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Research Paper

Interpretation of Jimenez's Theory in Contract Law Practice in Indonesia

Interpretasi Teori Jimenez dalam Praktik Hukum Kontrak di Indonesia

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Abstract

Contract law practice in Indonesia tends to resolve disputes through economic compensation, overlooking the moral and social dimensions inherent in contractual relationships. This gap exists between the current formalistic civil law approach and the need for substantive justice, raising questions about the adequacy of the existing legal framework to fully remedy damages. This research examines the urgency of applying a more holistic contract remedy theory. This study employs qualitative method with a normative legal method with conceptual and comparative approaches. The analysis focuses on primary legal materials, such as the Indonesian Civil Code and court decisions, and secondary materials, including journals and books, with a focus on Felipe Jiménez's pluralistic theory to evaluate its relevance in the Indonesian legal context. The findings indicate a significant discrepancy between theory and practice, with the judiciary prioritizing financial compensation. Jiménez's theory, which balances economic, moral, and social values, offers a more comprehensive framework, with the principle of good faith in the Civil Code as its juridical basis. It is concluded that applying this theory can enrich contract law practice by integrating restorative justice. It is recommended that legal academics and practitioners delve deeper into the literature on contract remedy theory, and that legal education be reformed alongside a review of relevant Civil Code provisions.

Kata Kunci:

Kitab Undang-Undang Perdata; Hukum Ekuitas Kontrak; Upaya Hukum Kontrak; Hak-Hak Kontrak; Felipe Jiménez.

Abstrak

Praktik hukum kontrak di Indonesia cenderung menyelesaikan sengketa melalui ganti rugi ekonomis, mengabaikan dimensi moral dan sosial yang melekat pada hubungan kontraktual. Kesenjangan ini terjadi antara pendekatan formalistik hukum perdata yang ada dengan kebutuhan akan keadilan substantif, sehingga menimbulkan permasalahan mengenai kecukupan kerangka hukum saat ini dalam memulihkan kerugian secara utuh. Penelitian ini mengkaji urgensi penerapan teori pemulihan kontrak yang lebih holistik. Kajian ini menggunakan metode penelitian kualitatif berjenis yuridis normatif dengan pendekatan konseptual dan komparatif. Analisis dilakukan terhadap bahan hukum primer seperti KUHPerdata dan putusan pengadilan, serta bahan sekunder termasuk jurnal dan buku, dengan fokus pada teori pluralistik Felipe Jiménez untuk mengevaluasi relevansinya dalam konteks hukum Indonesia. Hasil penelitian

menunjukkan adanya diskrepansi signifikan antara teori dan praktik, di mana peradilan cenderung mengutamakan kompensasi finansial. Teori Jiménez, yang menyeimbangkan nilai ekonomi, moral, dan sosial, menawarkan kerangka kerja yang lebih komprehensif dengan prinsip itikad baik sebagai landasan yuridisnya. Disimpulkan bahwa penerapan teori ini dapat memperkaya praktik hukum kontrak dengan mengintegrasikan keadilan restoratif. Direkomendasikan agar akademisi dan praktisi hukum mendalami literatur teori pemulihan kontrak, serta perlunya reformasi pendidikan hukum dan peninjauan kembali ketentuan KUHPerdata yang relevan.

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INTRODUCTION

Background of Problem

The prevailing paradigm for resolving contractual disputes in Indonesian civil law is rigidly confined to the binary remedies of damages or specific performance, as codified in the *Kitab Undang-Undang Hukum Perdata* (Indonesian Civil Code or ICC). Article 1239 of the ICC explicitly states that an obligation to do or not do something is settled through compensation for costs, damages, and interest in case of failure, while Article 1243 makes such compensation obligatory once a debtor is declared in default (KUHPerdata, 1847). This framework reduces contractual breaches to a simplistic binary of performance or monetary compensation, inherently treating the contract as a purely economic transaction (Dillon & Maooduo, 2025). Consequently, the judicial response to *wanprestasi* (default) is predominantly formalistic, focusing on doctrinal compliance with these articles while systematically sidelining the relational, moral, and societal dimensions embedded within contractual agreements. The principle of *pacta sunt servanda* (agreements must be kept), enshrined in Article 1338 of the ICC, is thus applied in a narrow, positivist manner, emphasizing binding force over the substantive justice of the outcome (Mahendra & Leks, 2025).

