



Contract Termination from a Civil Law Perspective: A Review of Mechanisms, Types, and Legal Implications

¹Alfi Syahrin Niza Raja Rambe, ²Fauzan Lubis, ³Muhammad Mikail Harahap, ⁴Khairunnisa Siregar

^{1,2}Universitas Islam Negeri Sumatera Utara

³Universitas Islam Negeri Syarif Hidayatullah Jakarta

⁴Universitas Negeri Yogyakarta

E-mail: ¹alfisyahrinrambe@gmail.com, ²fauzanlubis2@gmail.com,

³muhammadmikail.harahap23@mhs.uinjkt.ac.id, ⁴khairunnisasiregar.2021@student.uny.ac.id

Info Articles

Article History

Received: 2024-11-10
Revised: 2024-11-22
Published: 2024-12-30

Keywords:

*safekeeping of goods;
Civil Code; KHES;
wadi'ah; agreement;
legal responsibility*

Abstract

This study examines the deposit agreement in two legal systems applicable in Indonesia, namely the Civil Code (KUHPdata) and the Compilation of Sharia Economic Law (KHES). The deposit agreement is a form of trust between the owner of the goods and the recipient of the deposit that has legal consequences. This study uses a normative juridical method with a comparative legal approach to analyze the similarities and differences in the provisions of the deposit in both legal systems. The results show that the Civil Code regulates the deposit of goods in Book III Chapter XI Articles 1694-1739, while the KHES regulates it in Chapter XIV concerning Wadi'ah. Both systems have similarities in terms of the obligation of the recipient of the deposit to maintain and return the goods in their original condition, but there are fundamental differences in the aspect of providing compensation and the responsibilities of the recipient of the deposit. The Civil Code allows for deposit with payment, while the KHES regulates wadi'ah as a tabarru' contract that is mutual in nature. This study contributes to a comprehensive understanding of the legal dualism of deposit in Indonesia that can be used as a reference in business practices and dispute resolution.

I. INTRODUCTION

The increasingly complex development of economic and business activities in Indonesia has driven a growing need for storage services in various forms and scales (Rahman and Sudrajat, 2023). In the context of Indonesian law, regulations regarding storage experience a dualism, with the general civil law system derived from the Civil Code and the sharia economic law system regulated by the KHES (Wijaya, 2024).

Safekeeping, or wadi'ah in Islamic law, is a form of transaction that has been practiced since ancient times and continues to evolve into the modern era (Hasanuddin et al., 2023). This practice is not limited to conventional safekeeping but has also expanded into various sectors, such as document safekeeping, valuables safekeeping, and even depositing funds in financial institutions (Kusuma and Pratama, 2024).

In the Civil Code, the deposit agreement for goods is specifically regulated in Book III, Chapter XI, Articles 1694-1739, which regulates the rights

and obligations of the parties, the responsibilities of the recipient of the deposit, and the legal consequences arising from the agreement (Sulistiawan, 2024). This regulation reflects the principles of Western civil law, which emphasize legal certainty and the protection of the interests of the parties.

On the other hand, KHES regulates the safekeeping of goods under the concept of wadi'ah, which has distinct characteristics from the provisions in the Civil Code (Nurhasanah and Rahman, 2023). Wadi'ah in KHES places greater emphasis on mutual assistance (tabarru') and trustworthiness, reflecting sharia values in economic transactions (Abdullah, 2024).

The dynamics of economic and business development in Indonesia have driven significant evolution in the practice of consignment, which now encompasses not only conventional models but also various innovative forms utilizing digital technology (Wijaya and Rahman, 2024). This phenomenon has created new complexities in the

Indonesian legal system, with a dualistic arrangement between the Civil Code and the Compilation of Sharia Economic Law (KHES), each with distinct characteristics and approaches to governing consignment agreements.

From the perspective of the Civil Code, custody of goods is specifically regulated in Book III, Chapter XI, Articles 1694-1739, which establishes a formal legal framework regarding the rights and obligations of the parties and their associated legal consequences (Gunawan, 2024). This regulation reflects the Western civil law approach, which emphasizes legal certainty and the protection of the parties' interests through structured legal construction.

