megginson, "The Rise of Sovereign Wealth Funds : Definition, Organization and Governance", 2015, p.8.

<sup>3</sup>Peter Kunzel *et.al.*, "Investment Objectives of Sovereign Wealth Funds: A Shifting Program", International Monetary Fund (ed), "*Economics of Sovereign Wealth Funds*", p.137.

<sup>4</sup>Udaibir S. Dar *et.al.*, "*Economics of Sovereign Wealth Funds : Issues for Policymakers*", Washington, D.C : International Monetary Fund, 2010, p.7.

<sup>5</sup>*Ibid.*

<sup>6</sup>IFSWF, "The origin of the Santiago Principles: Experiences from the past; guidance for the future", IFSWF, 2019, p. 20.

<sup>7</sup>International Monetary Fund, "Press Release: International Working Group of Sovereign Wealth Funds is Established to Facilitate Work on Voluntary Principles", (IMF, 1 May 2008), <https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr0897>, accessed on 23 September 2025.

<sup>8</sup>Santiago Principles.

framework, they strike a careful balance between promoting transparency and respecting sovereign autonomy which is reflected in GAPP 6, and the principles provide comprehensive and practical guidance.<sup>9</sup> The SP addresses essential aspects such as the legal framework, institutional structure, governance mechanisms, risk management, and investment and operational practices. This ensures that SWFs have a well-defined structure, while the principles-based approach allows sufficient flexibility to accommodate the diverse legal and institutional contexts across different countries.

As a manifestation of the state's constitutional obligation in Article 33 of the 1945 Constitution, Prabowo Subianto, as the newly elected President of Indonesia has aimed in his new presidential policy to enhance the global competitiveness and accelerate the economic growth in SOEs.<sup>10</sup> Thereupon on 24 February 2025, Indonesia has officially established its SWF, the Badan Pengelola Investasi Daya Anagata Nusantara (“**Danantara**”). Prabowo appointed Rosan Roeslani as the Chief Executive Officer (CEO).<sup>11</sup> Danantara received an initial capital of 61 billion USD with aims to finance major infrastructure projects, expand Indonesia's global investment presence, and enhance SOEs profitability.<sup>12</sup>

The establishment of Danantara was regulated in Law Number 1 of 2025 Third Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises (“**Law on SOEs**”) that serves as the operational foundation that is expected to support Danantara's role in managing the country's strategic investments effectively and sustainably. Similar provisions on mandating the establishment of SWFs in Indonesia were previously held by Indonesia Investment Authority (“**INA**”). Both are state-owned legal entities which focus on developing national investment and are wholly owned by the government. However, the background, purpose, operational scope, and organizational structure of the establishment of INA and Danantara were far-off different. In terms of supervision, INA has a more rigid framework and accountability mechanism, whereas Danantara has attracted criticism regarding the adequacy of its supervision policy.<sup>13</sup>

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<sup>9</sup>Santiago Principles, GAPP 6.

<sup>10</sup>1945 Constitution, Article 33.

<sup>11</sup>Kholid Rafsanjani, “Danantara umumkan struktur organisasi, ini daftar lengkapnya”, IDN Financials, 2025, <https://www.idnfinancials.com/id/news/53381/danantara-umumkan-struktur-organisasi-ini-daftar-lengkapnya>, accessed on 29 November 2025.

<sup>12</sup>ASEAN Briefing, “Indonesia Officially Launches New Sovereign Wealth Fund Danantara” (ASEAN Briefing, 10 March 2025) <https://www.aseanbriefing.com/news/indonesia-officially-launches-new-sovereign-wealth-fund-danantara/>, accessed on 24 September 2025.

<sup>13</sup>Sugarda, P. P. dkk. (2024). Sovereign Wealth Fund Development in Indonesia: Lessons Learned from Norway and Singapore. *Yustisia*, 13 (1), 89–116. <https://doi.org/10.20961/yustisia.v13i1.80717>.

## II. Discussion

### A. The Santiago Principles as a Guiding Framework for The Operation of Indonesian SWF

Fundamentally, the performance of an organization is the reflection of the principles or laws that the organization believes. SWFs as an organization is not an exception, SWFs have their own principles or laws that are believed by all the SWFs in the world that are part of IFSWF (International Forum of Sovereign Wealth Funds) as the basis for implementing all the policies they make. The principle is hereinafter referred to as The Santiago Principles (“SP”). The SP consists of 24 generally accepted principles and practices (“GAPP”) to promote transparency, good governance, accountability, and prudent investment practices whilst encouraging a more open dialogue and deeper understanding of SWFs activities.<sup>14</sup> The SP itself which had been welcomed by the IMF’s International Monetary Financial Committee in 2008 was drafted in order to help maintaining a stable global financial system and free flow of capital investment, to comply with all applicable regulatory and disclosure requirements in the countries in which SWFs invest, to ensure that SWFs invest on the basis of economic and financial risk and return related considerations and to ensure that SWFs have in place a transparent and sound governance structure that provides adequate operational controls, risk management and accountability.<sup>15</sup>

Thus, we can conclude that SWFs’ adherence to SP is a key to gaining global trust and attracting international co-investors which is a core part of SWFs’ or specifically Danantara’s mandate. First and foremost, SP serves as the legal framework for the SWF. This part is clearly stated in principle 1 of The SP. Principle 1 states that all existing SWFs that are a part of the IFSWF have to comply with the SP which serve as the legal basis and guideline for SWFs in managing their operations.<sup>16</sup> The power of the SP is also evident in Principle 1.2 which clearly stated that the legal basis of SWFs’ particularly in this context is that SP should be publicly disclosed.<sup>17</sup> With the disclosure of the SP, people all around the world can see the Principles and ultimately understand what SWFs should actually be doing. This allows people to question and oppose SWFs if one or more of their policies are not in accordance with the SP, resulting in financial losses for the country.

The SP is a comprehensive framework that covers three key aspects, they are governance, transparency and accountability. Governance, in the

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<sup>14</sup>IFSWF, “Santiago Principles”, <https://ifswf.org/santiago-principles-landing/santiago-principles>, accessed on 22nd October 2025.

<sup>15</sup>*Ibid.*

<sup>16</sup>IWG, “Sovereign Wealth Funds, Generally Accepted Principles and Practices Santiago Principles”, 2008, pg.7.

