Quasi-Contract: A Comparative Analysis Between the United States of America and Indonesia

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Abstract

Since the Roman era, there has been a general consensus that no one should prosper at the expense of another. However, the development of variations in legal systems in the world means that many countries must continue to adapt to this situation to avoid legal loopholes. In certain situations, the complexity of obligations in society causes quasi-contracts to occur. As a country that follows the civil law constitutional framework, Indonesia still encounters difficulties in handling quasi-contract disputes, not only due to the absence of written regulations but also because previous court decisions do not bind Indonesia. In contrast, in the United States of America, the creation of law occurs through court decisions. However, this study also aims to deliver insight into the legal systems' orientations in those two nations and how they relate to restorative justice. Hence, the author will discuss how quasi-contract problems are resolved by explaining the comparison between the two legal systems. This study uses a comparative juridical method to analyze the judgment practices on quasi-contracts between the United States of America and Indonesia and recommends the urgency of issuing regulations to address these disputes.

Keywords: corrective justice, disputes, quasi-contracts.

A. Introduction

Communication between communities in daily life results in an obligation that confers the rights and responsibilities of the parties. Obligations, in their simplest form, refer to a connection between two people.[1] According to certain historical provisions of the Indonesian legal system, which date back to the Dutch colonial era, written law serves as a set of rules that regulate people's behavior. Under this system, a policy can only be implemented if first made public in written legislation. This is also the rationale behind Indonesia's enactment of civil proceedings governed by civil procedural law.

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[1] Muhammad Shoim, *Pengantar Hukum Perdata di Indonesia* (Semarang: CV Rafi Sarana Perkasa, 2022), 122.

The Civil Code's Article 1233 stipulates that all obligations originate from either agreements or laws. In contrast to obligations born from agreements, an agreement creates a contract and carries out the obligations that have been agreed upon. This aligns with the *pacta sunt servanda* principle, which indicates that an agreement binds the parties like a law.[2] Furthermore, some obligations are imposed by regulations, which control each party's rights and responsibilities, according to Article 1352 of the Civil Code. The discussion then shifts again, moving from obligations that result from lawful human actions to those that result from torts.[3]

As time progresses, many legal activities have caused friction due to society's various types of agreements. There are situations when an individual has acquired something that was formerly the plaintiff's property and the plaintiff failed to transfer it with the appropriate approval, all without the plaintiff's negligence. In such circumstances, one of the parties to a contract receives unjust advantages or benefits, also called unjust enrichment.[4] It is structurally possible to demonstrate that the parties reached a written and verbal agreement. Yet, legal loopholes may cause damages beyond the parties' awareness.

There are two main categories of litigation in Indonesia: torts, which are governed by Article 1365 of the Civil Code and defaults, which are governed by Article 1243 of the Civil Code.[5] Meanwhile, because Indonesia does not acknowledge the notion of unjust enrichment, it has the potential to be declared inapplicable by the court simply because it is not explicitly regulated in written laws.

Indonesia, a country that follows the civil law system, combines the study of contract law and illegal conduct into one element, the law of obligations.[6] The Civil Code's Book III contains provisions pertaining to Indonesia's law of obligations, which is recognized as following an open system.[7] On one hand, an agreement involves one party committing to do something for another party.[8] In contrast, an agreement is seen as a legal duty involving multiple parties, where one party may demand something from another party, and the latter is required to comply. In this instance, the link between the commitment and the agreement is that the latter arises from express consent[9] In practice, situations often occur where not all terms and

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2 Yuliya Chernykh, "International Law and Contract Interpretation" in *Contract Interpretation in Investment Treaty Arbitration* (Leiden: Brill Nijhoff, 2022), 112-120.

3 Subekti, *Aspek-Aspek Hukum Perikatan* (Bandung: Alumni, 1999), 12.

4 Zoe Sinel, "Through Thick and Thin: The Place of Corrective Justice in Unjustified Enrichment," *Oxford Journal of Legal Studies* 31, no. 3 (2011): 554-555, https://doi.org/10.1093/ojls/gqr015.

5 I Ketut Oka Setiawan, *Hukum Perikatan* (Jakarta: Sinar Grafika, 2016), 207.

6 Ridwan Khairandy, *Hukum Kontrak Indonesia Dalam Perspektif Perbandingan* (Yogyakarta: FH UII Press, 2014), 1.

7 Subekti, *Hukum Perjanjian* (Jakarta: Intermasa, 2010), 14.

8 Kartini Muljadi, *Perikatan yang Lahir Dari Perjanjian* (Jakarta: Rajawali Pers, 2014), 92.

9 Moch. Chaidir Ali, Achmad Samsudin, and Mashudi, *Pengertian-Pengertian Elementer Hukum Perjanjian Perdata* (Bandung: Mandar Maju, 1993), 34.

conditions of a contract can be clearly stated. This kind of situation is commonly known as a disguised or quasi-contract and can potentially result in unjust enrichment.

Currently, unjust enrichment is indirectly equated with voluntary representation in Article 1354 of the Civil Code and non-obligatory payments in Article 1359 of the Civil Code. Taking care of one's property becomes unimportant in voluntary representation because people do it solely to help, thus rendering it highly different from the concept of unjustified enrichment.[10]

This legal vacuum might make it challenging for the party who was wronged to have their rights restored. The position of unjust enrichment forms the third "branch" of contract law associated with defaults and torts, which certain scholars theoretically elaborate on.[11] Nevertheless, it should be noted that the responsibility imposed by the principle of unjust enrichment is very different from these two, where torts focus on negligence but unjust enrichment does not rely on negligence. This also applies to defaults originating from agreements made by the parties, while the concept of unjust enrichment is not based on an agreement between the parties.

When it comes to unjust enrichment, there are a few key differences between the legal systems of the United States of America and Indonesia. In countries that follow the civil law system, such as Indonesia, the decision-making authority of courts is constrained by codified regulations and policies.[12] In contrast, courts in countries that follow the common law system establish a custom known as legal fiction to settle disputes that seem to have a contractual basis. Suppose one party suffers a loss in the non-contractual settlement of disputes. In that case, the law can apply the concept of quasi-contract, which contains certain legal obligations as if they were the result of a contract for the benefit of the remedies and have appropriated the form of an agreement.[13] Currently, the quasi-contract doctrine has developed into "a peculiar hybrid, a residuary remedy supplementing the contract and tort remedies of the common law and the wide range of equitable remedies."[14]

However, the above doctrine is not commonly applied in civil law countries with codification as the primary characteristic. In these countries, written laws are published in the form of statutes or other derivative regulations, which are then structured in books. In this legal system, judges do not have extensive authority to make legal interpretations beyond the established legal framework. Therefore, when deciding a case, a judge's primary duty is to enforce and interpret the regulations

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10 Mariam Darus Badrulzaman, *Kitab Undang-Undang Hukum Perdata, Buku III Hukum Perikatan Dengan Penjelasan* (Bandung: Alumni, 1983), 137.

