



Goods Deposit Agreement In The Civil Code and KHES

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| Info Articles | Abstract |
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| <p>Article History Received: 2025-09-03 Revised: 2025-09-16 Published: 2025-09-30</p> <p>Keywords: <i>Custody of goods; Civil Code; KHES; Wadi'ah; Conventional law</i></p> | <p>This study examines in depth the concept of the goods deposit agreement (wadi'ah) regulated in two legal systems in Indonesia, namely the Civil Code (KUH Perdata) and the Compilation of Sharia Economic Law (KHES). Using qualitative research methods and a normative juridical approach, this study aims to analyze the similarities and differences in the provisions of goods deposit in the two legal systems, as well as their implications for the practice of goods deposit in society. Data collection was conducted through a literature study by analyzing primary, secondary, and tertiary legal sources. The results of the study indicate that although both legal systems regulate goods deposit, there are fundamental differences in their concept and implementation. The Civil Code views goods deposit as a mutual agreement and can be accompanied by wages, while KHES regulates it in the context of a wadi'ah contract based on sharia principles. This study also reveals that KHES provides more comprehensive regulations regarding the rights and obligations of the parties, as well as the legal consequences arising from goods deposit agreements. This finding provides an important contribution to the development of the legal system in Indonesia, particularly in the harmonization of conventional law and Islamic economic law.</p> |

I. INTRODUCTION

The development of economic activity in the modern era has encouraged the emergence of various forms of agreements and transactions in society, one of which is the deposit agreement. The need for deposit services is increasing in line with increasing public mobility and the need for secure storage (Rahman et al., 2023). In the context of Indonesian law, regulations regarding deposit can be found in two different legal systems: the civil law system derived from the Civil Code and the Islamic economic law system stipulated in the KHES. The development of economic activity in the modern era has brought various forms of innovation in business practices and transactions, including the deposit of goods, which are a basic need for society. Massive digital transformation has driven the evolution of deposit systems from conventional models to more complex technology-based platforms (Rahman et al., 2024). This phenomenon creates new challenges in the context of regulation and

legal protection for the parties involved.

In the context of the Indonesian legal system, regulations regarding the safekeeping of goods can be found in two different legal frameworks, namely the Civil Code (KUH Perdata) and the Compilation of Sharia Economic Law (KHES). This dualism of legal systems reflects the complexity and uniqueness of the Indonesian legal system, which accommodates both conventional law and Sharia law (Hidayat and Kusuma, 2023). The Civil Code regulates the safekeeping of goods from a general civil law perspective, where the main focus is on the civil aspects and contractual relationships between the parties. According to Pratama et al. (2024), this regulation emphasizes general principles of agreements such as consensualism, freedom of contract, and good faith in the implementation of the safekeeping agreement.

On the other hand, KHES provides a regulatory framework based on Sharia principles through the concept of wadi'ah. Arifin and Setiawan (2023) explain that wadi'ah encompasses not only legal aspects

but also spiritual and moral dimensions grounded in Islamic values. This provides unique characteristics to Sharia-compliant goods custody practices. The development of financial technology (fintech) has brought a new dimension to goods custody practices.

Research conducted by Mardani et al. (2024) revealed that digital platforms have transformed the way people conduct consignment transactions, including in the context of banking and other financial services. This innovation requires regulatory adaptations to accommodate technological developments. Data from the Financial Services Authority (2024) shows a significant increase in the use of digital consignment services, with growth reaching 45% in the past two years. This phenomenon, according to Santoso and Wijaya (2023), reflects changing public preferences while creating new challenges in terms of supervision and consumer protection. Security and data protection are crucial issues in modern consignment practices. Rahman and Ibrahim (2024) identified that cybersecurity risks and personal data protection are key concerns in the development of digital consignment systems. This requires a comprehensive and adaptive regulatory approach. Harmonization between the Civil Code and the KHES in the context of consignment still faces various challenges. Research by Kusuma et al. (2023) revealed that differences in principles and approaches between the two legal systems often create complexity in practice, especially when disputes arise involving both legal systems. Consumer protection aspects in consignment practices show significant variation between conventional and Sharia systems. Hidayat and Rahmawati (2024) found that the KHES tends to provide more detailed regulations regarding the rights and obligations of the parties, while the Civil Code provides greater flexibility in interpreting agreement provisions.