<sup>17</sup>*Ibid.*

context of a Sovereign Wealth Fund (SWF), pertains to the distinct roles of the government, the governing bodies, and the fund managers in the critical decision-making processes.<sup>18</sup> This includes decisions regarding the flows into and out of the fund, the specific investments made, and the ultimate deployment of the accumulated assets toward defined economic objectives. Transparency requires Sovereign Wealth Funds (SWFs) to provide the public with adequate, complete, and timely information about their operations. Accountability for Sovereign Wealth Funds (SWFs) concerns the multi-layered oversight of the funds and the extent to which the government, governing bodies, and fund managers are held responsible for the decisions they make.<sup>19</sup>

In terms of governance, Indonesian SWF's purpose and investment strategy have to be publicly disclosed while ensuring the fund operates with operational independence from the government as a whole to avoid undue political influence. This compliance with the governance aspect as stated in The Santiago Principle is reflected in the two tier board structure which consists of Board of Directors and Supervisory Board. The Indonesian SWF should foster trust among global investors by publicly disclosing its legal basis, funding resources, audited financial reports, and investment policies as actions of transparency. The Indonesian SWF should foster trust among global investors by publicly disclosing its legal basis, funding resources, audited financial reports, and investment policies as actions of transparency. Additionally, the accountability aspects include the investment strategies developed by the Indonesian SWF whereby SWF must be responsible for all of the results of the investment strategies or investment measures taken.

## B. The Implementation of Santiago Principles in Danantara

Danantara is an SWF that functions as the holding company for state-owned enterprises (“SOEs”) operating in Indonesia.<sup>20</sup> Danantara serves as a strategic investment management body responsible for consolidating and optimizing government investments to support national economic growth. When examining the governance, transparency, and accountability of an SWF, there are three principles that could be referred to. The first being GAPP 1 which states that “*The legal framework for the SWF should be sound and support its effective operation and the achievement of its stated objective(s).*”.

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<sup>18</sup>Stella Tsani [et.al](#), “*Governance, transparency and accountability in Sovereign Wealth Funds: Remarks on the assessment, rankings and benchmarks to date*”, 2010, p.5.

<sup>19</sup>*Ibid.*

<sup>20</sup>Danantara, “*Tentang Danantara Indonesia*”, <https://www.danantaraindonesia.com/>, accessed on 27 October 2025.

<sup>21</sup>Danantara has not fully complied with this principle, because Danantara's current regulations still contain issues that undermine its operational effectiveness and its ability to achieve its objectives. The existing laws and regulations governing Danantara do not yet provide clear boundaries of authority, consistent governance mechanisms, or sufficient institutional independence.

The second being GAPP 6 which affirm the SWF's needs of independence. GAPP 6 states that *"The governance framework for the SWF should be sound and establish a clear and effective division of roles and responsibilities in order to facilitate accountability and operational independence in the management of the SWF to pursue its objectives."*<sup>22</sup> SWF's need for independence is also further emphasized in the third principle, GAPP 16, which expresses that *"The governance framework and objectives, as well as the manner in which the SWF's management is operationally independent from the owner, should be publicly disclosed."*<sup>23</sup> The two principles ensure that while SWFs are owned by the state's government and it is used to further develop state's funds through investment, the operational management and execution rest solely within the institution. In practice, this means that one person should not hold government office while simultaneously hold office in the SWF's management. This principle exists so there is no role overlap between the SWFs and other bodies.

In Indonesia, Law No. 16 of 2025 on State Owned Enterprises (**"Law on SOEs"**) is the main guidelines of Danantara's operation. Article 3A-3AL Law on SOEs rules the allocation of responsibilities, duties, and its implementation.<sup>24</sup> Through this, we can clearly see that Danantara does not fully comply with GAPP 6 and GAPP 16. Through Article 3C of Law on SOEs, which regulates the duties and responsibilities of the Ministry of State Owned Enterprises (**"SOE"**), there seems to be a very broad scope and extensive power that the Ministry possesses.<sup>25</sup> As a result, Danantara's ability to make independent decisions and implement its investment strategies becomes constrained. Moreover, Article 3M of the Law on SOEs regulates that the organizing of the body consists of a supervisory board and an executive body.<sup>26</sup> Article 3N further specifies the composition of the Supervisory Board.<sup>27</sup> In point (c), it is stated that the Supervisory Board

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<sup>21</sup>Santiago Principles, GAPP 1.

<sup>22</sup>Santiago Principles, GAPP 6.

<sup>23</sup>Santiago Principles, GAPP 16.

<sup>24</sup>Law No. 16 of 2025 on State Owned Enterprises.

<sup>25</sup>Law No. 16 of 2025 on State Owned Enterprises, Article 3C.

<sup>26</sup>Law No. 16 of 2025 on State Owned Enterprises, Article 3M.

<sup>27</sup>Law No. 16 of 2025 on State Owned Enterprises, Article 3N.

includes representatives from several ministries, the ministry responsible for coordinating economic affairs, the ministry in charge of finance, the ministry responsible for investment, and the State-Owned Enterprises Agency as members. However, this structure has led to issues related to unclear division of duties and overlapping authority. For instance, Erick Thohir simultaneously served as both the Minister of SOEs and the Chairman of Danantara's Supervisory Board before being appointed as the Minister of Youth and Sports while still serving in the Ministry of SOEs.<sup>28</sup> This dual role illustrates the lack of clear separation between supervisory and executive functions, which may result in conflicts of interest and weaken the effectiveness of oversight and governance within Danantara. This concentration of power may lead to governmental interference in operational matters, reducing Danantara's effectiveness as a sovereign wealth fund and its capacity to achieve its long-term objectives.

### C. The Implementation of the Santiago Principles within the Kuwait Investment Authority Compared to Danantara

Kuwait as an oil producing country and a member of the Cooperation Council for the Arab States of the Gulf (GCC) has been very dependent on oil as the main source of the nation's income. Particularly, from the early 2000s to mid-2008 oil prices witnessed an unprecedented surge, reaching a peak of US\$147 per barrel before collapsing by early 2010s. Recognizing the need to safeguard the nation's wealth for future generations, Sheikh Abdullah al-Salem al-Sabah, the ruler of Kuwait from 1950 to 1965, established Kuwait Investment Board (KIB) which later developed as KIA with the aim of investing the surplus oil revenue in order to provide a fund for the future and reduce reliance on limited resources.<sup>29</sup> With the establishment of KIA, Kuwait was able to be the first country to establish SWF in 1953. In addition, as a means of establishing a robust framework for investment practices by SWFs worldwide, SP was made to represent as a framework of generally accepted principles with appropriate governance and accountability arrangements of SWFs.<sup>30</sup>

In "*Governing the Wealth of Nations: The Santiago Principles at 15*", Paul Rose cited Ahmad Bastaki of the KIA who stated that, "*the Santiago*

<sup>28</sup>Tempo, "Sederet Kontroversi Erick Thohir Selama Jadi Menteri BUMN", <https://www.tempo.co/politik/sederet-kontroversi-erick-thohir-selama-jadi-menteri-bumn-2070756>, accessed on 26 October 2025.

<sup>29</sup>Xu Yi-chong and Gawdat Bahgat, *The Political Economy of Sovereign Wealth Funds*, Palgrave Macmillan: New York, 2020, p. 77-78.

<sup>30</sup>Al Sayed, A. 2023. "The Institutional Design of Sovereign Wealth Funds in the Context of Macroeconomic Stability and Development: a Comparative Analysis of Kuwait, Singapore, and Qatar." PhD thesis, University of Oxford, p. 27.