11 A. S. Burrows, *The Law of Restitution* (United Kingdom: Butterworths, 1993), 217.

12 Tri Bowo Hersandy Febrianto, "Peran Civil Law Dalam Sistem Hukum Indonesia," *Jurnal Hukum dan Sosial Politik* 2, no.1 (2024): 235-245, https://doi.org/10.59581/jhsp-widyakarya.v2i1.2178.

13 William Anson, *Principle of English Contract Law* (Oxford: Oxford University Press, 1961), 324.

14 Timothy J. Sullivan, "The Concept of Benefit in the Law of Quasi-Contract," *The Georgetown Law Journal* 64, no. 1 (1975): 4.

within their authority,[15] while being unaffected by earlier court rulings and using the independent principle to resolve the case. This is because Indonesia adheres to the principle of non-binding precedent.[16]

Even so, these conditions led to discourses among jurists and have been implicitly applied by judges through court decisions, requiring judges to engage in legal discovery (*rechtsvinding*).[17] The many challenges in adjudicating unjustified enrichment in Indonesia have motivated the authors to explore the topic in this study titled "Quasi-Contract: A Comparative Analysis Between the United States of America and Indonesia." This study was conducted using a comparative juridical method. The authors refer to case-based, statutory, and historical approaches in this case. While carrying out the statutory approach, the authors are guided by the 1945 Constitution and Civil Code. This approach aims to affirm the challenges and dynamics of Indonesian Civil Law and court decisions in the United States of America. The authors also utilize several secondary legal documents, such as national rules and pertinent literature, and cite relevant international articles, conventions, and legislation.

B. Comparison of the Application of Quasi-Contract Practices in Indonesia and the United States of America

1. Quasi-Contract Practices in Indonesia and the United States of America

One case involving Glandy J. B. Damping as the plaintiff and Moudy Ngantung (et. al.), as the defendants, illustrates the application of quasi-contract judgments in Indonesia.[18] The basis of this action is the presence of a rental agreement involving the plaintiff and the defendants for the plaintiff's car. Along with loan agreements and sale and purchase agreements, leasing agreements are governed and acknowledged as legal contracts in Indonesia under the Civil Code.[19] A leasing agreement is an agreement in which the debtor lends an object to be used by the creditor and creates an obligation for the creditor to pay.[20] Furthermore, after the defendant's rented car was involved in an accident, the plaintiff suffered a financial loss due to the cost of replacing spare parts, repair services, and the car's monthly installments. Consequently, the plaintiff filed a lawsuit against the defendants to recover damages for his losses.

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15 Fajar Nurhardianto, "Sistem Hukum dan Posisi Hukum Indonesia," *Jurnal TAPIs* 11, no. 1 (2015): 37, http://dx.doi.org/10.24042/tps.v11i1.840.

16 Diah Imaningrum Susanti, *Penafsiran Hukum yang Komprehensif* (Malang: IPHILS, 2015), 29.

17 Abintoro Prakorso, *Penemuan Hukum. Sistem, Metode, Aliran, dan Prosedur Dalam Menentukan Hukum* (Yogyakarta: Laksbang Pressindo, 2015), 54.

18 Decision Number 2/Pdt.G.S/2018/Kotamobagu District Court.

19 Article 1548 of the Civil Code state: lease is an agreement, by which one party binds itself to provide an item to another party for a specific time, with the payment of a price agreed by that party. People may lease various types of goods both fixed and movable.

20 Gunawan Widjadja, *Perikatan yang Lahir dari Perjanjian* (Jakarta: PT Raja Grafindo Persada, 2014), 91.

The judge then decided based on the plaintiff's demands, ordering the defendants to cover the injured party's vehicle's expenses in installments until it was fixed. The decision denied the plaintiff's claim for repair costs and replacement of spare parts. The legal considerations underlying the refusal were based on the fact that the plaintiff's vehicle was still under the insurer's responsibility. The judge referred to Article 1359 paragraph (1) of the Civil Code, which stated that the plaintiff was not allowed to take advantage of the defendant to pay compensation for spare parts and repair costs.[21]

There are two legal discussions from this case. First, the stipulation on unjust enrichment is not regulated in written law other than doctrine. The authors also did not find previous court decisions that clearly stated the application of a quasi-contract in accordance with the civil code. Second, the only legal source that justifies the events in this case as a quasi-contract case is a doctrine based on the common law system. This proves that the absence of written legal sources can be overcome with relevant legal doctrine.

Moreover, this case is modestly classified as a quasi-contract case rather than a tort case because there are no express agreements between the plaintiff and the defendants even though the obligation between the parties has been created. The authors also argue that the plaintiff unfairly attempted to enrich himself through unlawful methods, considering his vehicle was still covered by insurance. This situation can result in an imbalance of rights, where greater losses arise for the defendant. The authors refer to the case of *Kelly v Solari*,[22] where the intention to harm the rights of others was intentional. Thus, the theories based on implicit consent are doomed due to the impossibility of such conditional intents.

In the following case, there was a conflicting court decision in which PT Adi Sampoerna (in his position as an applicant for judicial review) felt disadvantaged as a result of the tobacco sale and purchase agreement that occurred between Soetjipto W.S. (in his position as the respondent for judicial review) and Restu GmBH as a foreign legal entity.[23] In the case decided by the tobacco arbitration body in Bremen, Tabakmissie, it is known that PT Adi Sampoerna was not a party to the sale and purchase agreement between Soetjipto W.S. and Restu GmBH. At the appeal level, Soetjipto W.S. and PT Aman Djaja, as the defendants, committed an unlawful act, and therefore unjust enrichment (*ongerechtvaardigde verrijking*), because they concealed the Tabakmissie arbitration decision. Even though at the cassation level, the lawsuit was *niet ontvankelijke verklaard*. In the judicial review, PT Adi Sampoerna's request was granted, and he was released from all obligations arising from the agreement.

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21 Article 1359 of the Civil Code stated that each payment presumes a debt; each payment made which was not pursuant to a debt may be reclaimed. With respect to gratuitous contracts which one has fulfilled voluntarily, there shall be no reclamation. This article has an implied similarity in meaning with the principle of unjustified enrichment originating from Quasi-Contract.