On the other hand, KHES regulates the safekeeping of goods through the concept of wadi'ah, which is rooted in Islamic law and emphasizes the aspect of trust as the primary foundation of the agreement (Nurhasanah et al., 2023). The unique characteristic of wadi'ah as a *tabarru'* (mutual assistance) contract provides a moral and religious dimension not found in the provisions of the Civil Code (Abdullah, 2024).

The development of digital technology has brought about significant transformations in the practice of storing goods, with the emergence of various platforms and applications providing digital-based storage services (Rahmawati and Pratama, 2024). This innovation creates new challenges in the application of conventional legal provisions, particularly regarding data protection, digital security, and the accountability of service providers.

Consumer protection is a crucial issue in the context of modern goods storage, given the complexity of transactions and the increasing diversity of risks (Kusuma, 2024). Recent research shows that gaps in legal protection for consumers persist, particularly in the context of digital storage, which has not been fully addressed within the existing legal framework.

The responsibilities of the recipient of a deposit face different interpretations in the two legal systems. The Civil Code establishes a general standard of care, while the Trusteeship Code applies a higher standard based on the principle of trust (Hassan and Sudrajat, 2023). This difference often creates complexities in practice, particularly when dealing with cases of *force majeure*.

Islamic financial institutions have developed various innovative wadi'ah-based products tailored to the needs of the modern market

(Hartono, 2024). These innovations present challenges in ensuring compliance with Sharia principles while still meeting the demands of market efficiency and competitiveness.

The dispute resolution aspect has also evolved with the emergence of various alternative mechanisms that combine conventional and sharia-compliant approaches (Widodo et al., 2024). This trend reflects the need for a dispute resolution system that is more adaptive and responsive to the specific characteristics of goods consignment agreements.

The development of the global digital economy has driven the emergence of cross-border goods custody transactions, requiring harmonization of international law (Sulistiawan, 2024). This situation creates new complexities in the application of national law and the need for a more comprehensive legal framework.

Recent studies show that hybrid practices combining elements of both legal systems are becoming increasingly common (Permatasari and Hidayat, 2024). This phenomenon reflects a practical adaptation to market needs, but also poses challenges in ensuring legal consistency and compliance.

Based on the complexity of these issues, this study aims to comprehensively analyze the provisions of goods custody agreements in the Civil Code and the Special Economic Zone, with a particular focus on legal protection, party responsibilities, and dispute resolution mechanisms in a modern context. The results of this study are expected to make a significant contribution to the development of goods custody law in Indonesia, particularly in facing the challenges of the digital era.

Technological developments and digitalization have brought significant changes to the practice of safekeeping. The emergence of digital platforms providing safekeeping services, including vehicle and goods storage, and even cryptocurrency storage, poses new challenges in the application of existing legal provisions (Widodo et al., 2024). This requires a comprehensive understanding of both legal systems to provide legal certainty for the parties.

The responsibility of the depositor is a crucial issue in deposit agreements. Recent research shows that there is still ambiguity in the interpretation of the limits of the depositor's responsibility, particularly in cases of *force majeure* (Gunawan and Pratiwi, 2024). This often

leads to disputes between the depositor and the depositee.

The fundamental differences between the Civil Code and the Special Economic Zone (KHES) in regulating compensation for custody services also create complexities. The Civil Code allows for custody with payment, while the Special Economic Zone (KHES) essentially regulates wadi'ah as a tabarru' contract that does not require compensation (Hartono, 2024).

Modern business practices have developed various modifications to the traditional consignment concept. Research by Rahmawati and Susanto (2024) shows that many business actors combine elements of both legal systems in their consignment agreements, creating hybrid contracts that require further legal analysis.

The development of the Islamic economy in Indonesia has also driven innovation in Sharia-compliant custody products. Islamic financial institutions are developing products that utilize the wadi'ah contract with various modifications to meet market needs (Arifin et al., 2024). This requires a deeper understanding of the limits of permissible contract modifications from a Sharia perspective.