*Principles is more of a comfort document for recipient countries to be reassured that what we do will be done responsibly. However, it is voluntary. We have considerably greater oversight in Kuwait than implied by the Santiago Principles. The domestic laws of Kuwait are more stringent than the Santiago Principles, so we consider the Santiago Principles to be secondary”.*<sup>31</sup> This implies that Kuwait will never be fully compliant with the SP if they were viewed as superseding home country regulations. KIA then furtherly proposed and clarified that the principles would be subject to home country laws, regulations, requirements, and obligations. This was proven in Kuwait’s 1982 decree which stated that board members and employees of the fund may not disclose data nor information without permission from the board chair.

KIA’s governance and operational frameworks are aligned with the GAPP 1, 6, and 16 of the SP. GAPP 1 mandates that KIA should operate within a robust legal framework which supports its objectives to preserve and grow Kuwait’s wealth for future generations.<sup>32</sup> In accordance with GAPP 6, KIA should maintain a governance structure that ensures a clear separation of roles between the state as an owner and the fund’s management which promotes accountability and operational independence.<sup>33</sup> Furthermore, GAPP 16 is reflected in KIA’s practice of publicly disclosing its governance framework objectives, reinforcing its transparency in the global financial system.<sup>34</sup>

Compared to KIA, the establishment of Danantara as a state-owned sovereign wealth fund under Law on SOEs remains in the early stages of aligning itself with the SP. While Danantara has aimed to function as an investment vehicle in supporting national development and attracting global investors, many concerns have been raised regarding its adherence to the implementation GAPP 1, 6, and 16 of Santiago SP. The first concern lies in whether Danantara’s institutional agenda is profit-oriented or development-oriented. It raises an ambiguity and doubts regarding the core objectives in accordance with GAPP 1 of the SP. Moreover, due to overlapping roles between political appointees and fund management, it potentially undermines accountability and operation independence in contrast to GAPP 6 and GAPP 16.

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<sup>31</sup>Paul Rose, “Governing the Wealth of Nations: The Santiago Principles at 15”, The International Lawyer, SSRN, 2023, p. 9.

<sup>32</sup>Santiago Principles, GAPP 1.

<sup>33</sup>Santiago Principles, GAPP 6.

<sup>34</sup>Santiago Principles, GAPP 16.

### III. Conclusion

*First*, The SP are not merely guidelines but serve as the fundamental legal and operational framework for SWFs, like Danantara. Adhering to the 24 GAPP is crucial for building global trust and attracting international co-investors. The SP guarantees that SWFs operate with transparency, sound governance, and accountability, ensuring decisions are based on economic prudence to maintain a stable global financial system. *Second*, in practice, SWFs across the world still faces challenges in implementing the SP. One of those SWFs is Danantara in Indonesia. Danantara faces challenges in implementing various principles, three of them are the GAPP 1, GAPP 6, and GAPP 16 which regulate the governance, transparency, and accountability of SWFs. Danantara still faces challenges regarding the unclear division of roles and overlapping authority. Therefore, there is a concentration of power that may lead to governmental interference in operational matters, reducing Danantara's effectiveness as a sovereign wealth fund and its capacity to achieve its long-term objectives. *Third*, Danantara as a newly established SWF remains in the formative stages of aligning its operational and governance practices with the Santiago Principles. The ambiguity and the overlapping roles between political appointees and fund management reveals structural weakness which could hinder the SP principles. In contrast, KIA as the first SWF has demonstrated a mature and structured governance framework that aligns with GAPP 1, 6, and 16.

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# ALSA ENGLISH DICTIONARY

PURE CIVIL LAW

BY ENGLISH DEVELOPMENT SUBDIVISION  
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# INTRODUCTION

ALSA Legal English Dictionary is made as an introduction for anyone, whoever you are, wherever you are, to enter the world of legal English. This book consists of legal English dictionary, legal materials, and various beginner friendly law related English exercises.

ALSA Legal English Dictionary provides legal English terms with meaning and examples of application. To hone your legal English proficiency, ALSA Legal English Dictionary offers a number of exercises for you to practice. After finishing the exercise, it is important to keep a record of the new words and expressions you have learned. Remember to keep a record of your progress for you to review on a regular basis so the words and expressions may become an active part of your legal vocabulary.

Learning and developing our legal vocabulary is essential in order for us to better understand legal equations that we are bound to come across. Materials contained within this dictionary will help the reader develop their legal vocabulary, specifically in Pure Civil Monitoring and testing the knowledge we have just obtained through the contents of ALSA Legal English Dictionary is one of the ways we could learn and develop our legal vocabulary.

We recommend an open mind while going through the contents of this dictionary in order to fully comprehend the materials within it. In legal studies, it can be challenging to find literature to enrich your vocabulary. Our hope for this dictionary is to provide new materials and knowledge regarding legal vocabulary in order to become a more literate legal student.

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# LEGAL DICTIONARY



The term in English  
The term in Bahasa Indonesia

English Definition  
Indonesian Definition

Term usage example (with the word in bold)

## A

### **Authentic Deed**

#### *Akta Otentik*

A document executed before and certified by a public official with authority.

*Dokumen yang dibuat dan disahkan oleh pejabat publik yang berwenang.*

e.g. The sale of land must be documented in an **authentic deed** prepared by a notary public.

### **Agreement**

#### *Perjanjian*

A legally binding arrangement between two or more parties.

*Perjanjian yang mengikat secara hukum antara dua pihak atau lebih.*

e.g. Both parties signed the **agreement** outlining their respective rights and obligations.

### **Alimentation**

#### *Alimentasi*

A legal obligation to provide maintenance or support based on family relationships.

*Kewajiban hukum untuk memberikan nafkah atau dukungan berdasarkan hubungan keluarga.*

e.g. A child who is not receiving necessary support can file a legal claim to enforce their right to **alimentation** against the obligated parent or relative.

### **Acknowledgment**

#### *Pengakuan*

A statement or admission by a party of the truth of certain facts.

*Pernyataan atau pengakuan dari suatu pihak mengenai kebenaran fakta-fakta tertentu.*

e.g. The debtor's **acknowledgment** of the debt in writing interrupted the running of the prescription period.

## B

### **Bezit**

#### *Besit*

Control over an object, either directly or indirectly, as if the object were one's own property.

*Pengendalian atas suatu objek, baik secara langsung maupun tidak langsung, seolah-olah objek tersebut merupakan milik sendiri.*

e.g. In civil law, **bezit** is defined as the holding or enjoying of a thing by a person himself or by another in his name, which constitutes a factual state protected by law.

### **Breach of contract**

#### *Wanprestasi*

Failure to perform an obligation, whether not at all, late, or improperly.

*Kegagalan dalam memenuhi kewajiban, baik sama sekali tidak dilakukan, terlambat, atau dilakukan dengan tidak benar.*

e.g. The company's failure to deliver the equipment constitutes a **breach of contract**.