22 Court of Wales, *Kelly v. Solari* (1841) 9 M&W 54, 152 ER 24.

23 Decision of Judicial Review Number 90 PK/Pdt/2012 of the Supreme Court of Indonesia.

Another case in the United States involved Ernie Gustafson and Robert Sparks Sr., where Robert Sparks Sr. was the owner of the Nome Center, who allowed Gustafson to manage the building until Sparks Sr. finally died.[24] After that, Gustafson managed the building and collected rent on behalf of Sparks Sr.'s property, with the permission and knowledge of his heir, Robert Sparks Jr., wherein Gustafson did not ask for any compensation from Sparks Jr., for managing the building. Even under his control, Gustafson often carried out building repairs at his own expense because he felt responsible for maintenance and renovation and did not ask Sparks Jr. for compensation.

Moreover, there were negotiations between Sparks Jr. and Gustafson to sign a "sale and purchase agreement" for the building. However, the agreement was accompanied by a condition: Gustafson would only receive a deed of trust after the purchase details were finalized. Later, Sparks Jr. sold the building to a third party, who mandated that Gustafson cease acting as property manager. This forced Gustafson to sue Sparks Jr., arguing that the legal doctrine of unjust enrichment entitles him to payment for the money and labor he expended managing the facility.

The court concluded that it was unfair to allow Sparks Jr. to retain the benefits that Gustafson had given to the Nome Center at his own expense, so they ordered Sparks Jr. to pay compensation to Gustafson for the services and repairs he provided while managing the Nome Center Building. The concerns arising from this case are Sparks Jr.'s intention to enrich himself by selling the building without considering Gustafson's effort in managing the building. Eventually, this raises the following issues: first, if one now believes that the condition is met, can one still have a conditional intent? Second, even in the absence of cognitive awareness of the condition, is it possible to maintain a conditional intent? The authors argue that if the resolution of any quasi-contract case is the balance of rights between all parties, in this case, both Gustafson and Sparks Jr. should not gain any unnecessary profits.

Kossian v The American National Insurance Company is another case illustrating the use of quasi-contracts in nations that follow the common law system.[25] This incident occurred due to a fire in Reichert's Bakersfield Inn. The building is also the subject of an insurance agreement with the American National Insurance Company. Reichert holds four fire insurance policies, each containing provisions covering the costs of cleaning up fire damage and debris removal.

Additionally, a work agreement between Reichert and Kossian required Kossian to clean up and remove the debris from the Inn. Nevertheless, the American National Insurance Company was not aware of the agreement. As a result, Reichert was informed by the American National Insurance Company that he was in default on the trust deed. Kossian did not know about the default until after the work was

[24] Supreme Court of Alaska, *Robert J. Sparks v. Ernie Gustafson* (Alaska: Supreme Court of Alaska, 1988).
[25] California Court of Appeal, *Peter Kossian v. American National Insurance* (Cal. Ct. App. 1967).

completed. After Kossian finished the job, Reichert then declared bankruptcy. The bankruptcy trustee abandoned the property and earned $135.620 from the policies. In the present instance, Kossian sued the insurance company because it was allegedly proven to fulfill the principle of unjust enrichment, and in the end, he got his rights back.

Unjust enrichment is a concept that has been in place for a while and is enforceable as law in counties with common law systems; fortunately, the positive law in Indonesia has not yet recognized its application. According to Article 5 paragraph (1) of Law Number 48 of 2009 on Judicial Powers, the judiciary must constantly examine the values that live and evolve in society to fill this gap. Given the complexity of circumstances brought to court, it frequently becomes apparent that the written law cannot always resolve every problem.[26]

However, in Indonesian cases, judges tended to use a different approach. First, judges use legal doctrine to assume a case falls within the quasi-contract principle. Later on, the authors argue that extensive legal interpretation is necessary. Before making a decision, judges should always interpret applicable legal provisions for certain events that have occurred by using an interpretive method.[27] In this case, the interpretation requirements are extensive and must not violate the intent and soul of laws. They must not be arbitrary but should seek the legislators' intent.[28] Provisions stated in Article 1354 of the Civil Code do not explicitly classify certain actions that result in a quasi-contract as a quasi-contract case. This conclusion is drawn based on judges' considerations through the examination process. The use of extensive legal interpretation has been exemplified through the landmark case of *Lindenbaum v Cohen* in 1919, where the definition of tort is expanded not only to include the violation of the law *(onrechtmatige daad)* but also the violation of the rights of the victim or the perpetrator's legal obligations and contrary to the propriety and decency *(onwetmatige daad)*.[29]

2. Comparison of Quasi-Contract Application Practices in Indonesia and the United States of America

The development of types of obligations in society creates a situation known as unjustified enrichment, where a person cannot enrich himself unfairly, namely at the expense of other parties, and therefore must return the assets or benefits he has received. Applying the quasi-contract principle is one option for resolving civil disputes when an unjust enrichment has occurred. A quasi-contract differs from an agreement in that it is not a true contract. In contrast, there is no permission or

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26 Sudikno Mertokusumo, *Bab-Bab Tentang Penemuan Hukum* (Jakarta: Citra Aditya Bakti, 1993), 10.

27 Panggabean, *Penerapan Teori Hukum Dalam Sistem Peradilan Indonesia* (Bandung: PT Alumni, 2014), 217.

28 A. Zainal Abidin Farid, *Hukum Pidana I* (Jakarta: Sinar Grafika, 1995), 114.

29 Syukron Salam, "Perkembangan Doktrin Perbuatan Melawan Hukum Penguasa," *Nurani Hukum Journal* 1, no. 1 (2018): 36, https://doi.org/10.51825/nhk.v1i1.4818.

agreement between parties in a quasi-contract.[30] In that case, a quasi-contract is imposed by law, and the liability is based on equity, justice, and good conscience. The court created a legal fiction to treat a situation as a quasi-contract to account for both parties' lack of a legal contract.[31] According to *Roman Juris Pomponius*, it is proper by the rule of nature that no individual should unfairly benefit against the wishes of another, and that no one ought to be permitted to profit unjustly by the actions of others.[32]

Furthermore, the structure of quasi-contracts in the United States of America and Indonesia is comparable to the inferred significance of the quasi-contract principle. First, the common law and civil law systems do not require an express agreement regulating the relationship between parties bound by a quasi-contract. An engagement, a *rechtmatig* act in a quasi-contract, is based on an agreement born unilaterally and resulted from one of the parties being bound by a lawful or justified legal action, even without the other party's consent. By itself, the crime offender has bound himself to carry out the intent of a justified legal act and is fully responsible for its implementation.[33]

Second, quasi-contracts generally arise when the defendant has received a benefit from an obligation carried out by another party. Besides, regarding the situation of receiving benefits from one of the parties, this does not focus on confirming the actions taken by the defendant to carry out unjust enrichment but instead on achieving an integrated benefit or advantage, which is the defendant's goal.[34] The judicial systems of common law and civil law also acknowledge this indicator.