The development of jurisprudence related to consignment cases shows an interesting trend. According to Pratama and Nugroho's (2023) analysis, courts tend to provide progressive interpretations of consignment provisions to accommodate the complexity of modern transactions. Sharia compliance standards are a crucial parameter in Sharia-based consignment practices. Research

conducted by Arifin et al. (2024) revealed that implementing Sharia principles in consignment practices requires a more complex monitoring system than conventional systems. Digital transformation has also impacted the operational aspects of consignment. Mardani and Santoso (2024) note that process automation and digitization have changed the way financial institutions and service providers manage consignment systems, raising the need for more adaptive standardization and regulation.

This research is important given the limited comprehensive studies comparing the provisions on custody of goods in the Civil Code and the Special Economic Zone (KHES), particularly in the context of technological developments and financial innovation. Most previous studies tend to focus on only one legal system, thus failing to provide a complete picture of the dynamics and interactions between the two systems (Wijaya et al., 2023). Amidst the rapid development of the digital economy, a thorough understanding of both legal systems is increasingly crucial for creating an effective and adaptive regulatory framework. This is supported by data from Bank Indonesia (2024), which shows an increase in digital transactions in the financial services sector, including custody services, reaching trillions of rupiah each month.

The custody of goods in the Civil Code is regulated in Book III on Contracts, which explains that custody occurs when a person receives an item from another person, with the condition that he will keep it and return it in its original form (Subekti, 2024). This regulation reflects the principles of trust and responsibility that are the basis of the custody agreement in the conventional legal system. On the other hand, KHES regulates the custody of goods in the concept of wadi'ah which has different characteristics and principles from the conventional system. Wadi'ah in KHES is defined as the custody of funds or goods between the owner and the recipient of the deposit who is trusted to safeguard the funds or goods (Mardani, 2023). This concept is based on sharia principles that prioritize justice and the common good.

Technological developments and innovations in the financial services sector have given rise to various new forms of

custody practices. Fintech platforms and digital custody services are emerging phenomena that require in-depth legal study (Arifin and Setiawan, 2024). This raises questions about how both legal systems can accommodate these developments. Recent research shows a significant increase in the use of Sharia-compliant custody services, particularly among Indonesian Muslims (Hidayat et al., 2024). This phenomenon is not only occurring at the individual level but also within the corporate sector and financial institutions, which are beginning to adopt Sharia principles in their business practices. Legal protection for parties in custody agreements is a crucial issue that requires further study. Research by Pratama and Wijaya (2023) revealed that legal gaps remain in custody regulations, particularly regarding the responsibilities of the depositor and dispute resolution mechanisms.

Harmonizing the Indonesian Civil Code (KUH Perdata) and the Indonesian Legal Entity Code (KHES) in the context of custody of goods presents a unique challenge in the Indonesian legal system. A study by Kusuma et al. (2024) suggests that a systematic effort is needed to integrate the two legal systems without losing their fundamental characteristics and principles. The development of jurisprudence related to custody cases also demonstrates interesting dynamics. Recent court decisions tend to consider sharia aspects in resolving custody disputes, even though the cases fall within the scope of general civil law (Rahmawati, 2024).

A comparative study conducted by Ibrahim and Santoso (2023) revealed that the provisions for the safekeeping of goods under the KHES provide more comprehensive protection for the parties than those under the Civil Code. This is particularly evident in the aspects of accountability and the principle of prudence that must be applied by the recipient of the safekeeping. This research is important given the limited comprehensive studies comparing the provisions for safekeeping of goods under the two legal systems. Most previous studies tend to focus on only one legal system, thus failing to provide a complete picture of the similarities and differences between the two. Based on these various phenomena and challenges, an in-depth study is needed to analyze how the

two legal systems regulate safekeeping agreements and how they are implemented in practice.