This entrenched positivist and formalistic orientation of the Indonesian legal system finds a mirrored, yet philosophically distinct, articulation in the contemporary formalist theory of contract law adjudication as argued by Felipe Jiménez (2020). Jiménez contends that a formalist approach—characterized by an *ex-post*, rule-bound, and doctrinally modest judicial process—is instrumentally optimal for achieving contract law's social goals, such as predictability, autonomy, and efficient dispute resolution. He posits that directing judges to apply pre-existing doctrine incrementally, rather than pursuing case-by-case "socially optimal" decisions, reduces error costs and protects legitimate expectations (Jiménez, 2020). However, this theoretical formalism is justified by its instrumental benefits in serving broader social values, not by a rejection of them. In stark contrast, the Indonesian practice, while superficially similar in its rule-bound application of the ICC, often lacks this instrumental justification and reflexivity, applying formalism as a procedural end in itself rather than as a tool to uphold the deeper normative foundations of trust and responsibility in contracts.

The critical divergence arises in practical adjudication, where the Indonesian application of formalism fails to engage with the theory's nuanced underpinnings. Judicial proceedings frequently treat breaches as mere technical failures of performance, remediable exclusively through the monetary calculus dictated by Articles 1239 and 1243

(KUHPerdata, 1847; Dillon & Maooduo, 2025). This overlooks the principle of good faith (*itikad baik*), explicitly mandated in Article 1338(3) of the ICC, which requires contracts to be performed and judged according to norms of propriety and fairness (Mahendra & Leks, 2025). The formalistic practice thus creates a disconnect: it rigidly enforces primary rules (on compensation) while marginalizing the system's own overarching principle (good faith) that should guide their interpretation. The result is a jurisprudence where the "integrity of the contractual relationship," a concept central to understanding contracts as embodiments of trust, is sacrificed at the altar of doctrinal simplicity and expedient dispute closure (LSW & Barun, 2025).

Therefore, the urgency of examining this issue stems from a profound gap between the complex reality of contractual relationships and the reductive legal framework used to govern their dissolution. The current practice, anchored in a rigid reading of the ICC, is insufficient for a modern economy where contracts are foundational to complex investments, joint ventures, and long-term partnerships (Dillon & Maooduo, 2025). A critical interpretation of Jimenez's formalist theory against this backdrop is not an academic exercise but a necessary inquiry to interrogate whether Indonesia's brand of formalism serves any coherent instrumental goal or merely perpetuates an oversimplified justice model (Jiménez, 2020). The background problem is precisely this analytical void: the lack of a coherent theoretical lens to evaluate, critique, and potentially reform how Indonesian courts interpret and apply the Civil Code's provisions to achieve outcomes that honor not just the letter, but the spirit and social function of contractual obligations.

Problem Identification

The fundamental problem lies in the profound inadequacy of Indonesia's formalistic contract law framework to address the multifaceted harm caused by contractual breaches. Rooted in a rigid, binary paradigm of damages or specific performance, the current system reductively treats contracts as mere economic transactions, compelling judges to apply codified remedies through a narrow, positivist lens. This entrenched judicial formalism mechanically enforces compensation rules while systematically marginalizing the relational integrity, moral dimensions, and societal trust embedded within agreements, thereby creating a critical disconnect with the Civil Code’s own governing principle of good faith. Consequently, the legal response to breach fails to deliver substantive justice, as it overlooks non-pecuniary injuries to reputation, partnership, and social equilibrium, ultimately undermining the very institution of contracting and leaving a gap between the law's technical operation and its intended role in fostering a fair and balanced commercial society.

Problem Formulation

This paper seeks to address the following questions: (1) How can the conceptual distinction between contractual rights and remedies, as articulated by Felipe Jiménez (2020), be applied to the Indonesian legal context? (2) In what ways can the "rethinking remedies" approach enrich the resolution of contractual disputes in Indonesia? (3) What normative recommendations can be made to reform the theory and practice of contract enforcement within the national legal system?

Research Objectives and Benefit

Research Objectives

The objectives of this research are: (1) To clarify the conceptual distinction between contractual rights and remedies within the framework of Indonesian civil law; (2) To examine how the rethinking remedies approach can enrich the resolution of contractual disputes in Indonesia; (3) To provide normative recommendations for reforming the theory and practice of contract enforcement within the national legal system.