Third, applying quasi-contracts in Indonesia and the United States of America also requires an element of injustice which can be seen from the receipt of unfair benefits by one of the parties. The principle of justice, according to John Rawls, is the main focus of the legal system, and justice cannot be sacrificed because there are two underlying principles, namely:[35]

a. Everyone has the same right to the greatest amount of fundamental freedom that is compatible with other people having comparable freedom; and

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30 William A. Keener, "Quasi-Contract, Its Nature and Scope," *Harvard Law Review* 7, no. 2 (1893): 59, https://doi.org/10.2307/1322006.

31 Arthur Linton Corbin, "Quasi-Contractual Obligations," *The Yale Law Journal Company* 21, no. 7 (1912): 536, https://doi.org/10.2307/785883.

32 David Johnston and Reinhard Zimmermann, *Unjustified Enrichment: Key Issues in Comparative Perspective*, (United Kingdom: Cambridge University Press, 2002), 54.

33 Yahya Harahap, *Segi-Segi Hukum Perjanjian* (Bandung: Alumni, 1986), 68.

34 Brice Dickson, "Unjustified Enrichment Claims: A Comparative Overview," *The Cambridge Law Journal* 54, no. 1 (1995): 126.

35 John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 60.

b. Social and economic disparities must be set up so that they are both tied to jobs and offices that are accessible for all individuals and that they can be anticipated to be to everybody's benefit.

Applying the quasi-contract principle described above, it can be concluded that a quasi-contract is not based on a written agreement. One example is the case of *Kossian v The American National Insurance Company*. In this instance, the quasi-contract arose from the American National Insurance Company's receipt of unfair benefits for the services performed by Kossian. This led to American National Insurance being required to pay compensation in the form of restitution, as stated in the judge's decision.

The first difference is the recognition of pre-contractual liability in common law system countries, including the United States of America. It may be inferred that during the last decades, USA courts have been prepared to recognize the pre-contractual liability of the parties to negotiations, particularly in cases of unjust enrichment of one of the parties, misleading the other party, and making promises during negotiations.[36] The law of restitution only helps plaintiffs who have benefitted the defendant and can demonstrate circumstances that make such advantage unfair in the context of pre-contractual responsibility. Uncertain ideas of good faith in pre-contractual talks are less likely to produce uniform and equitable outcomes than reparation.[37] In the pre-contractual stage, one party makes an offer, and the other party accepts the offer.[38]

It differs from Indonesia, which only recognizes rights and obligations limited to the agreed contractual relations in the context of a written agreement. This resulted in no compensation for losses borne by the parties in the negotiation process.[39] In addition, if an agreement is declared null and void and it is known that one of the parties has carried out its obligations, then that party cannot file a compensation claim.[40] The occurrence of unjust enrichment in the pre-contractual stage can be seen in the case of *Gustafson v Sparks*, where selling the property to a third party and preparing the sale and purchase agreement were suspended. This resulted in actions by Sparks Jr. that constituted unjust enrichment, leading the court to order Sparks Jr. to pay restitution to Gustafson.

With all this, recovery in a quasi-contract cannot be achieved simply by providing compensation. The common law system has regulations regarding quasi-contract recovery in the form of restitution. This restitution includes recovery for what has been unjustly taken.[41] However, this differs from quasi-contract arrangements in

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36 Alan Schwartz and Robert E. Scott, "Pre-contractual Liability and Preliminary Agreements," *Harvard Law Review* 120, no. 3 (2007): 671.

37 Justin Mannolini, "Restitution: Where an Anticipated Contract Fails to Materialise," *The Modern Law Review* 59, no. 1 (1996): 116.

38 Hector L. Macqueen and Joe Thomson, *Contract Law in Scotland* (UK: Bloomsbury Professional Limited, 2012), 45.

39 Suharnoko, *Hukum Perjanjian: Teori dan Analisa Kasus* (Jakarta: Kencana, 2004), 2.

40 Rosa Agustina (et.al.), *Hukum Perikatan*, (Bali: Pustaka Larasan, 2012), 108.

41 Gunawan Widjaja (et.al.), "Unjustified Enrichment," *Cross-Border* 1, no. 1 (2018): 259.

Indonesia, where legal protection is given to parties who feel disadvantaged due to voluntary management. Specifically, they may demand fulfillment of the agreement or seek compensation from the party who defaulted.

In the civil dispute involving Sparks Jr. and Gustafson, following the principle of corrective justice, which emphasizes rectifying disparities in rights and responsibilities between the plaintiff and the defendant, the court also ordered Sparks Jr. to pay compensation. This decision was based on the belief that he benefited from the advantages he was not entitled to from Gustafson's expenses.[42] Nonetheless, the application of restitution in Indonesia is currently limited to criminal cases. In contrast, parties in civil matters can seek monetary compensation, covering incurred costs, losses due to default, and interest. The principle was similarly applied in the case between Kossian and Reichert, which involved an unjust enrichment incident with an insurance company.

Nevertheless, Indonesia's criminal justice system has prioritized prosecuting criminals over protecting the rights of crime victims. Even when a crime causes substantial financial losses and psychological harm that could undermine public trust in government and order, the criminal court system typically does not focus on assisting victims in coping with these setbacks. Instead, victims are left to shoulder this responsibility themselves.[43]

Drawing from the aforementioned argument, it can be inferred that constitutional protection in quasi-contract disputes is superior in common law nations compared to civil law countries, given their emphasis on restitution as a form of corrective justice. Examining similar cases in Indonesia reveals that the scarcity of supporting regulations is a key factor contributing to the infrequent application of corrective justice in court decisions. Therefore, as a country where statutory law is paramount, there is an urgent need to establish policies and technical guidelines for resolving quasi-contract cases.

C. The Urgency of Quasi-Contract Arrangements in Judicial Practices in Indonesia

1. Quasi-Contract as the Embodiment of Corrective Justice in Indonesian Law

Currently, lawsuits based on quasi-contracts are also prevalent in the common law system. Unlike contracts based on explicit agreements between parties, quasi-contracts arise from obligations that occur in the absence of such agreements. These obligations are grounded in principles of equity and justice and aim to prevent unjust enrichment.[44] In contrast to the terms of agreement outlined in Article 1320 of the Civil Code, which requires the consent of parties bound by an agreement, quasi-

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42 J. W. Neyers, Mitchell McInnes, and S. Pitel, *Understanding Unjustified Enrichment* (Oxford: Hart Publishing, 2004), 12.

43 Muladi, *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana* (Semarang: Badan Penerbit Universitas Diponegoro, 2002), 177.