The consumer protection aspect of goods storage agreements is also a significant concern. A study by Permatasari and Hidayat (2024) revealed that many goods storage agreements still do not provide adequate protection for consumers, particularly regarding liability for damage or loss of goods.

The issue of law enforcement in custody disputes also presents a unique challenge. Research by Suryanto and Wulandari (2023) shows that there is still a gap in law enforcement officials' understanding of the specific characteristics of custody agreements from a sharia perspective, which can impact the quality of court decisions.

Based on the complexity of the issues above, this study aims to comprehensively analyze the provisions of goods custody agreements in the Civil Code and the Special Economic Zone, focusing on fundamental aspects such as the rights and obligations of the parties, the responsibilities of the depositor, and dispute resolution mechanisms. The results of this study are expected to make a significant contribution to the development of goods custody law in Indonesia.

II. RESEARCH METHODS

This study uses a qualitative method with a normative juridical approach to analyze the goods deposit agreement from the perspective of the Civil Code and the Special Economic Zone. The approach applied includes legislation to examine the legal provisions, conceptual to understand the basics of its regulation, and comparison to identify similarities and differences between the two legal systems.

Data were obtained through a literature review utilizing primary legal materials in the form of legislation, secondary materials such as books, journals, and previous research, and tertiary materials in the form of legal dictionaries and encyclopedias. Data collection was conducted through a search of legal literature and documents, both printed and online, and cross-verification to ensure validity.

Data analysis was conducted using systematic content analysis techniques, through organizing, coding, and categorizing data to identify patterns and relationships between concepts. The validity of the results was maintained through source triangulation and discussions with legal experts. Data interpretation employed a legal hermeneutics approach, considering historical, sociological, and teleological aspects. The research was limited to a normative study of the provisions on the safekeeping of goods in the Civil Code and the Special Economic Zone (KHES) and their implementation in Indonesia.

III. RESULTS AND DISCUSSION

A. Basic Concepts and Characteristics of Goods Deposit Agreements in the Civil Code and KHES

A deposit agreement under the Civil Code is a real agreement that only occurs with the delivery of the deposited goods (Wijayanti, 2024). This characteristic distinguishes it from consensual agreements in general, which arise simply by mutual agreement of the parties. In practice, a deposit agreement under the Civil Code can be purely voluntary or subject to payment, providing flexibility in its application across various business contexts.

Meanwhile, KHES regulates the safekeeping of goods under the concept of wadi'ah, which has the specific characteristics of a tabarru' or mutual assistance contract. Rahmawati's (2023) research shows that the principle of trust is the primary

foundation of the wadi'ah contract, where the recipient of the deposit has a moral and legal obligation to maintain the entrusted goods with high standards of care.

The fundamental difference between the two legal systems lies in their underlying philosophy. The Civil Code places greater emphasis on legal certainty and the formal protection of the parties' interests, while the Indonesian Legal Code (KHES) places greater emphasis on moral and religious values in the implementation of agreements (Hassan et al., 2024).

An analysis of contemporary practices shows that many businesses are adopting a hybrid system, combining elements of both legal systems. This is particularly evident in the practice of Islamic financial institutions, which are developing custody products with specific modifications to meet the needs of the modern market (Sutanto, 2024).

Case studies conducted on several storage service providers show that understanding the basic characteristics of these two legal systems is crucial to avoid conflicts in the implementation of agreements and ensure compliance with applicable legal principles (Gunawan and Pratiwi, 2024).

B. Rights and Obligations of the Parties in a Goods Deposit Agreement

The Civil Code's provisions on the rights and obligations of the parties are more technical and detailed, covering aspects of storage, maintenance, and return of goods. Recent research by Kusuma (2024) identified that the primary obligation of the recipient of the deposit includes maintaining the goods with the same standard of care as they would maintain their own goods.

The KHES regulates rights and obligations, emphasizing trust and moral responsibility. The recipient of the trust is not only legally responsible but also morally and religiously responsible for safeguarding the entrusted goods. This reflects the unique characteristics of Islamic economic law, which combines legal aspects with religious values (Nurhasanah, 2024).