### **Bilateral Agreement**

#### *Perjanjian Timbal Balik*

A contract where both parties have reciprocal obligations toward each other.

*Perjanjian di mana kedua belah pihak memiliki kewajiban timbal balik satu sama lain.*

e.g. A sale contract is a **bilateral agreement** because both sides must perform their respective duties.

### **Burden of Proof**

#### *Beban Pembuktian*

The obligation to prove one's claim or defense.

*Kewajiban untuk membuktikan klaim atau pembelaan seseorang.*

e.g. Under the Civil Code, the **burden of proof** is on the party who claims a right or denies an obligation.

# C

## **Cessie**

### *Cessie*

The transfer of a registered receivable and intangible goods from the original creditor to a third party through a notarial deed, privately drawn deed. The transfer becomes effective against the debtor once they have been notified, acknowledged, or accepted the transfer.

*Peralihan piutang terdaftar dan barang tak berwujud dari kreditur asli kepada pihak ketiga melalui akta notaris atau akta yang dibuat secara pribadi. Peralihan tersebut menjadi efektif terhadap debitur setelah debitur telah diberitahu, mengakui, atau menerima peralihan tersebut.*

e.g. A bank transferred its customer's debt to a collection agency through cessie, and the transfer became legally binding when the customer was notified, as required by Kitab Undang-Undang Hukum Perdata Article 613.

## **Coercion**

### *Paksaan*

Pressure or force that compels a person to act against their will.

*Tekanan atau kekuatan yang memaksa seseorang untuk bertindak melawan kehendaknya.*

e.g. The agreement was invalid because it was made under **coercion**.

## **Confession**

### *Pengakuan*

A statement acknowledging the truth of a fact or responsibility.

*Pernyataan yang mengakui kebenaran suatu fakta atau tanggung jawab.*

e.g. His **confession** was recorded during the trial.

## **Confusio**

### *Percampuran Utang*

The mixture of the position as a debtor with the position as a creditor into one.

*Percampuran posisi sebagai debitur dengan posisi sebagai kreditur menjadi satu.*

e.g. When the sole heir inherited both the estate of the deceased creditor and the debt owed to him by the deceased debtor, **confusio** occurred, extinguishing the debt because he became both the creditor and the debtor.

## Community of Property

### *Harta Bersama*

From the moment of execution of the marriage, there shall exist by law community of property between the spouses to the extent that no other stipulations have been made in the pre-nuptial agreement. Rules regarding community property cannot be revoked or amended by mutual agreement between the spouses for the duration of the marriage.

*Sejak saat dilaksanakannya perkawinan, secara hukum akan berlaku harta bersama antara suami dan istri, sejauh tidak ada ketentuan lain yang diatur dalam perjanjian pranikah. Ketentuan mengenai harta bersama tidak dapat dibatalkan atau diubah melalui kesepakatan bersama antara suami dan istri selama perkawinan berlangsung.*

*e.g. In the absence of a prenuptial agreement, the couple was automatically married in **community of property**, meaning that all earnings and assets acquired after the wedding were considered part of their joint estate.*

## Compensation

### *Ganti rugi*

Compensation, in the context of litigation, refers to the payment made by way of reparation for loss or injury to a person or property.

*Ganti rugi, dalam konteks litigasi, merujuk pada pembayaran yang dilakukan sebagai bentuk ganti rugi atas kerugian atau kerusakan yang dialami oleh seseorang atau harta benda.*

e.g. The victim of the car accident filed a civil suit claiming **compensation** for medical expenses, lost wages, and pain and suffering.

## Conservatorship

### *Pengampuan*

An adult, who is in a continuous state of simple-mindedness, insanity or rage, shall be placed under conservatorship, notwithstanding that he might have mental capacity from time to time. An adult individual may be placed under conservatorship as a result of improvidence.

*Seorang dewasa yang berada dalam keadaan terus-menerus mengalami kebodohan, kegilaan, atau amarah, harus ditempatkan di bawah pengampunan, meskipun ia mungkin memiliki kemampuan mental dari waktu ke waktu. Seorang dewasa dapat ditempatkan di bawah pengampunan sebagai akibat dari kelalaian.*

e.g. The court established a **conservatorship**, appointing a professional to manage the elderly woman's stock portfolio and real estate assets after she was diagnosed with dementia and began making erratic financial decisions.

### **Consignment**

#### ***Konsinyasi***

A contract whereby the consignor delivers goods to the consignee for safekeeping or sale. The ownership remains with the consignor until the goods are sold, after which the consignee must remit the agreed proceeds.

*Perjanjian di mana pengirim menyerahkan barang kepada penerima untuk disimpan atau dijual. Hak milik atas barang tetap berada pada pengirim hingga barang tersebut terjual, setelah itu penerima wajib menyerahkan hasil penjualan yang telah disepakati.*

e.g. Oliver owes Elio Rp75 million, but when Oliver offers full payment, Elio refuses without justification. To avoid default, Oliver makes a **consignment** by depositing the money with the District Court, thereby lawfully discharging the debt under Article 1381 of the Civil Code.

### **Consent**

#### ***Persetujuan***

The mutual agreement of the parties to the terms of a contract.

*Kesepakatan bersama para pihak mengenai syarat-syarat suatu perjanjian.*

e.g. **Consent** must be freely given without coercion.

### **Contract**

#### ***Kontrak***

A legal relationship between two persons or two parties, whereby one party demands something from the other party, who is obliged to fulfil that demand.

*Hubungan hukum antara dua orang atau dua pihak, di mana salah satu pihak menuntut sesuatu dari pihak lain, yang wajib memenuhi tuntutan tersebut.*

e.g. The principle of *pacta sunt servanda* means that a legally formed **contract** is binding on the parties and must be performed in good faith as if it were law between them.

### **Creditor**

#### ***Kreditur***

A party to whom a debt or obligation is owed to.

*Pihak yang berhak menerima pembayaran utang atau kewajiban.*

e.g. The **creditor** has the right to demand payment from the debtor upon maturity of the loan.

## **D**

### **Damages**

#### ***Kerugian***

Monetary compensation awarded for loss or injury suffered.

*Ganti rugi uang yang diberikan atas kerugian atau cedera yang dialami.*

e.g. The plaintiff claimed **damages** for both actual losses and lost profits resulting from the breach.

### **Debtor**

#### ***Debitur***

A party who owes a debt or obligation to another party.

*Pihak yang memiliki utang atau kewajiban kepada pihak lain.*

e.g. The **debtor** failed to fulfill his obligation under the contract, resulting in a breach.

### **Deposit**

#### ***Penitipan Dana***

A contract where one party keeps another's property for safekeeping.

*Perjanjian di mana salah satu pihak menyimpan barang milik pihak lain untuk disimpan dengan aman.*

e.g. The **deposit** must be returned in the same condition.