Benefits

This research is expected to provide theoretical benefits by contributing to the development of contract law theory in Indonesia and advancing the scholarly discourse on the nature and function of contract remedies. Practically, this research can serve as a guide for legal practitioners and judges in resolving contractual disputes in a more just and comprehensive manner.

THEORETICAL AND CONCEPTUAL FRAMEWORK

Felipe Jiménez's Theory of Contract Remedies

Felipe Jiménez (2020), in his seminal article "Rethinking Contract Remedies," proposes that contract law theory should transcend the traditional view of legal remedies as mere extensions of contractual rights. He identifies two dominant schools of thought: the instrumentalist and the moralist approaches. The instrumentalists, heavily influenced by the law-and-economics movement, argue that the primary function of contract remedies is to create efficient economic incentives (Posner, 1974). The "efficient breach theory," a cornerstone of this school, posits that a contractual breach may be justified if it leads to greater social efficiency (Markovits & Schwartz, 2017). Conversely, the moralists contend that a contractual breach is a moral wrong, as a promise carries an inherent moral dimension of personal commitment and responsibility (Atiyah & Fried, 1981).

Jiménez (2020) proposes a pluralistic theory that reconciles these two extremes. He argues that contract remedies serve two fundamental functions: to protect the integrity of the contractual practice itself and to protect the individuals involved in the contract. This dual function rejects the "rubber-stamp view," which equates the substance of contractual rights with the form of their remedies (Barnett, 2014). For Jiménez (2020), contractual rights and remedies are autonomous normative entities: the former establishes behavioral norms, while the latter determines the appropriate legal and moral consequences when those norms are violated.

Perspectives of Kumar, Markovits, and Weinrib

Kumar & Heidemann (2022), in "Contract Law in Common Law Countries: A Study in Divergence," asserts that legal contracts are not fully identical to moral promises, as modern legal systems often fail to capture the moral meaning of a promise by overemphasizing formal and economic aspects. Markovits and Schwartz (2017) attempt to preserve the rationality of contract law by defending the concept of expectation damages—damages measured by the promisee's expected position. They argue that such a system of remedies respects party autonomy because it allows contracting parties to choose between performing the promise or paying a commensurate level of compensation (Schwartz, 1990).

Ernest J. Weinrib (2012), within the tradition of private law philosophy, conceives of contractual relations as a form of corrective justice, where a breach of contract is a violation of the moral order governing the relationship between two individuals (Cane, 1996). Legal remedies, in Weinrib's (2012) account, serve to restore the moral balance disturbed by such a breach. Jiménez (2020) draws partially from the ideas of both Weinrib (2012) and Kumar & Heidemann (2022) but employs a more functional approach, emphasizing that the distinction between rights and remedies must be understood as an evaluative space in which moral, social, and economic considerations coexist (Botterell, 2025).

Theoretical Framework in Indonesian Contract Law

In the Indonesian legal context, the provisions governing the performance and breach of contracts are found in Book III of the Civil Code (*Kitab Undang-Undang Hukum Perdata, 1848*), which deals with obligations (*perikatan*). Article 1338(1) enshrines the principle of *pacta sunt servanda*: "All legally formed agreements shall bind the parties as law." Article 1267 of the *KUHPerdata* identifies the available remedies as: (1) specific performance of the obligation, (2) termination of the agreement, and (3) compensation for damages. However, the *KUHPerdata* does not elaborate on the moral or social foundations of such remedies (Rogan, 2022; Hartawan, et al., 2024). All these conceptual and theoretical framework visualized as below:

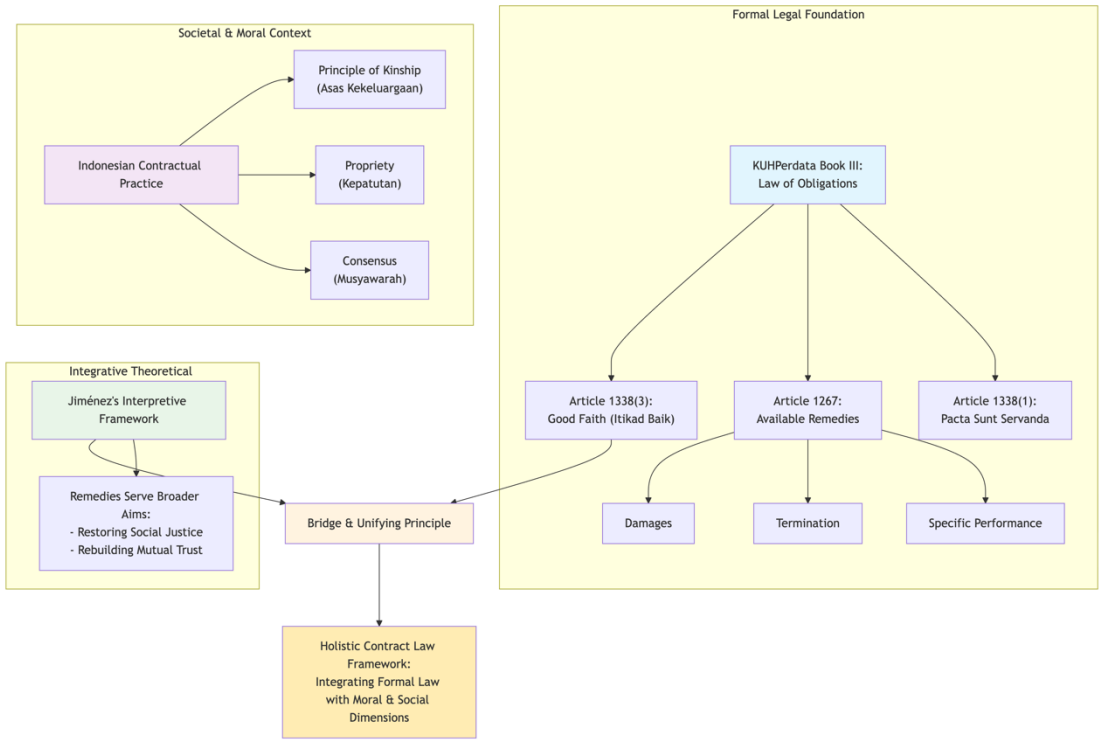

Figure 1. The Theoretical Framework

Figure 1 contained of three main layers:

1. Formal Legal Foundation: The codified structure from the Civil Code (KUHPerdata), showing its core principles and available remedies.
2. Societal & Moral Context: The underlying social values and practices that inform contractual relationships in Indonesian society.

3. Integrative Theoretical Lens: The external framework that provides a lens to reinterpret the formal law.

The Good Faith principle and the Integrative Lens converge to form a Bridge, which leads to the ultimate goal: a Holistic Contract Law Framework. This flow shows how the formal, the societal, and the theoretical interact to create a more complete understanding of the subject.

In practice, contractual relations in Indonesia are often imbued with social and moral values that cannot be reduced to mere economic transactions (Houh, 2005; Makaarim, et al., 2025). Contractual practices in Indonesian society frequently rest on principles of kinship (*asas kekeluargaan*), propriety (*kepatutan*), and consensus (*musyawarah*) (Nedzel, 2019; Faradila & Dewi, 2023). Within such contexts, Jiménez's (2020) interpretive framework offers a new theoretical lens: that remedies in contract law are not only about restitution or compensation, but also about restoring social justice and rebuilding mutual trust between the parties (Munukka, 2015).

Moreover, Article 1338(3) of the *KUHPerdata*, which requires that agreements be performed "in good faith" (*dengan itikad baik*), implicitly acknowledges the moral dimension of contractual obligations (Markovits, 2020; Nugraha, et al., 2025). This aligns with Jiménez's (2020) thesis that remedies must account for values beyond their economic function—including morality and the justice of social relations. The principle of good faith is a crucial bridge between the formalistic provisions of the Civil Code and the moral and social dimensions of contractual relationships (Schwartz & Scott, 2003; Nugraha, et al., 2025).

RESEARCH METHOD

This research employs qualitative method with a normative legal research with a conceptual and comparative approach (Alfiani & Santiago, 2024). The conceptual approach is used to understand and analyze the concepts of contractual rights and remedies as articulated by Felipe Jiménez (2020) and other legal scholars. The comparative approach is used to compare the application of these concepts in different legal systems, particularly between the common law tradition and the civil law tradition, which forms the basis of the Indonesian legal system (Bridgeman, 2005).

The research methodology involves a comprehensive literature review of primary and secondary legal materials, including books, academic journals, legislation, and court decisions. Primary sources include the Indonesian Civil Code (KUHPerdata, 1847), relevant court decisions from the Indonesian Supreme Court and lower courts, and international legal instruments. Secondary sources include academic articles and books on contract law theory, legal philosophy, and comparative law. The analysis is conducted through a systematic examination of the theoretical frameworks proposed by Jiménez (2020) and other scholars, followed by an assessment of their applicability to the Indonesian legal context.