44 Maitreya, "Rationale Behind Quasi-Contract," *Pennacclaims* 6 (2019): 1.

contracts do not require explicit agreement from both sides; they are obligations imposed by law.[45] A quasi-contract serves as a judicial remedy that courts utilize to uphold ethical or equitable consented to an agreement.

This distinction is evident in case number 2/Pdt.G.S/2018/PN Ktg, where the plaintiff and defendant have a written rental agreement. In contrast, the *Kossian v American National Insurance Company* case illustrates a quasi-contract scenario without a written agreement between the parties. According to this justification, the quasi-contract concept differs from torts, which involve acts against common decency, wisdom, and respect for others' property. In torts, losses are measured based on the actual damage incurred, and the plaintiff can seek restoration to their original condition along with non-material compensation. In contrast, compensation in quasi-contracts is determined by the extent of unjust enrichment. Material and immaterial losses are two categories recognized in torts.[46] This distinguishes quasi-contracts from defaults, as defined by Article 1250 of the Civil Code, where compensation covers costs, losses, and interest arising from the debtor's negligence that damages the creditor's property.[47]

For countries implementing civil and common law systems, it recognizes and enforces an overriding principle that parties should act in good faith in making and carrying out agreements.[48] In this instance, acting with good faith means more than just fulfilling one another's obligations; it also implies being equitable, truthful, and persistent in not violating the interests of just one party. Even in the discourse agreed at the Vienna Convention, every treaty in force is binding upon the parties and must be performed by them in good faith.[49] In its simplest form, good faith refers to all actions, attitudes, and behaviors that encourage the parties to reach mutually reached obligations.

Conversely, private law encompasses the legal frameworks of contracts, torts, and reparations, collectively known as the entirety of the liability domain.[50] These three things are reciprocally connected, which means that through private law, the government organizes the world regarding bilateral relationships between individuals. As a result, civil conflicts are frequently anticipated to be settled to provide restorative justice. According to the principles of corrective justice, when one person gains something and another loses something due to the former's wrongdoing, the gain should be returned to the loser to put the parties back in the

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45 Joseph L. Lewinshon, "Contract Distinguished from Quasi-Contract," *California Law Review* 2, no. 3 (1914): 173, https://doi.org/10.2307/3474509.

46 Rivo Krisna Winastri (et.al.), "Tinjauan Normatif Terhadap Ganti Rugi Dalam Perkara Perbuatan Melawan Hukum yang Menimbulkan Kerugian Immateriil (Studi Kasus Putusan Pengadilan Negeri Istimewa Jakarta No. 568/1968. G)," *Diponegoro Law Journal* 6, no. 2 (2017): 2, https://doi.org/10.14710/dlj.2017.17314.

47 P. N.H. Simanjuntak, *Hukum Perdata Indonesia* (Jakarta: PT Fajar Interpratama Mandiri, 2016), 294.

48 Pavlos Eleftheriadis, "Corrective Justice Among States," *Jus Cogens* 2 (2020): 7-27, https://doi.org/10.1007/s42439-019-00013-x.

49 Article 26 of the Vienna Convention on the Law of Treaties recognizes the principle of *pacta sunt servanda* where the agreement acts as the law to both parties.

50 Ernest J. Weinrib, *The Idea of Private Law* (United States of America: Harvard University Press, 1995), 20.

same positions regarding that gain and loss.[51] In this instance, the justice of transactions between individuals is corrective justice, which differentiates it from distributive justice, which has less favorable effects on the individual who suffers the loss.

This brief understanding of corrective justice has divided the debate into two dimensions, the narrow and the broad. Within a limited context, unjust enrichment might revert to the fiction of a quasi-contract or resemble the wrong of knowing receipt. Restoring the commercial rights wrongfully acquired by the people who have lost out is the only way restorative justice can be fully implemented. Subsequently, in the broader dimension, corrective justice should constitute their relationship so that it should not only be limited to the fulfillment of plaintiff's rights by the defendant but also the continuation of good relations between the two, the same as before the dispute occurred. Even though it is quite challenging to see which one is better between two, the authors believe that to determine ideal justice for the parties, an understanding is needed for the disputing parties that the duty of restitution is not about the fulfillment of each duty, but also to place the justice to their relationship.

Furthermore, others argue that something more modest—a free-standing understanding of harm—can guarantee the autonomy of corrective justice.[52] Therefore, the application of corrective justice tends to be more relevant in private law than the principle of distributive justice in public law, which broadly impacts society. When discussing interpersonal relationships within a contract, corrective justice entails a bilateral connection forged through direct interaction between individuals or entities, rather than a mere distribution of equitable shares.[53] This implies that when we enter into an agreement with someone else, their rights and obligations become intertwined with our own. Each right and obligation stemming from the agreement creates a unique equilibrium. This situation leads to a binding horizontal relationship that can have unequal outcomes.

In a more concrete debate, unjust enrichment is often assumed to be a non-obligatory payment, so efforts to realize corrective justice are needed to solve it. If we look at the small claims court case between Glandy and Moudy, there was a fact that the rented vehicle was still covered by insurance. Moudy, who is obligated to return the rental car in prime condition, had an accident causing the vehicle to be damaged. This condition prompted Glandy, as the car owner, to demand compensation and the vehicle's repair costs.

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51 Peter Cane, "Corrective Justice and Correlativity in Private Law," *Oxford Journal of Legal Studies* 16, no. 3 (1996): 471-472, https://doi.org/10.1093/ojls/16.3.471.

52 Stephen R. Perry, "On the Relationship Between Corrective and Distributive Justice," *Oxford Essays in Jurisprudence, 4th Series* (2000): 237.

53 John Rawls*, A Theory of Justice*, 37.

Intriguingly, Glandy only asked for compensation for the four-month vehicle installments. However, in their judgment, the judges ordered Moudy to pay installments for the vehicle until it was repaired. This contradicts the *ultra petita* principle in civil procedural law, which states that judges are prohibited from granting more than requested.[54] In his consideration, the judge noted the injustice felt by the plaintiff if the vehicle installment compensation payments were made before the vehicle was repaired. This aligns with the theory of legal responsiveness, which offers more than just procedural justice by functioning as a facilitator of social needs and aspirations.[55] The expense of replacing spare parts and repair services is the insurer's responsibility, while the responsibility for paying vehicle installments is the obligation of Moudy as the defendant. Because of this, the judge in this case achieved a legal breakthrough by prioritizing the corrective justice concept in their decision.