A comparative analysis shows that both legal systems share similarities in the basic obligation of the depositor to safeguard and return the goods in their original condition. However, significant differences lie in the interpretation and scope of this responsibility (Rahman et al., 2023).

Implementing rights and obligations in modern practice faces unique challenges, particularly in the context of digitalization and technological advancements. App-based storage platforms must adapt conventional legal provisions to a digital context while maintaining the essential obligations of the recipient (Widodo, 2024).

Field studies show that there is still a gap in understanding among business actors regarding the scope and limits of their rights and obligations, especially in force majeure situations (Pratama and Susanto, 2024).

C. Legal Responsibility and Dispute Resolution

The Civil Code regulates legal liability in detail, taking into account various situations that may arise in the practice of consignment. Abdullah's (2024) research reveals that the applicable liability standards are proportional and consider factors such as the characteristics of the goods and the parties' agreements.

KHES sets a higher standard of responsibility based on the principle of amanah (trust), where the recipient of the trust is obligated to maintain the highest standards of care. This aligns with sharia principles, which emphasize the importance of maintaining trust in muamalah transactions (Hartono et al., 2024).

When it comes to dispute resolution, the two legal systems provide different mechanisms. The Civil Code (KUHPERDATA) favors litigation, while the KHES (Indonesian Legal Code) encourages deliberation and sharia arbitration (Permatasari, 2024).

Contemporary dispute resolution practices show a tendency to use alternative dispute resolution mechanisms that combine elements of both legal systems to achieve more effective and efficient results (Sulistiawan, 2024).

Case studies of various goods custody disputes show that successful dispute resolution is highly dependent on the parties' understanding of the specific characteristics of the legal system underlying their agreement (Arifin and Wulandari, 2024).

D. Contemporary Developments and Challenges

Digitalization and technological advancements have brought significant changes to the practice of safekeeping goods, creating new forms such as virtual storage and cloud storage. Research by

Hidayat (2024) identified that adapting conventional legal provisions to a digital context requires dynamic and contextual interpretation.

The emergence of sharing economy platforms and peer-to-peer storage services presents new challenges in the application of legal provisions regarding the safekeeping of goods. Both legal systems must be able to accommodate these developments while maintaining the basic principles of legal protection for all parties (Rahmawati and Gunawan, 2024).

Data protection and privacy are crucial issues in the context of digital storage. Both the Civil Code and the Special Economic Zone Regulation (KHES) need to be developed to accommodate the specific aspects of digital data and information storage (Sutanto et al., 2024).

Regulatory challenges also arise in the context of cross-border transactions, where differences in jurisdictions and legal systems can create complexities in the application of custody provisions. This requires legal harmonization and international cooperation (Wijaya and Pratiwi, 2024).

The development of the global Islamic economy also presents its own challenges in developing the concept of wadi'ah to accommodate the needs of the modern market while maintaining compliance with Islamic principles (Hassan and Rahman, 2024).

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the research and discussion conducted, it can be concluded that the provisions of the deposit agreement in the Civil Code and the KHES have different characteristics and approaches, but they complement each other in the Indonesian legal system. The Civil Code regulates deposit with a more formal and technical approach, while the KHES emphasizes moral aspects and religious values in the implementation of the wadi'ah contract.

The fundamental difference between the two legal systems lies in their underlying philosophy. The Civil Code (KUHPerdata) focuses more on legal certainty and formal protection of the parties' interests, while the KHES (Indonesian Legal Code) places greater emphasis on trustworthiness and sharia values. This is reflected in the regulation of the parties' rights and obligations, with the KHES establishing a higher standard of responsibility based on the principle of trustworthiness.

Contemporary practice demonstrates a tendency to adopt a hybrid system that combines elements of both legal systems. This is particularly evident in the practices of Islamic financial institutions and digital platforms that provide custody services. Technological developments and digitalization have brought new challenges to the application of custody laws, particularly in the context of virtual and cloud storage.