### **Documentary Evidence**

#### ***Bukti Surat***

Written or printed documents used to prove a fact.

*Dokumen tertulis atau tercetak yang digunakan untuk membuktikan suatu fakta.*

e.g. The contract served as **documentary evidence** in court.

## **Divorce**

### ***Perceraian***

Marriage that ends because the husband and wife cannot live in harmony.

*Perkawinan yang berakhir karena suami dan istri tidak dapat hidup harmonis.*

e.g. The couple filed for **divorce** on the grounds of irreconcilable differences, seeking to legally end their marriage.

# **E**

## **Eigendom**

### ***Hak Milik***

The right to fully enjoy the use of an object and to act freely with regard to that object, provided that it does not conflict with laws and regulations, does not interfere with the rights of others, and does not diminish the possibility of revoking that right for the public interest.

*Hak untuk sepenuhnya menikmati penggunaan suatu benda dan bertindak secara bebas terhadap benda tersebut, dengan syarat tidak bertentangan dengan undang-undang dan peraturan, tidak mengganggu hak orang lain, dan tidak mengurangi kemungkinan pencabutan hak tersebut demi kepentingan umum.*

e.g. The right of **eigendom** is the most comprehensive real right, granting the owner the exclusive power to use, enjoy, and dispose of their property, as long as it does not violate the law or the rights of others.

## **Evidence**

### ***Alat Bukti***

Material or testimony presented to prove a fact in court.

*Bukti atau keterangan yang diajukan untuk membuktikan suatu fakta di pengadilan.*

e.g. The court admitted the document as valid **evidence**.

## **Expert Opinion**

### ***Keterangan Ahli***

Testimony from an expert to clarify technical matters.

*Kesaksian dari seorang ahli untuk menjelaskan masalah teknis.*

e.g. The judge relied on **expert opinion** to reach a decision.

## **Extinguishment**

### ***Hapusnya Perikatan***

The termination of an obligation by performance or other lawful means.

e.g. Payment results in the **extinguishment** of the obligation.

## F

### **Fiduciary**

#### *Fidusia*

The transfer of ownership rights of an object based on trust, with the provision that the object whose ownership rights have been transferred remains under the control of the owner of the object.

*Peralihan hak kepemilikan suatu objek berdasarkan kepercayaan, dengan ketentuan bahwa objek yang hak kepemilikannya telah dialihkan tetap berada di bawah kendali pemilik objek tersebut.*

e.g. As a real estate agent, she has a **fiduciary** obligation to her client, which includes a duty of loyalty, full disclosure, and confidentiality.

### **Force Majeure**

#### *Daya Paksa*

There shall be no reimbursement of costs, losses or interest if, due to force majeure or accidental circumstances, the debtor is prevented from providing or doing something that is required of them, or from performing an act that is prohibited for them.

*Tidak akan ada penggantian biaya, kerugian, atau bunga jika, karena force majeure atau keadaan darurat, debitur tidak dapat menyediakan atau melakukan sesuatu yang diwajibkan kepadanya, atau melakukan tindakan yang dilarang baginya.*

e.g. The supplier invoked **force majeure** after a major fire destroyed its factory, arguing that it could not be held liable for its failure to deliver the goods.

### **Fraud**

#### *Penipuan*

Deceptive conduct intended to mislead another party.

*Perilaku menipu yang bertujuan untuk menyesatkan pihak lain.*

e.g. The contract was declared void due to **fraud**.

## G

### **Good Faith**

#### *Itikad Baik*

Honesty of intention and absence of intent to defraud.

*Kejujuran niat dan tidak adanya niat untuk menipu.*

e.g. All contracts must be performed in **good faith** by both parties.

### **Guarantee**

#### *Jaminan*

A legal promise that a debtor's obligation will be fulfilled, or else the guarantor will perform it.

*Jaminan hukum bahwa kewajiban debitur akan dipenuhi, atau jika tidak, penjamin akan melaksanakannya.*

e.g. The guarantor signed the contract to **guarantee** the debtor's performance of his obligation.

### **Guardianship**

#### *Perwalian*

A person who has authority over a child who is under 18 years of age or who has never been married, and who is not under the authority of their parents.

*Seorang yang memiliki wewenang atas seorang anak yang berusia di bawah 18 tahun atau yang belum pernah menikah, dan yang tidak berada di bawah wewenang orang tuanya.*

e.g. Upon the death of both parents, the court established a **guardianship**, appointing the child's aunt as the legal guardian to care for the child's personal well-being and manage their inherited property.

## H

### **Heir**

#### *Ahli Waris*

The person who will receive the inheritance from the deceased.

*Orang yang akan menerima warisan dari orang yang telah meninggal.*

e.g. When a person dies without a will, their children and spouse are considered their primary compulsory **heirs** under the civil code, entitled to a statutory portion of the inheritance.

## I

### **Inheritance**

#### *Waris*

Transfer of assets from the testator to their heir(s).

*Peralihan harta dari pewaris kepada ahli warisnya.*

e.g. Before the **inheritance** can be distributed, the executor must first settle all outstanding debts and taxes of the estate from the collective assets.

# J

## Joint Liability

### *Tanggung Renteng*

When two or more debtors are each liable for the entire debt.

*Ketika dua atau lebih debitur masing-masing bertanggung jawab atas seluruh utang.*

e.g. The co-debtors have **joint liability** under the agreement.

# L

## Legal Entities

### *Badan Hukum*

Legal entities are also subjects of civil law as they can hold rights similar to those of individuals, such as the rights to own properties, to participate in legal processes, and to sue or be sued against other subjects of civil law.

*Entitas hukum juga merupakan subjek hukum perdata karena mereka dapat memiliki hak-hak yang serupa dengan hak-hak individu, seperti hak untuk memiliki properti, berpartisipasi dalam proses hukum, dan menggugat atau digugat oleh subjek hukum perdata lainnya.*

e.g. Civil law distinguishes between natural persons and **legal entities**, but both are granted legal personality, allowing them to be subjects of rights and duties.

## Legal Notice

### *Somasi*

A warning before the debtor is declared in breach of contract.

*Peringatan sebelum debitur dinyatakan melanggar kontrak.*

e.g. Before filing a lawsuit for breach of contract, the aggrieved party is often required to send a **legal notice** to the other party, demanding specific performance or payment of damages within a specified timeframe.

## Legal Share

### *Legitieme Portie*

The legal share in the descending line varies by the number of children: one child is entitled to one half, two children to two thirds each, and three or more children to three fourths each of their respective shares. Descendants may substitute the child they represent.

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*Bagian hukum dalam garis keturunan menurun bervariasi tergantung pada jumlah anak: satu anak berhak atas setengah bagian, dua anak masing-masing berhak atas dua pertiga bagian, dan tiga anak atau lebih masing-masing berhak atas tiga perempat bagian dari bagian masing-masing. Keturunan dapat menggantikan anak yang mereka wakili.*

e.g. A testator cannot freely dispose of their entire estate by will; they must first respect the legal share of their forced heirs, such as their descendants and ascendants.