In the case between PT Adi Sampoerna and Soetjipto, the judge also used the corrective justice approach to resolve the dispute. In this case, the panel of judges established law against concrete events as the crystallization of *das sollen*.[56] First, the panel of judges acknowledged that Soetjipto W.S. had been proven legally and convincingly to have obtained wealth unfairly, or through unjust enrichment, by involving PT Adi Sampoerna as the party that must pay compensation for the agreement whose dispute was terminated in Bremen. Second, the judge stated that PT Adi Sampoerna must be released from all obligations arising from the agreement. Although legally, the plaintiff can file immaterial claims due to losses that cannot be calculated in real terms, the judge only excluded the plaintiff from the agreement between PT Aman Djaja Raya and Restu GmBH. Because law and justice are inseparable, judges are obliged not only to uphold the law but also to uphold justice. Judges must have a progressive point of view to form law through *rechtsvinding* in scientifically accountable ways so that legal breakthroughs occur.[57]

In the case between Sparks Jr. and Gustafson, the court prioritized the concept of corrective justice in resolving the dispute. The court acknowledged that Sparks Jr.'s actions had been proven to fulfill the principle of unjustified enrichment, wherein he took advantage of the operational costs incurred by Gustafson by voluntarily using his money. Interestingly, the court also confirmed that Sparks Jr.'s actions are not classified as default because the agreed sale and purchase agreement could not take effect, as the stipulated harsh terms had not yet occurred.

In the current case, the court *ex officio* took a stand by applying the quasi-contract principle to ensure that justice can be implemented even if it is not based on contractual principles. The focus of the quasi-contract is that if an obligation

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54 I.P.M Ranuhandoko, *Terminologi Hukum* (Jakarta: Sinar Grafika, 2000), 522.

55 Phillipe Nonet and Philip Selznick, *Hukum Responsif* (Bandung: Nusa Media, 2018), 115.

56 Sudikno Mertokusumo, *Penemuan Hukum Sebuah Pengantar* (Yogyakarta: Liberty, 1996), 74.

57 Sunaryati Hartono, *Peranan Pengadilan Dalam Rangka Pembinaan dan Pembaharuan Hukum* (Jakarta: Penerbit Bina Cipta, 1975), 9.

fulfills certain conditions, then the law can assume an agreement has been born even though the agreement never existed.[58] The court held that Gustafson's voluntary maintenance of the Nome Center entitled Sparks Jr. to compensation of similar value before the building was sold. This needs to be done to avoid unjust enrichment because Sparks Jr. benefits unfairly from the maintenance of the building.

The last case that gave rise to the quasi-contract between *Kossian v American National Insurance* was also resolved using a corrective justice approach. In this event, Kossian, whom Reichert employed to clean up the rubble from the fire that hit his hotel, filed a claim for damages to the insurer. In its legal considerations, the court stated that American National Insurance Company had enjoyed unjust enrichment for costs incurred by Kossian, including labor and material costs. This claim originates from a quasi-contract formed to prevent unjust enrichment, based on the principles of justice and equity.[59] The court determined that Kossian was eligible for repayment from the insurance monies received by American National Insurance for the job he completed and that the notion of unjust enrichment was applicable to the case's conditions.

Although the American National Insurance Company insisted that Kossian was not a party to the insurance agreement between Reichert and the company, the court thought that Kossian was still entitled to reimbursement for costs incurred on the grounds of corrective justice. The court recognized that the American National Insurance Company was unwilling to cash out the insurance claim for Reichert's building because the building had already been restored to its original state.

After considering the aforementioned argument, it can be said that Indonesian courts have used and implicitly accepted the corrective justice concept while settling civil disputes. On the other hand, the absence of written legal arrangements has hampered judges in making legal breakthroughs, considering the boundaries that may not be exceeded when deciding a case. An eccentric procedure is also needed to carry out compensation in the form of restitution or other relevant documents in Indonesian Civil Law, given that restitution is only known in criminal law. Both of these are opportunities as well as significant challenges in implementing civil law reform in Indonesia.

2. Challenges of Quasi-Contract Implementation in Indonesia

In Indonesia, the written constitution is the most important set of regulations and policies.[60] The main challenge in implementing quasi-contracts in Indonesia relates to the characteristics of the legal system, where quasi-contracts are not explicitly

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58 Sakka Pati, "Quasi-Contract dalam Hubungan Hukum Pekerja Rumah Tangga," *Legal Pluralism* 7, no. 1 (2017): 78-84.

59 Maitreya, "Rationale Behind Quasi-Contract," 1.

60 Soerojo Wignjodipoero, *Pengantar dan Asas-asas Hukum Adat* (Jakarta: Gunung Agung, 1983), 27-31.

recognized and written in positive law. This situation clearly contradicts the fundamental principles of the civil law framework.

The civil law system mandates that obligations and rights arise from agreements based on mutual consent between parties. Meanwhile, the quasi-contract concept regulates obligations and rights without such mutual consent explicitly outlined in an agreement, which poses difficulties in the Indonesian legal context. This challenge intersects with the principle of legal certainty, a cornerstone defended by the civil law system, necessitating clear and predictable laws. It could be argued that the quasi-contract idea, relying more on fairness and judicial discretion to determine the rights and obligations of the parties involved, deviates from these ideals.

The flexibility in legal decision-making in the common law system allows judges to consider wisdom and principles of justice more freely. In common law countries, judges can draw upon legal precedents, general principles, and legal doctrines to ensure fair and appropriate decisions in each case. This is grounded in the precedent principle, where judges are guided by similar past decisions, making judicial decisions a primary source of law. In contrast, under the civil law system, a judge's decision indirectly connects to provisions such as those in Article 1359 of the Civil Code, influencing the interpretation of terms within quasi-contracts.

In discussions regarding the context of quasi-contracts, judges in common law countries are allowed to recognize obligations and rights that arise without being based on a written agreement. In contrast, judges in civil law countries are bound by strict adherence to written law and the principle of legal certainty. John Henry Merryman explained the characteristics of judges in the civil law legal system as:

> "The judge becomes a kind of expert clerk. He is presented with a fact situation to which a ready legislative response will be readily found in all except the extraordinary case. His function merely to find the right legislative provision, apply it to the facts, and endorse the solution that is more or less automatically produced from the combination."[61]

This creates a limitation for judges in civil law countries to accommodate the quasi-contract concept.

In judicial practice, several judges in Indonesia have already adopted characteristics identical to the concept of "judge-made law" found in the common law system. While judges are expected to base their decisions on written and unwritten laws, they can also shape legal principles without specific laws.[62] The civil law system recognizes the concept of *Jurisprudence Constante*, akin to the precedent principle, which suggests that courts should consider earlier rulings where there is

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[61] John Henry Merryman, *The Civil Law Tradition: An Introduction to The Legal System of Western Europe and Latin America 2nd Ed.* (California: Stanford University Press, 1985), 36.