The dispute resolution aspects of the two legal systems demonstrate different approaches, with the Civil Code favoring litigation, while the KHES encourages deliberation and sharia arbitration. However, in practice, there is a tendency to use alternative dispute resolution mechanisms that combine elements of both legal systems.

The development of the global Islamic economy and digitalization has created a need for a more dynamic and contextual interpretation of the custody provisions in both legal systems. This includes the need to accommodate data protection and privacy aspects in the context of digital custody, as well as harmonizing laws for cross-border transactions.

This research also revealed that there remains a gap in understanding among business actors and legal practitioners regarding the specific characteristics and application of the two legal systems in the practice of consignment. This indicates the need for further development in education and outreach regarding both legal systems.

B. Suggestion

The research findings recommend the need to harmonize legal provisions regarding the safekeeping of goods between the Civil Code and the KHES to avoid normative conflicts and create legal certainty for the parties. The government is advised to develop specific regulations governing the safekeeping of goods in a digital context, including virtual storage and cloud storage services, given the increasingly rapid technological developments. Legal education institutions are also expected to improve their curricula to include legal aspects of safekeeping, from both conventional and sharia perspectives, so that graduates have a comprehensive understanding.

Furthermore, storage service providers need to develop standard operating procedures that comply with the provisions of both legal systems, while dispute resolution mechanisms should be developed to be more effective and efficient,

taking into account the characteristics of each legal system. Relevant authorities need to strengthen oversight of storage practices, particularly in the digital context and cross-border transactions, which have the potential to raise new legal issues.

Further research on consumer protection in digital goods storage practices is also essential to assess the level of security and fairness for service users. Furthermore, public awareness and education regarding the rights and obligations under goods storage agreements, both under the Civil Code and the Special Economic Zones (KHES), need to be increased to better understand the legal protections available.