### **Legally Capable** **Cakap Hukum**

A person's ability to perform legal acts in a lawful manner and be responsible for the legal consequences thereof.

*Kemampuan seseorang untuk melakukan tindakan hukum secara sah dan bertanggung jawab atas konsekuensi hukumnya.*

e.g. A minor is considered not **legally capable** of entering into a binding contract without the consent of their legal guardian or parent.

### **Legitimate Children**

#### **Anak Sah**

A child conceived in wedlock and born within a valid marriage, a child conceived out of wedlock but born within a valid marriage, a child conceived within a valid marriage but born out of wedlock, or a child conceived by a husband and wife outside the womb and born by the wife.

*Seorang anak yang dikandung dalam perkawinan sah dan lahir dalam perkawinan yang sah, seorang anak yang dikandung di luar perkawinan tetapi lahir dalam perkawinan yang sah, seorang anak yang dikandung dalam perkawinan yang sah tetapi lahir di luar perkawinan, atau seorang anak yang dikandung oleh suami dan istri di luar rahim dan dilahirkan oleh istri.*

e.g. Under the civil code, **legitimate children** have an automatic legal filiation to both the mother and the husband of the mother, who is presumed to be the father.

### **Legal Share**

#### ***Legitieme Portie***

In relation to the descending line, if the testator leaves only one legal child, the legal share of the inheritance shall consist of half of the property which the child would be entitled to inherit upon death. In the event that there are two children, the legal share of the inheritance for each child shall be two thirds of whatever they would be entitled to inherit upon death. In the event that the deceased has left three or more children, then the legal share of the inheritance shall be three fourths of whatever each child should have inherited upon death. Children shall include the descendants, in any kind of degree; they shall, however only be regarded as substitutes for the child whom they represent in the inheritance of the testator.

*Terkait dengan garis keturunan turun, jika pewaris meninggalkan hanya satu anak sah, bagian warisan yang sah bagi anak tersebut terdiri dari setengah dari harta yang berhak diwarisi oleh anak tersebut pada saat kematian. Jika terdapat dua anak, bagian warisan yang sah bagi masing-masing anak adalah dua pertiga dari apa yang berhak diwarisi oleh mereka pada saat kematian. Jika pewaris meninggalkan tiga atau lebih anak, maka bagian warisan yang sah bagi masing-masing anak adalah tiga perempat dari apa yang seharusnya mereka warisi pada saat kematian. Anak-anak termasuk keturunan dalam derajat apa pun; namun, mereka hanya dianggap sebagai pengganti bagi anak yang mereka wakili dalam warisan pewaris.*

e.g. A testator cannot freely dispose of their entire estate by will; they must first respect the legal share of their forced heirs, such as their descendants and ascendants.

### **Levering**

#### ***Peralihan Hak Milik***

Legal action taken to transfer ownership of goods from the seller to the buyer.

*Tindakan hukum yang diambil untuk mengalihkan kepemilikan barang dari penjual kepada pembeli.*

e.g. The **levering** of the house and land must be executed before a notary public through a notarial deed of transfer, after which it must be registered in the land registry to be effective against third parties.

### **Limitation Period**

#### *Daluwarsa*

Limitation period is a legal means of obtaining something or a reason for being released from an obligation after a certain period of time has elapsed and the conditions specified in the law have been met.

*Masa tenggang adalah sarana hukum untuk memperoleh sesuatu atau alasan untuk dibebaskan dari suatu kewajiban setelah jangka waktu tertentu berlalu dan syarat-syarat yang ditetapkan dalam undang-undang telah terpenuhi.*

e.g. The defendant raised the defense that the **limitation period** had expired, arguing that the plaintiff's claim was extinguished by law and should be dismissed by the court.

### **Loan for Use**

#### *Pinjam Pakai*

The lending of an object for temporary use, to be returned later.

*Peminjaman suatu benda untuk penggunaan sementara, yang harus dikembalikan kemudian.*

e.g. The car was given under a **loan for use** agreement.

## M

### **Marriage**

#### *Perkawinan*

The spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and lasting family (household) based on the One Almighty God.

*Ikatan spiritual antara seorang pria dan seorang wanita sebagai suami dan istri dengan tujuan membentuk keluarga (rumah tangga) yang bahagia dan langgeng berdasarkan Tuhan Yang Maha Kuasa.*

e.g. Under civil law, a **marriage** is a contract, but it is also a status that imposes specific legal duties and confers rights upon both spouses.

## Mortgage

### *Hipotek*

A mortgage is a property right over immovable goods that is used as collateral in the settlement of a contract.

*Hipotek adalah hak atas barang tidak bergerak yang digunakan sebagai jaminan dalam penyelesaian suatu perjanjian.*

e.g. To secure the business loan, the company granted a **mortgage** over its factory building to the bank, which was then formally registered in the land registry to be effective against third parties.

## N

### Natural Persons

#### *Orang*

Natural persons are individuals on which civil law is binding even before their births, to their births, throughout their lives, until their deaths.

*Orang perseorangan adalah individu yang tunduk pada hukum perdata bahkan sebelum kelahiran mereka, pada saat kelahiran mereka, sepanjang hidup mereka, hingga kematian mereka.*

e.g. A contract for the sale of a house is typically concluded between **natural persons**, requiring them to have the capacity to act to bind themselves legally.

### Novation

#### *Novasi*

Debt renewal or an agreement originating from a new contract that terminates or cancels an agreement originating from an old contract and at the same time creates a new agreement originating from the new contract that replaces the agreement originating from the old contract.

*Pembaharuan utang atau perjanjian yang berasal dari kontrak baru yang mengakhiri atau membatalkan perjanjian yang berasal dari kontrak lama dan pada saat yang sama menciptakan perjanjian baru yang berasal dari kontrak baru yang menggantikan perjanjian yang berasal dari kontrak lama.*

e.g. The debtor and creditor agreed to a **novation** of their loan contract, changing the repayment schedule from monthly to quarterly installments and extinguishing the original payment plan.

## **Nullity**

### ***Batal Demi Hukum***

A condition where a legal act has no effect from the beginning.

*Suatu keadaan di mana suatu perbuatan hukum tidak memiliki efek sejak awal.*

e.g. The **nullity** of the contract was declared by the court.

# P

## **Performance**

### ***Prestasi***

The fulfillment of an obligation or achievement of what was agreed.

*Pemenuhan kewajiban atau pencapaian apa yang telah disepakati.*

e.g. The execution of the **performance** in this agreement is contingent upon a condition, namely the obtaining of a building permit from the local government.

## **Pledge**

### ***Gadai***

A movable security given by a debtor to secure a debt.

*Jaminan bergerak yang diberikan oleh debitur untuk menjamin utang.*

e.g. The creditor has the right to sell the **pledged** goods if the debt is unpaid.