[62] Sudikno Mertokusumo, *Sejarah Peradilan dan Perundang-Undangannya di Indonesia Sejak 1943 dan Apakah Kemanfaatannya Bagi Kita Bangsa Indonesia* (Yogyakarta: Universitas Atma Jaya Yogyakarta, 2011), 4.

adequate consistency in case law.[63] One of the primary responsibilities of judges is to interpret the law through their decisions, bridging the gap between legal principles and societal needs. Therefore, modern judge training programs must incorporate a contemporary theoretical understanding of cases from Indonesia and other jurisdictions, thereby broadening the horizons of judges' knowledge.

Furthermore, the application of quasi-contracts in common law countries, which safeguard constitutional rights and give rise to implied contractual obligations, should be considered in developing laws and regulations. It is essential to recognize that these principles of quasi-contract may need to be adapted more conservatively within Indonesia's legal system and theories. This adaptation aims to uphold principles of justice and legal certainty optimally.

D. Conclusion

Quasi-contract is an alternative method for settling civil disputes to address unjustified enrichment, particularly in cases where mutual consent between parties is absent. Judges introduced quasi-contracts as a legal innovation to promote the concept of restorative justice. The essence of a quasi-contract lies in the legal recognition of obligation that is deemed to have arisen, even in the absence of an actual agreement.

The application of quasi-contracts in Indonesia certainly experiences numerous challenges, including the civil law emphasis on written regulation, which quasi-contract do not have specific written arrangements. In contrast, the United States of America's legal system provides more responsive legal protections in quasi-contract disputes, particularly in addressing unjust enrichment cases, allowing for greater flexibility to meet the demands for justice. For instance, the common law system countries recognize pre-contractual liability, compensating parties for losses incurred during negotiations, a concept not recognized in civil law.

The competence of judges in Indonesia must be raised to apply the principle of *Jurisprudence Constante*, which closes the gap between the law and society. This can be done by adhering to a judge education program. Nevertheless, quasi-contracts still have the potential to be properly implemented in the Indonesian legal system. Then, while still adjusting to the legal system and legal theories in Indonesia, the issuance of particular written regulations regarding the quasi-contracts can further facilitate the adoption of this concept. Planning for the formation of laws within the National Legislation Program (Prolegnas-*Program Legislasi Nasional*) is an important component in the legal development framework, especially in the context of the development of legal materials. As part of its role as the body that organizes Indonesia's judicial system, the Supreme Court of the Republic of Indonesia is also

[63] Vincy Fon and Francesco Parisi, "Judicial Precedents in Civil Law Systems: A Dynamic Analysis," *International Review of Law and Economics* 26, no. 4 (2006): 5, https://dx.doi.org/10.2139/ssrn.534504.

empowered further to regulate problems necessary for the efficient administration of justice, particularly those not adequately covered by the statutory laws. This authority allows the Supreme Court to fill in any gaps or legal voids necessary for the efficient administration of justice.

References

Books

Agustina, Rosa (et.al.) *Hukum Perikatan*. Bali: Pustaka Larasan, 2012.

Ali, Moch. Chaidir, Achmad Samsudin, and Mashudi. *Pengertian-Pengertian Elementer Hukum Perjanjian Perdata*. Bandung: Mandar Maju, 1993.

Anson, William. *Principle of English Contract Law*. Oxford: Oxford University Press, 1961.

Badrulzaman, Mariam Darus. *Kitab Undang-Undang Hukum Perdata, Buku III Hukum Perikatan Dengan Penjelasan*. Bandung: Alumni, 1983.

Burrows, A. S. *The Law of Restitution*. United Kingdom: Butterworths, 1993.

Chernykh, Yuliya. *Contract Interpretation in Investment Treaty Arbitration*. Leiden: Brill Nijhoff, 2022.

Farid, A. Zainal Abidin. *Hukum Pidana I*. Jakarta: Sinar Grafika, 1995.

Harahap, Yahya. *Segi-Segi Hukum Perjanjian*. Bandung: Alumni, 1986.

Hartono, Sunaryati. *Peranan Pengadilan Dalam Rangka Pembinaan dan Pembaharuan Hukum*. Jakarta: Penerbit Bina Cipta, 1975.

Johnston, David and Reinhard Zimmermann. *Unjustified Enrichment: Key Issues in Comparative Perspective*. United Kingdom: Cambridge University Press, 2002.

Khairandy, Ridwan. *Hukum Kontrak Indonesia Dalam Perspektif Perbandingan*. Yogyakarta: FH UII Press, 2014.

Macqueen, Hector L. and Joe Thomson. *Contract Law in Scotland*. UK: Bloomsbury Professional Limited, 2012.

Merryman, John Henry. *The Civil Law Tradition: An Introduction to the Legal System of Western Europe and Latin America 2nd Ed*. California: Stanford University Press, 1985.

Mertokusumo, Sudikno. *Bab-Bab Tentang Penemuan Hukum*. Jakarta: Citra Aditya Bakti, 1993.

_____. *Penemuan Hukum Sebuah Pengantar*. Yogyakarta: Liberty, 1996.

_____. *Sejarah Peradilan dan Perundang-Undangannya di Indonesia Sejak 1943 dan Apakah Kemanfaatannya Bagi Kita Bangsa Indonesia.* Yogyakarta: Universitas Atma Jaya Yogyakarta, 2011.

Muladi. *Hak Asasi Manusia, Politik, dan Sistem Peradilan Pidana*. Semarang: Badan Penerbit Universitas Diponegoro: 2002.

Muljadi, Kartini. *Perikatan yang Lahir dari Perjanjian.* Jakarta: Rajawali Pers, 2014.

Neyers, J.W., Mitchell McInnes, and S. Pitel. *Understanding Unjustified Enrichment*. Oxford: Hart Publishing, 2004.