RESULTS AND DISCUSSION

Results

The analysis of the literature reveals a significant gap between the theoretical understanding of contract remedies and their practical application in Indonesia (Goetz & Scott, 1980). This discrepancy emerges from the foundational distinction between how legal scholars conceptualize the function of remedies and how Indonesian courts

operationalize them in actual disputes. Goetz and Scott (1980) established that the examination of contract enforcement mechanisms requires a rigorous analytical framework that considers both the normative structure of contractual rights and the remedial responses available to injured parties. However, the Indonesian legal system has not fully integrated this sophisticated understanding into its jurisprudence, resulting in a remedial regime that remains largely confined to economic compensation paradigms.

The prevailing practice in Indonesian contract litigation, which prioritizes economic compensation as the primary remedy for breach, is fundamentally inconsistent with the broader moral and social functions of contract law as articulated by Jiménez (2020) and other contemporary scholars (Kumar & Heidemann, 2022; Weinrib, 2012). Jiménez (2020) demonstrates that contract remedies serve dual functions: protecting the integrity of the contractual practice as a social institution and safeguarding the dignity and autonomy of individual contracting parties. This pluralistic conception stands in stark contrast to the reductionist approach prevalent in Indonesian practice, where courts mechanically calculate damages based on economic loss without considering the moral dimensions of breach or the social implications for the parties' relationship and the broader commercial community.

The limitation of remedy theory to economic compensation reflects the deep influence of positivist legal philosophy on the Indonesian civil law tradition (Posner, 1974; Hartawan, et al., 2024). Posner (1974) and other law-and-economics scholars have promoted the view that contract remedies should be calibrated to maximize economic efficiency, thereby justifying the "efficient breach" doctrine under which a promisor may breach if the economic gains exceed the damages owed. This instrumental approach has become institutionalized in Indonesian practice, where judges routinely apply expectation damages calculations without questioning whether such remedies adequately address the full spectrum of harm caused by breach. Consequently, the remedial system has become a mechanism for allocating economic risk rather than a vehicle for achieving justice or restoring the moral balance disrupted by contractual violation.

The principle of good faith (*itikad baik*), as enshrined in Article 1338 paragraph (3) of the Indonesian Civil Code (KUHPerdata, 1847), theoretically provides a legal foundation for transcending this narrow economic approach to contract remedies (Nugraha, et al., 2025). Good faith, in its substantive sense, encompasses not merely the formal adherence to contractual terms but the recognition of moral obligations and social responsibilities inherent in contractual relationships (Nedzel, 2019). The principle implicitly acknowledges that contracts are not purely transactional instruments but relational agreements grounded in mutual trust and respect. Nedzel (2019) argues that good faith serves as a corrective mechanism, protecting parties from unconscionable conduct and ensuring that contractual performance reflects genuine commitment rather than mere formal compliance.

Despite the theoretical availability of the good faith principle as a basis for more comprehensive remedial approaches, its practical application in Indonesian contract disputes remains severely limited (Barnett, 2014). Further, he identifies a fundamental tension in contract law theory between the promise-based conception of contracts, which emphasizes moral obligation, and the efficiency-based conception, which prioritizes economic outcomes. This tension manifests acutely in Indonesian jurisprudence, where courts invoke good faith sporadically and inconsistently, typically only when addressing egregious conduct or unconscionable terms. The principle has not been developed into a coherent framework for reconceptualizing remedies, nor has it been employed to challenge the dominance of expectation damages as the default remedy for breach.

The empirical reality of Indonesian contract litigation demonstrates that judges overwhelmingly resort to monetary compensation as the exclusive remedy, even in cases where such compensation fails to address the substantive injustice caused by breach (Craswell, 2006). Craswell (2006) observes that expectation damages, while theoretically justified as protecting the promisee's expected position, often prove inadequate in practice because they fail to account for non-pecuniary harms such as reputational damage, loss of trust, or disruption to established business relationships. In the Indonesian context, this inadequacy is particularly acute in disputes involving weaker parties, such as small businesses or consumers, where the economic remedy may be insufficient to restore their position or to provide meaningful deterrence against future breaches by sophisticated commercial actors.