## **Private Deed**

### ***Akta di Bawah Tangan***

A document executed by parties privately without involvement of a public official.

*Dokumen yang dibuat oleh para pihak secara pribadi tanpa keterlibatan pejabat publik.*

e.g. The loan agreement was executed as a **private deed** signed only by the lender and borrower.

## **Presumption**

### ***Dugaan Hukum***

A legal assumption that a fact exists until proven otherwise.

*Asumsi hukum bahwa suatu fakta dianggap ada hingga terbukti sebaliknya.*

e.g. There is a **presumption** of innocence in criminal law.

## **Pauliana Actio**

### ***Actio Pauliana***

A creditor's lawsuit to annul a debtor's fraudulent transaction that harms the creditor.

*Gugatan kreditur untuk membatalkan transaksi curang debitur yang merugikan kreditur.*

e.g. The creditor filed a **Pauliana action** to cancel the sale made by the debtor in bad faith.

# R

## **Rescission**

### ***Pembatalan***

The cancellation or annulment of a contract, restoring parties to their pre-contractual positions.

*Pembatalan atau pembatalan kontrak, mengembalikan para pihak ke posisi mereka sebelum kontrak.*

e.g. The court granted **rescission** of the contract due to fraudulent misrepresentation.

## **Risk**

### ***Risiko***

The obligation to bear losses caused by an event beyond the fault of either party.

*Kewajiban untuk menanggung kerugian yang disebabkan oleh suatu peristiwa yang berada di luar kesalahan salah satu pihak.*

e.g. Once the goods have been delivered, the **risk** passes to the buyer, meaning that if the goods are subsequently destroyed by an earthquake, the buyer is still obligated to pay the full price.

## **Revindication**

### ***Revindikasi***

A legal action by the owner to recover property from someone who possesses it unlawfully.

*Tindakan hukum yang dilakukan oleh pemilik untuk mengambil kembali properti dari seseorang yang memilikinya secara ilegal.*

e.g. Through a **revindication** claim, the lawful owner demanded the return of the car that was sold without his consent.

# S

## **Servitude**

### *Pengabdian Pekarangan*

A charge encumbering lands for the benefit and advantage of lands which belong to another individual. The charge shall not be imposed on or be for the benefit of an individual.

*Beban yang membebani tanah untuk kepentingan dan keuntungan tanah yang dimiliki oleh individu lain. Beban tersebut tidak boleh dikenakan pada atau untuk kepentingan individu.*

e.g. The landlocked property has a **servitude** of right of way over the neighbor's land, allowing the owner to pass through to reach the public road.

## **Subrogation**

### *Subrogasi*

The transfer of legal rights and obligations from old creditors to a third party or new creditors who have discharged the debtor's obligation. Subrogation occurs when one party takes over another's right to claim for repayment or compensation.

*Peralihan hak dan kewajiban hukum dari kreditor lama kepada pihak ketiga atau kreditor baru yang telah melunasi kewajiban debitur. Subrogasi terjadi ketika satu pihak mengambil alih hak pihak lain untuk menuntut pembayaran kembali atau ganti rugi.*

e.g. After paying the homeowner's insurance claim for fire damage, the insurance company exercised its right of **subrogation** to recover the costs from the contractor whose negligence caused the fire.

## **Suspension**

### *Penangguhan Daluwarsa*

A pause in the running of the prescription period due to legal reasons.

*Penundaan dalam pelaksanaan periode resep karena alasan hukum.*

e.g. The prescription was **suspended** during the debtor's absence.

# T

## **Testimony**

### *Kesaksian*

A statement given by a witness under oath.

*Pernyataan yang diberikan oleh seorang saksi di bawah sumpah.*

e.g. The witness's **testimony** supported the defendant's case.

### **Testator**

#### ***Pewaris***

A deceased person who has assets and/or liabilities to be inherited.

*Seorang yang telah meninggal dunia yang memiliki harta dan/atau utang yang akan diwariskan.*

e.g. The **testator** revoked their previous will by physically destroying it, thereby rendering it null and void.

### **Testament**

#### ***Wasiat***

One-sided legal action regarding their last will or what should be done after the testator dies in a written form.

*Tindakan hukum sepihak terkait dengan wasiat terakhir mereka atau apa yang harus dilakukan setelah pewaris meninggal dunia dalam bentuk tertulis.*

e.g. In his **testament**, the deceased not only distributed his assets but also acknowledged his natural child and instituted them as a compulsory heir.

### **Unilateral Contract**

#### ***Perjanjian Sepihak***

A contract in which only one party makes a promise or obligation.

*Perjanjian di mana hanya salah satu pihak yang membuat janji atau kewajiban.*

e.g. A donation agreement is considered a **unilateral contract**.

### **Unlawful Act**

#### ***Perbuatan Melawan Hukum***

An act or omission that violates another's legal right or duty imposed by law.

*Perbuatan atau kelalaian yang melanggar hak hukum atau kewajiban yang ditetapkan oleh undang-undang milik orang lain.*

e.g. The court found that the defendant's actions constituted an **unlawful act** causing damage to the plaintiff's property.

## **W**

### **Waiver**

#### ***Pelepasan Hal***

The voluntary relinquishment or abandonment of a legal right or claim

*Pengunduran diri atau pengabaian secara sukarela atas hak atau tuntutan hukum.*

e.g. The creditor signed a **waiver** releasing the debtor from any further obligations under the loan agreement.

## **Witness**

### *Saksi*

A person who gives evidence or testifies in a case.

*Pengunduran diri atau pengabaian secara sukarela atas hak atau tuntutan hukum.*

e.g. The witness testified that he saw the accident happen.

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# PURE CIVIL LAW 101

PART 1 : INTRODUCTION

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# WHAT IS PURE CIVIL LAW?

Pure civil law is a branch of law that governs **private legal relationships between individuals or legal entities and is primarily based on codified written rules.** It regulates matters such as **contracts, obligations, property rights, family law, and inheritance, which are systematically arranged in legal codes, particularly the Civil Code (Kitab Undang-Undang Hukum Perdata).** The application of pure civil law emphasizes legal certainty and consistency, as legal norms are clearly defined in statutory provisions.

In practice, pure civil law is applied and enforced through state judicial institutions, where judges resolve disputes by interpreting and applying written law, supported by legal doctrine and jurisprudence. Decisions issued under pure civil law are binding and enforceable, ensuring the protection of private rights and the orderly settlement of civil disputes within the legal system.

# WHAT IS A PURE CIVIL LAW INSTITUTION?

A **pure civil law institution** is a formal legal body established by the state to exercise judicial authority in resolving disputes arising under civil law. In Indonesia, civil law dispute settlement is principally carried out through general courts (Pengadilan Negeri) as regulated under the judicial system. These institutions operate based on statutory law (written law) and apply codified legal rules, particularly those contained in the Civil Code (Kitab Undang-Undang Hukum Perdata) and other related legislation.

