PERBANDINGAN PENGAKUAN DAN KEABSAHAN *SMART CONTRACT* DALAM PERSPEKTIF HUKUM INDONESIA DAN AUSTRALIA

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INTISARI

Smart contract merupakan inovasi teknologi dalam bidang hukum dan transaksi digital yang berpotensi besar dalam meningkatkan efisiensi, transparansi, dan kepastian hukum. Namun, dalam praktiknya masih terdapat celah hukum dan tantangan regulasi, khususnya terkait pengakuan dan keabsahan *smart contract* dalam sistem hukum Indonesia dan Australia. Di Indonesia, sistem hukum *civil law* mensyaratkan pemenuhan unsur sahnya perjanjian berdasarkan Kitab Undang-Undang Hukum Perdata (KUHPerdata) dan regulasi khusus terkait transaksi elektronik. Sementara itu, Australia yang menganut sistem hukum *common law* dan memiliki struktur federal, mengakui *smart contract* melalui prinsip *technology neutrality*, baik dalam *Electronic Transactions Act 1999 (Cth)* maupun legislasi serupa di tingkat negara bagian dan teritori. Penelitian ini bertujuan untuk menggambarkan bagaimana sistem hukum kedua negara merespons keberadaan *smart contract* dalam kerangka legal formal yang berlaku. Metode yang digunakan adalah kualitatif dengan pendekatan perundang-undangan dan komparatif, serta analisis normatif melalui studi kepustakaan. Data diperoleh dari telaah literatur, peraturan perundang-undangan, dan yurisprudensi terkait, yang dianalisis secara deskriptif. Hasil penelitian menunjukkan bahwa meskipun telah terdapat pengakuan normatif terhadap *smart contract*, baik Indonesia maupun Australia masih menghadapi tantangan dalam aspek penerapan yang efektif. Oleh karena itu, dibutuhkan pembaruan kebijakan dan penyesuaian instrumen hukum untuk menjamin kepastian dan perlindungan hukum dalam penerapan teknologi ini.

Kata Kunci: ***Smart Contract, Civil Law, Common Law.***

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COMPARISON OF THE RECOGNITION AND VALIDITY OF SMART CONTRACTS IN THE LEGAL PERSPECTIVES OF INDONESIA AND AUSTRALIA

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ABSTRACT

Smart contracts are technological innovations in the field of law and digital transactions that hold great potential for enhancing efficiency, transparency, and legal certainty. However, in practice, legal gaps and regulatory challenges remain, particularly concerning the recognition and validity of smart contracts within the legal systems of Indonesia and Australia. In Indonesia, which follows a civil law system, the validity of agreements, including smart contracts, must meet the legal requirements stipulated in the Indonesian Civil Code (KUHPerdata) and specific regulations related to electronic transactions. In contrast, Australia adopts a common law system with a federal structure and recognizes smart contracts through the principle of technology neutrality, as reflected in the Electronic Transactions Act 1999 (Cth) and similar legislation at the state and territory levels. This research aims to explore how the legal systems of both countries respond to the existence of smart contracts within their formal legal frameworks. This study employs a qualitative method with a statutory and comparative approach, along with normative analysis through literature review. The data were obtained from the analysis of legal literature, statutory regulations, and relevant case law, and analyzed descriptively. The findings indicate that despite the normative recognition of smart contracts, both Indonesia and Australia still face challenges in effective implementation. Therefore, policy reforms and legal instrument adjustments are necessary to ensure legal certainty and protection in the application of this technology.

Keywords: Smart Contract, Civil Law, Common Law.

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