The gap between theory and practice is further exacerbated by the formalistic nature of Indonesian contract law doctrine, which treats remedies as automatic consequences of breach rather than as deliberate choices reflecting broader legal and social values (Eisenberg & McDonnell, 2002). They demonstrate that the theory of overreliance, which justifies limiting remedies to reliance damages in certain contexts, reveals the contingency of remedy selection. Their analysis shows that remedies are not mechanically determined by the nature of the breach but are instead shaped by policy considerations and normative judgments about the appropriate scope of contractual liability. However, Indonesian courts have not embraced this more sophisticated understanding, continuing instead to apply rigid formulas for damage calculation that preclude consideration of contextual factors or moral dimensions.

The scholarly literature on corrective justice provides additional theoretical support for reconceptualizing contract remedies beyond economic compensation (Weinrib, 2012; Cane, 1996). Weinrib (2012) articulates a comprehensive philosophy of corrective justice in which legal remedies serve to restore the moral balance disrupted by wrongful conduct. In the context of contract law, this framework suggests that remedies should not merely compensate for economic loss but should also express the law's condemnation of breach and facilitate the restoration of moral equilibrium between the parties. Cane (1996) further develops this analysis by exploring the correlativity principle, which holds that remedies must be proportionate to the rights violated and must reflect the relational nature of contractual obligations. These theoretical insights have profound implications for Indonesian contract law, suggesting that the current remedial regime fails to adequately express the moral significance of contractual breach.

The principle of pluralism in contract law theory, as developed by Jiménez (2020) and endorsed by contemporary scholars (Botterell, 2025; Markovits, 2020), offers a path toward reconciling the gap between theory and practice in Indonesia. Botterell (2025) demonstrates that corrective justice principles can be integrated with other values such as economic efficiency and social welfare to create a more nuanced approach to remedy design. Markovits (2020) similarly argues that contract law must balance multiple legitimate interests: the promisee's interest in receiving the benefit of the bargain, the promisor's interest in limiting liability, and the broader social interest in maintaining the integrity of the contractual practice. This pluralistic framework suggests that Indonesian courts possess the conceptual resources to develop more sophisticated remedial approaches that transcend the current reliance on economic compensation alone.

The analysis further reveals that the Indonesian legal system contains latent institutional capacity for reform, rooted in its commitment to substantive justice and the principle of good faith (Rahardjo, 2009). He articulates a theory of progressive law that emphasizes the law's role as an instrument for achieving justice and promoting social welfare, rather than merely enforcing formal rules. This philosophical orientation suggests that Indonesian courts and legislators are not bound by the current narrow approach to

contract remedies but possess the authority and responsibility to develop remedial frameworks that reflect the moral and social dimensions of contractual relationships. The existence of this latent capacity, combined with the theoretical resources provided by contemporary contract law scholarship, indicates that meaningful reform of the Indonesian approach to contract remedies is both conceptually feasible and institutionally possible, requiring only the political will and intellectual commitment to undertake such reform.

Discussion

The Conceptual Distinction between Contractual Rights and Remedies

One of Felipe Jiménez's (2020) most significant conceptual contributions lies in his insistence on distinguishing between contractual rights and remedies. In the civil law tradition, the two are often regarded as identical: every violation of a right automatically gives rise to a legal obligation to pay damages or to perform the contract. This understanding is known as the rubber-stamp theory—the notion that remedies merely mirror the rights that have been violated (Eisenberg & McDonnell, 2002).

Jiménez (2020) rejects this view. He argues that contractual rights perform a normative function, prescribing how parties ought to behave within a contractual relationship, while remedies serve a remedial function, determining how the law should respond when those norms are breached. In the Indonesian context, this distinction is particularly important because Article 1243 of the *KUHPerdata* provides only that damages may be claimed when a debtor fails to perform an obligation after being formally notified (*somasi*). However, this provision does not explain why damages are the principal remedy or what moral function they are intended to serve (Craswell, 2006).

Jiménez (2020) contends that the relationship between rights and remedies is proportional, not identical. Remedies should correspond to the rights they protect but need not be identical to them. This allows the legal system to tailor its responses to breaches in light of moral, social, and public policy considerations. From this perspective, Indonesian judicial practice can be reinterpreted. For example, in disputes involving public interests or weaker parties (such as consumers), courts could construe remedies not merely as restitution but as mechanisms for promoting social justice. This view is consistent with the principles of fairness (*kepatutan*) and good faith (*itikad baik*) under Article 1338 (3) of the Indonesian Civil Code or *KUHPerdata* (1847).