Pure Civil law institutions function to examine, adjudicate, and resolve disputes concerning private legal relationships, including contracts, property rights, family law, and inheritance. The proceedings before civil courts are governed by procedural law, primarily **HIR/RBg** and other procedural regulations, ensuring legal certainty, equality before the law, and the enforceability of judicial decisions.

Unlike alternative dispute resolution mechanisms, civil law institutions possess **coercive authority**, meaning that their decisions are binding and enforceable by law. Judges within civil law institutions are state-appointed officials who apply legal norms objectively based on statutory provisions, jurisprudence, and legal doctrine. As a result, civil law institutions play a central role in upholding legal order and protecting civil rights within the legal system.

# WHAT ARE THE PURE CIVIL LAW INSTITUTION?

Pure civil law institutions are state-established judicial bodies authorized to examine, adjudicate, and resolve disputes arising from private legal relationships under civil law. In Indonesia, these institutions primarily include the **General Courts**, which handle civil matters such as contracts, property, unlawful acts, inheritance, and family law through the District Courts, High Courts, and the Supreme Court; the **Religious Courts**, which have jurisdiction over civil family and inheritance matters for Muslims; and the **Commercial Courts**, which deal with specific civil commercial disputes such as bankruptcy, PKPU, and intellectual property rights. Through the application of codified law and formal civil procedure, pure civil law institutions issue binding and enforceable decisions that ensure legal certainty and the protection of private rights.



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# PURE CIVIL LAW 101

**PART 2 : THE BENEFITS AND  
CONSIDERATION**

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# WHY PURE CIVIL LAW?

Pure civil law **provides legal certainty and predictability because it is based on codified and written legal rules that clearly regulate private legal relationships.** By relying on statutes such as the Civil Code, parties can understand their rights and obligations in advance, reducing ambiguity in the resolution of civil disputes. This clarity is essential in matters involving contracts, property, family relations, and inheritance, where stability and consistency are required.

Moreover, pure civil law ensures authoritative and enforceable dispute resolution through state judicial institutions. Judges apply the law objectively and issue binding decisions that can be enforced by state authority, providing effective legal protection for private rights. The availability of legal remedies such as appeal and cassation further strengthens fairness and accuracy in the administration of justice, making pure civil law a reliable framework for resolving civil disputes.

## WHAT TO CONSIDER?

When dealing with pure civil law, it is **important to consider the applicable written law, such as the Civil Code, because rights and obligations are determined mainly by statutory rules.** Understanding these provisions helps parties know their legal position and avoid misunderstandings.

Another consideration is the court process and enforcement. Civil law disputes are resolved through state courts that follow formal procedures, and their decisions are binding and enforceable by law. Parties should also be aware that the process may involve time, costs, and legal remedies such as appeals, which are part of the civil law system.

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# PURE CIVIL LAW 101

**PART 3 : FILLING A REQUEST**

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# HOW TO FILE A REQUEST?

To file a request in pure civil law, the party seeking legal protection must submit a civil claim (lawsuit or petition) to the competent civil court. The process begins by determining the court with proper jurisdiction, usually the District Court (Pengadilan Negeri) where the defendant resides or where the legal relationship arose.

The claimant must prepare a written statement of claim that clearly sets out the identity of the parties, the facts of the case, the legal basis under civil law, and the remedies requested (such as performance, damages, or annulment). After the claim is registered with the court and the required court fees are paid, the court will summon the parties and proceed with hearings, examination of evidence, and legal arguments. The process concludes with a binding court judgment, which may be enforced through legal execution if the losing party fails to comply.

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# EXERCISE SECTION

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# EXERCISES

## A. LETS PLAY MATCH!

Match each legal term with its correct definition!

TERMS	DEFINITIONS
1. Good Faith	a. A legal action by the owner to recover property from someone who possesses it unlawfully.
2. Rescission	b. When two or more debtors are each liable for the entire debt.
3. Guarantee	c. The lending of an object for temporary use, to be returned later.
4. Loan For Use	d. A legal promise that a debtor's obligation will be fulfilled, or else the guarantor will perform it.
5. Joint Liability	e. The cancellation or annulment of a contract, restoring parties to their pre-contractual positions
6. Revindication	f. Honesty of intention and absence of intent to defraud

# EXERCISES

## B. FILL THE BLANK

Fill in each blank with the correct legal term from the list below. Use each word only once.

**Creditor | Debtor | Consent | Agreement | Deposit | Authentic Deed | Private Deed | Obligation | Levering | Confusio**

1. The \_\_\_\_\_ has the right to demand payment from the debtor upon maturity of the loan.
2. The \_\_\_\_\_ failed to fulfill his obligation under the contract, resulting in a breach.
3. \_\_\_\_\_ must be freely given without coercion.
4. Both parties signed the \_\_\_\_\_ outlining their respective rights and obligations.
5. The \_\_\_\_\_ must be returned in the same condition.
6. The sale of land must be documented in an \_\_\_\_\_ prepared by a notary public.
7. The loan agreement was executed as a \_\_\_\_\_ signed only by the lender and borrower.
8. The seller has an \_\_\_\_\_ to deliver the goods within 30 days of receiving payment.
9. The \_\_\_\_\_ of the house and land must be executed before a notary public through a notarial deed of transfer, after which it must be registered in the land registry to be effective against third parties.
10. When the sole heir inherited both the estate of the deceased creditor and the debt owed to him by the deceased debtor, \_\_\_\_\_ occurred, extinguishing the debt because he became both the creditor and the debtor.

# ANSWERS

## A. LETS PLAY MATCH

TERMS	DEFINITIONS
1. Good Faith	a. A legal action by the owner to recover property from someone who possesses it unlawfully.
2. Rescission	b. When two or more debtors are each liable for the entire debt.
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6. Revindication	f. Honesty of intention and absence of intent to defraud

# ANSWERS

## B. FILL THE BLANK

Fill in each blank with the correct legal term from the list below. Use each word only once.

1. The **Creditor** has the right to demand payment from the debtor upon maturity of the loan.
2. The **Debtor** failed to fulfill his obligation under the contract, resulting in a breach.
3. **Consent** must be freely given without coercion.
4. Both parties signed the **Agreement** outlining their respective rights and obligations.
5. The **Deposit** must be returned in the same condition.
6. The sale of land must be documented in an **Authentic Deed** prepared by a notary public.
7. The loan agreement was executed as a **Private Deed** signed only by the lender and borrower.
8. The seller has an **Obligation** to deliver the goods within 30 days of receiving payment.
9. The **Levering** of the house and land must be executed before a notary public through a notarial deed of transfer, after which it must be registered in the land registry to be effective against third parties.
10. When the sole heir inherited both the estate of the deceased creditor and the debt owed to him by the deceased debtor, **Confusio** occurred, extinguishing the debt because he became both the creditor and the debtor.

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