Nonet, Phillipe and Philip Selznick. *Hukum Responsif*. Bandung: Nusa Media, 2018.
Panggabean. *Penerapan Teori Hukum Dalam Sistem Peradilan Indonesia.* Bandung: PT Alumni, 2014.
Prakorso, Abintoro. *Penemuan Hukum. Sistem, Metode, Aliran, dan Prosedur Dalam Menemukan Hukum.* Yogyakarta: Laksbang Pressindo, 2015.
Ranuhandoko, I.P.M. *Terminologi Hukum*. Jakarta: Sinar Grafika, 2000.
Rawls, John. *A Theory of Justice*. Cambridge: Harvard University Press, 1971.
Rusli, Hardijan. *Hukum Perjanjian Indonesia dan Common Law*. Jakarta: Pustaka Sinar Harapan, 1996.
Setiawan, I Ketut Oka. *Hukum Perikatan.* Jakarta: Sinar Grafika, 2016.
Shoim, Muhammad. *Pengantar Hukum Perdata di Indonesia.* Semarang: CV Rafi Sarana Perkasa, 2022.
Simanjuntak, P. N.H. *Hukum Perdata Indonesia*. Jakarta: PT Fajar Interpratama Mandiri, 2016.
Subekti. *Aspek-Aspek Hukum Perikatan*. Bandung: Alumni, 1999.
_____. *Hukum Perjanjian*. Jakarta: Intermasa, 2010.
Suharnoko. *Hukum Perjanjian: Teori dan Analisa Kasus*. Jakarta: Kencana, 2004.
Susanti, Diah Imningrum. *Penafsiran Hukum yang Komprehensif.* Malang: Iphils, 2015.
Weinrib, Ernest J. *The Idea of Private Law*. United States of America: Harvard University Press, 1995.
Widjadja, Gunawan. *Perikatan yang Lahir dari Perjanjian.* Jakarta: PT Raja Grafindo Persada, 2014.
Wignjodipoero, Soerojo. *Pengantar dan Asas-Asas Hukum Adat*. Jakarta: Gunung Agung, 1983.

Other Documents

Cane, Peter. "Corrective Justice and Correlativity in Private Law." *Oxford Journal of Legal Studies* 16, no. 3 (1996): 471-488. https://doi.org/10.1093/ojls/16.3.471.
Corbin, Arthur Linton. "Quasi-Contractual Obligations." *The Yale Law Journal Company* 21, no. 7 (1912): 533-554. https://doi.org/10.2307/785883.
Dickson, Brice. "Unjustified Enrichment Claims: A Comparative Overview." *The Cambridge Law Journal* 54, no. 1 (1995): 100-126.
Eleftheriadis, Pavlos. "Corrective Justice Among States." *Jus Cogens* 2 (2020): 7-27. https://doi.org/10.1007/s42439-019-00013-x.
Febrianto, Tri Bowo Hersandy. "Peran Civil Law Dalam Sistem Hukum Indonesia." *Jurnal Hukum dan Sosial Politik* 2, no. 1 (2024): 235-245. https://doi.org/10.59581/jhsp-widyakarya.v2i1.2178.

Fon, Vincy and Francesco Parisi. "Judicial Precedents in Civil Law Systems: A Dynamic Analysis." *International Review of Law and Economics* 26, no. 4 (2006): 519-535. https://dx.doi.org/10.2139/ssrn.534504.

Keener, William A. "Quasi-Contract, Its Nature and Scope." *Harvard Law Review* 7, no. 2 (1893): 57-75. https://doi.org/10.2307/1322006.

Lewinshon, Joseph L. "Contract Distinguished from Quasi-Contract." *California Law Review* 2, no. 3 (1914): 171-190. https://doi.org/10.2307/3474509.

Maitreya. "Rationale Behind Quasi-Contract." *Pennaclaims* 6 (2019): 1-6.

Mannolini, Justin. "Restitution: Where an Anticipated Contract Fails to Materialise." *The Modern Law Review* 59, no. 1 (1996): 111-116.

Nurhardianto, Fajar. "Sistem Hukum dan Posisi Hukum Indonesia." *Jurnal TAPIs* 11, no. 1 (2015): 34-45. http://dx.doi.org/10.24042/tps.v11i1.840.

Pati, Sakka. "Quasi-Contract Dalam Hubungan Hukum Pekerja Rumah Tangga." *Legal Pluralism* 7, no. 1 (2017): 78-84.

Perry, Stephen R. "On the Relationship Between Corrective and Distributive Justice." *Oxford Essays in Jurisprudence, 4th Series* (2000): 237-264.

Salam, Syukron. "Perkembangan Doktrin Perbuatan Melawan Hukum Penguasa." *Nurani Hukum Journal* 1, no. 1 (2018): 33-44. https://doi.org/10.51825/nhk.v1i1.4818.

Schwartz, Alan and Robert E. Scott. "Precontractual Liability and Preliminary Agreements." *Harvard Law Review* 120, no. 3 (2007): 662-705.

Sinel, Zoe. "Through Thick and Thin: The Place of Corrective Justice in Unjustified Enrichment." *Oxford Journal of Legal Studies* 31, no. 3 (2011): 551-564. https://doi.org/10.1093/ojls/gqr015.

Sullivan, Timothy J. "The Concept of Benefit in the Law of Quasi-Contract." *The Georgetown Law Journal* 64, no. 1 (1975): 1-26.

Widjaja, Gunawan (et.al.) "Unjustified Enrichment." *Cross-Border* 1, no. 1 (2018): 252-263.

Winastri, Rivo Krisna (et.al.) "Tinjauan Normatif Terhadap Ganti Rugi Dalam Perkara Perbuatan Melawan Hukum yang Menimbulkan Kerugian Immateriil (Studi Kasus Putusan Pengadilan Negeri Istimewa Jakarta No. 568/1968. G)." *Diponegoro Law Journal* 6, no. 2 (2017): 1-18. https://doi.org/10.14710/dlj.2017.17314.

Legal Documents

California Court of Appeal, *Peter Kossian v. American National Insurance* (Judgment of 1967).

Constitution of the Republic of Indonesia of 1945 [*Undang-Undang Dasar Republik Indonesia 1945*].

Court of Wales, *Kelly v. Solari* (1841) 9 M&W 54, 152 ER 24.

District Court of Kotamobagu, *Glandy J. B. Damping v. Moudy Ngantung* (et.al.) (Judgment of 5 March 2018).

Indonesian Civil Code [*Kitab Undang-Undang Hukum Perdata*].

Law Number 3 of 2009 on Second Amendment on the Law Number 14 of 1985 concerning Supreme Court [*Undang-Undang Nomor 3 Tahun 2009 tentang Perubahan Kedua Atas Undang-Undang Nomor 14 Tahun 1985 tentang Mahkamah Agung*].

Law Number 48 of 2009 on Judicial Power [*Undang-Undang Nomor 48 Tahun 2000 tentang Kekuasaan Kehakiman*].

Supreme Court Regulation Number 4 of 2019 on the Amendments of Supreme Court Regulation Number 2 of 2015 Small Claim Court Settlement Procedures [*Peraturan Mahkamah Agung Nomor 4 Tahun 2019 tentang Perubahan Atas Peraturan Mahkamah Agung Nomor 2 Tahun 2015 tentang Tata Cara Penyelesaian Gugatan Sederhana*].

Supreme Court of Indonesia, *PT Adi Sampoerna v. Soetjipto W. S.* (Judgment of 22 December 2014).

Supreme Court of Alaska, *Robert J. Sparks v. Ernie Gustafson* (Judgment of 19 February 1988).

Vienna Convention on the Law of Treaties.