This theoretical separation finds practical resonance in recent Indonesian jurisprudence, where courts are increasingly navigating the space between a rigid application of codified rules and the demands of substantive justice. For instance, in resolving complex commercial disputes or cases involving standard contracts, judges sometimes implicitly recognize that the remedy must address the specific nature of the breach and its context, rather than applying damages automatically. This judicial reasoning, while not always explicit, aligns with a growing scholarly call in Indonesia for a more principled approach to remedies that considers the *function* of the legal response beyond mere sanction. Recent analysis of Supreme Court decisions suggests a nuanced application of Articles 1243 and 1338 of the Civil Code, where considerations of fairness (*kepatutan*) shape the award, effectively distinguishing the primary right from the tailored remedy (Hartawan, et al., 2024).

Critiques of Instrumentalist and Moralist Views

In modern contract law literature, two major schools of thought dominate the debate on the purpose of remedies: the instrumentalist school, which views remedies as instruments of economic efficiency, and the moralist school, which conceives them as the enforcement of moral duties arising from breached promises. Jiménez (2020) criticizes both as overly narrow.

Instrumentalists such as Richard Posner (1974) and Richard Craswell (2006) argue that a breach of contract can be justified if it leads to greater social welfare (Pareto improvement) (Harsvardhan, et al., 2026). In this view, remedies merely function to allocate risk efficiently. However, such an approach neglects the moral dimension of contractual relations and risks legitimizing breaches of promise as mere business strategies. Conversely, moralists like Kumar & Heidemann (2022) maintain that breach of contract is always morally wrong and that the law must enforce promises as such. This approach prioritizes honesty and interpersonal trust but fails to recognize the realities of modern commerce.

Jiménez (2020) mediates between these extremes by proposing a pluralistic approach. He argues that the resolution of contractual disputes should not rest on a single value—whether efficiency or morality—but should instead balance multiple values that are legally, socially, and morally relevant. In Indonesia, this pluralism aligns closely with the spirit of national legal philosophy, which—following Gustav Radbruch's triad—seeks to balance legal certainty (*kepastian hukum*), justice (*keadilan*), and utility (*kemanfaatan*). Consequently, damages in contract law should not be measured solely by economic loss but also by their social effects, including violations of trust, reputation, or partnership integrity.

The Indonesian legal system's inherent orientation toward balancing multiple values provides a fertile ground for Jiménez's pluralistic approach. This is evident in disputes involving natural resources (Hutabarat, 2023), infrastructure projects (Napitupulu, et al., 2024), or consumer protection (Prihartanto, et al., 2025), where courts must weigh economic outcomes against social welfare, community interests, and ethical considerations (Ristawati & Salman, 2023). For example, in contract breaches affecting public services or environmental sustainability, a purely economic calculus is often seen as insufficient (Sari, et al., 2024). Contemporary Indonesian legal research emphasizes that the principle of proportionality and Pancasila-based justice requires remedies to serve broader societal goals, such as legal certainty, equitable outcomes, and public benefit, thereby moving beyond the instrumentalist-moralist dichotomy

The Dual Function of Contractual Remedies

Jiménez (2020) identifies two principal functions of contract remedies: (1) to protect the practice of contracting as a social institution based on trust, and (2) to protect the individuals who are parties to the contract. The first function—protecting the practice of contracting—recognizes that contracts are not merely private transactions but social institutions that depend on trust and mutual respect. When a party breaches a contract, it is not only the individual promisee who is harmed, but also the social institution of contracting itself. By providing robust remedies, the law sends a message that promises are binding and that the breach of a promise has serious consequences.

The second function—protecting the individuals involved in the contract—emphasizes that remedies must be designed to respect the autonomy and dignity of the parties. This means that remedies should not only compensate for economic loss but also account for the moral harm caused by the breach. In the Indonesian context, these two functions can

be pursued through a more nuanced approach to contract remedies. Courts could consider not only the economic loss suffered by the promisee but also the broader social and moral implications of the breach.