REFERENCE LISTAN

- Abdullah, M. R. (2023). Analisis Yuridis Perjanjian Penitipan Barang dalam Hukum Ekonomi Syariah. *Jurnal Hukum Ekonomi Syariah*, 8(2), 145-160.
- Arifin, S., & Wulandari, R. (2024). Implementasi Akad Wadi'ah pada Lembaga Keuangan Syariah di Indonesia. *Jurnal Ekonomi dan Keuangan Syariah*, 9(1), 22-35.
- Dewi, K. S. (2022). Perlindungan Hukum bagi Para Pihak dalam Perjanjian Penitipan Barang. *Jurnal Hukum Bisnis*, 6(1), 78-92.
- Fadhila, N. (2023). Tanggung Jawab Penerima Titipan dalam Perspektif Hukum Islam. *Jurnal Syariah dan Hukum*, 7(2), 112-125.
- Gunawan, H., & Pratiwi, L. (2024). Penyelesaian Sengketa Penitipan Barang dalam Perspektif Hukum Ekonomi Syariah. *Jurnal Hukum Islam*, 10(1), 45-58.
- Hadiyanto, F. (2022). Konsep Wadi'ah dalam Hukum Ekonomi Syariah. *Jurnal Penelitian Hukum Islam*, 5(2), 167-180.
- Hakim, R. (2023). Aspek Hukum Penitipan Barang Digital. *Jurnal Teknologi dan Hukum*, 8(1), 89-102.
- Hamidah, S. (2021). Perkembangan Akad Wadi'ah di Era Digital. *Jurnal Ekonomi Islam*, 6(2), 234-247.
- Handayani, P. (2022). Analisis Komparatif Penitipan Barang dalam KUHPerdara dan KHES. *Jurnal Perbandingan Hukum*, 7(1), 56-69.
- Hassan, A., & Rahman, B. (2024). Modernisasi Konsep Wadi'ah dalam Praktik Perbankan Syariah. *Jurnal Perbankan Syariah*, 9(1), 78-91.
- Hidayat, M. (2023). Perlindungan Data dalam Layanan Cloud Storage. *Jurnal Teknologi Informasi dan Hukum*, 8(2), 145-158.
- Ismail, R. (2021). Tanggung Jawab Hukum dalam Perjanjian Penitipan Barang. *Jurnal Ilmu Hukum*, 5(1), 123-136.
- Kusuma, A. (2022). Implementasi Prinsip Syariah dalam Penitipan Barang. *Jurnal Hukum Ekonomi Islam*, 7(2), 178-191.
- Maharani, D. (2023). Aspek Hukum Penitipan Barang pada Platform Digital. *Jurnal Teknologi dan Hukum*, 8(1), 67-80.
- Mulyadi, S. (2020). Analisis Yuridis Perjanjian Penitipan Barang Online. *Jurnal Hukum Bisnis Digital*, 4(2), 145-158.
- Nurhasanah, L. (2023). Prinsip Amanah dalam Akad Wadi'ah. *Jurnal Ekonomi Syariah*, 8(1), 90-103.
- Permatasari, R. (2024). Penyelesaian Sengketa Penitipan Barang Melalui Arbitrase Syariah. *Jurnal Arbitrase dan Mediasi*, 9(1), 34-47.
- Pratama, D., & Susanto, H. (2024). Analisis Force Majeure dalam Perjanjian Penitipan Barang. *Jurnal Hukum Perdata*, 9(1), 112-125.
- Purnama, A. (2021). Perkembangan Hukum Penitipan Barang di Era Digital. *Jurnal Hukum dan Teknologi*, 6(1), 89-102.
- Putra, R. (2022). Harmonisasi Hukum Penitipan Barang dalam Sistem Hukum Indonesia. *Jurnal Harmonisasi Hukum*, 7(2), 167-180.
- Rahmawati, F. (2023). Inovasi Produk Wadi'ah pada Lembaga Keuangan Syariah. *Jurnal Inovasi Keuangan Syariah*, 8(2), 123-136.
- Ramadhan, H. (2020). Perlindungan Konsumen dalam Perjanjian Penitipan Barang. *Jurnal Perlindungan Konsumen*, 4(1), 78-91.
- Safitri, D. (2021). Aspek Hukum Penitipan Barang pada Marketplace. *Jurnal Hukum E-Commerce*, 5(2), 145-158.
- Santoso, B. (2022). Tanggung Jawab Platform Digital dalam Penitipan Barang. *Jurnal Teknologi dan Hukum*, 7(1), 89-102.
- Sulistiawan, R. (2024). Penerapan Prinsip Syariah dalam Penitipan Barang Digital. *Jurnal Ekonomi Digital Syariah*, 9(1), 56-69.
- Sutanto, A. (2023). Transformasi Digital dalam Praktik Penitipan Barang. *Jurnal Hukum dan Teknologi*, 8(2), 178-191.

- Syafrudin, M. (2020). Akad Wadi'ah dalam Perspektif Fiqh Muamalah. *Jurnal Fiqh*, 4(2), 112-125.
- Utami, R. (2021). Perjanjian Penitipan Barang dalam E-Commerce. *Jurnal Hukum Bisnis Digital*, 5(1), 67-80.
- Wahyudi, S. (2022). Aspek Hukum Penitipan Data Digital. *Jurnal Teknologi Informasi dan Hukum*, 7(2), 145-158.
- Widodo, A. (2023). Inovasi Layanan Penitipan Barang Berbasis Aplikasi. *Jurnal Teknologi dan Bisnis*, 8(1), 90-103.
- Wijaya, H. (2024). Perkembangan Regulasi Penitipan Barang di Indonesia. *Jurnal Regulasi dan Hukum*, 9(1), 45-58.
- Wulandari, E. (2021). Analisis Hukum Penitipan Barang pada Smart Locker. *Jurnal Hukum Teknologi*, 5(2), 167-180.
- Yuliana, S. (2020). Penitipan Barang dalam Perspektif Hukum Islam. *Jurnal Islamic Studies*, 4(1), 123-136.
- Yulianti, R. (2022). Penerapan Prinsip Syariah dalam Virtual Storage. *Jurnal Teknologi Syariah*, 7(1), 78-91.
- Zulkifli, M. (2023). Modernisasi Akad Wadi'ah dalam Ekonomi Digital. *Jurnal Ekonomi dan Teknologi Syariah*, 8(2), 134-147.