The dual function is particularly pertinent in the Indonesian archipelago, where contractual relations often intertwine with communal trust and long-term business relationships (Rahayu, et al., 2025). Protecting the institution of contracting is crucial for economic development, yet individual protection remains paramount, especially for micro, small, and medium enterprises (MSMEs) and consumers in asymmetric bargaining positions (Nurhaedah, et al., 2021). Recent empirical studies on contract disputes in Indonesia highlight that breaches often cause reputational damage and erode communal trust, harms not fully captured by traditional compensation (Dwike, et al., 2025). Consequently, there is a discernible push in legal discourse for remedies that also aim to restore relational equilibrium and deter actions that undermine the social fabric of business, reflecting both institutional and individual protective roles (Hilmar, 2025).

Research Limitation

This research is limited to a theoretical analysis of contract law and does not include an empirical study of Indonesian court decisions or interviews with legal practitioners. A more comprehensive study would benefit from an examination of a larger sample of court decisions and the perspectives of judges, lawyers, and other legal professionals.

Novelty/Contribution

The novelty of this research lies in its application of Felipe Jiménez's theory of contract remedies to the Indonesian legal context. While Jiménez's theory has been discussed in the context of common law jurisdictions, its applicability to civil law systems, particularly Indonesia, has not been extensively explored. This research contributes to the development of contract law theory in Indonesia by demonstrating how Jiménez's pluralistic approach can enrich the resolution of contractual disputes and promote both economic efficiency and social justice.

CONCLUSION AND RECOMMENDATION

Conclusion

The application of Felipe Jiménez's theory of contract remedies offers a valuable opportunity to enrich the theory and practice of contract law in Indonesia. By moving beyond a narrow focus on economic compensation and embracing a more pluralistic approach that takes into account the moral and social dimensions of contractual relationships, the Indonesian legal system can better achieve the goals of justice, fairness, and social harmony. The principle of good faith, as enshrined in the Indonesian Civil Code, provides a legal basis for this more holistic approach, and the commitment to substantive justice in Indonesian legal philosophy suggests that such an approach would be consistent with the underlying values of the legal system.

Recommendation

Based on the conclusion above, the following research recommendations are proposed:

1. Promote a Holistic Interpretation of Contract Law: Actively encourage a shift in legal practice and scholarship away from a purely economic view of contract remedies. The focus should expand to incorporate the moral and social dimensions of contractual relationships to better serve justice, fairness, and social harmony.
2. Leverage and Strengthen the Existing Legal Foundation: Utilize the principle of good faith, already established within the Indonesian Civil Code, as the primary doctrinal tool to implement this broader, more pluralistic approach to remedies in contractual disputes.
3. Enhance Judicial and Scholarly Engagement: Foster deeper engagement with advanced theoretical perspectives on contract remedies within the judiciary and academia. This will build the necessary intellectual foundation for evolving legal interpretations and applications.
4. Conduct a Review of Codified Provisions: Undertake a formal review of the relevant articles in the Indonesian Civil Code to ensure they are aligned with and supportive of a holistic framework for awarding contract remedies.
5. Reform Legal Education Curriculum: Integrate a more nuanced understanding of contract law into legal education. Future lawyers and judges should be trained to recognize and analyze the complex interplay of moral, social, and economic factors in contractual disputes.

AUTHOR CONTRIBUTION STATEMENT

Sujoko Bagus contributed to the conceptualization of the research, the development of the research methodology, and the preparation of the original draft of the manuscript. He conducted the literature review and synthesized the theoretical frameworks discussed in the paper, ensuring that the analysis was grounded in contemporary contract law theory and responsive to the needs of the Indonesian legal system.

Reza Ryandra contributed to the review and editing of the manuscript, providing critical feedback and suggestions for improvement. Ryandra also provided supervision and guidance throughout the research process, ensuring that the research met high standards of academic rigor and coherence. Ryandra's expertise in Indonesian contract law was instrumental in ensuring the relevance and applicability of the research findings.

Andri Darmawan contributed to the investigation and data curation aspects of the research, assisting in the collection and organization of relevant legal materials and court decisions. Darmawan also contributed to the analysis of the Indonesian legal context and the comparative analysis of different legal systems. Darmawan's work was essential in ensuring the comprehensiveness and accuracy of the research.

Neilpon Yulinar Marquez contributed to the formal analysis and validation of the research data, performing a critical review of the legal interpretations and case law applications. Marquez's meticulous verification of the analytical framework was key to strengthening the internal consistency and logical foundation of the study's conclusions.

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