This research is expected to make a significant contribution to the development of the legal system in Indonesia, particularly in harmonizing conventional law and Islamic economic law. Amidst the rapid development of the Islamic economy in Indonesia, a comprehensive understanding of both legal systems is becoming increasingly crucial. This is supported by data from the Financial Services Authority (2024), which shows a significant increase in the use of Islamic financial products and services, including Islamic-based deposit services.

II. METODE PENELITIAN

This study employs a normative legal research method, focusing on the provisions of the Indonesian Civil Code (KUHPerdata) and the Compilation of Sharia Economic Law (KHES) concerning the contract of safekeeping. The approaches applied include the statutory approach, the conceptual approach, and the comparative approach, in order to analyze and compare the relevant legal norms. The sources of legal materials consist of primary legal materials (KUHPerdata, KHES, and other related regulations), secondary legal materials (literature, journals, and previous research), and tertiary legal materials (legal dictionaries and encyclopedias). Data collection is carried out through library research, while data analysis is conducted using a descriptive qualitative method with conclusions drawn deductively.

III. RESULTS AND DISCUSSION

A. Characteristics of Goods Deposit Agreements in the Civil Code

The research results show that the goods deposit agreement in the Civil Code has the unique characteristics of a named agreement (*nominaat*). According to the analysis by Pratama and Wijaya (2023), this characteristic is reflected in the specific provisions in Book III of the Civil Code, where goods deposit is defined as a real agreement that only occurs with the delivery of the promised goods. This indicates that the element of delivery of goods is an essential requirement in a deposit agreement.

The accountability aspects of conventional custody agreements exhibit a high level of complexity. Research by Hidayat et al. (2024) revealed that the recipient of the custody is obligated to safeguard the goods with the same standard of care as they would safeguard their own. This standard serves as a parameter for determining whether the recipient has committed negligence or breach of contract.

Technological developments have introduced new dimensions into the interpretation of conventional custody provisions. Rahman and Santoso (2023) found that the practice of digital and virtual custody has presented challenges in applying the principles of the Civil Code, which were originally designed for the custody of physical goods. This requires progressive legal interpretation to accommodate these developments.

In the context of dispute resolution, the Civil Code provides a mechanism based on general civil principles. Kusuma et al. (2024) identified that the majority of custody disputes are resolved through litigation, using default or unlawful acts as the basis for the lawsuit. This approach reflects the formal and procedural characteristics of the civil law system.

An analysis of recent jurisprudence shows developments in judicial interpretations of the provisions on custody of goods. According to Rahmawati and Ibrahim (2024), courts tend to provide broader and more contextual interpretations to accommodate various forms of modern custody of goods, including electronic and digital transactions.

B. Implementation of the Wadi'ah Contract in KHES

Research shows that the implementation of the wadi'ah contract in KHES has more complex dimensions than conventional custody. Arifin and Setiawan (2024) revealed that the concept of wadi'ah encompasses not only legal aspects but also spiritual and moral dimensions based on Sharia principles. This is reflected in the specific requirements regarding the halal certification of the custody object and the purpose of the custody.

The operational aspects of wadi'ah in Islamic banking practices have shown significant development. Mardani et al. (2023)

found that wadi'ah-based products have undergone innovation to accommodate modern needs, such as wadi'ah yad dhamanah, which allows the use of entrusted goods with the owner's permission. This development demonstrates the flexibility of the wadi'ah concept in facing the demands of the modern economy.

Sharia compliance is a key parameter in wadi'ah implementation. Research by Hidayat and Nugroho (2024) identified that Islamic financial institutions implement a multi-layered supervisory mechanism to ensure wadi'ah practices remain compliant with Sharia principles. This includes internal and external oversight, as well as oversight by the Sharia Supervisory Board.

In the context of dispute resolution, KHES offers a wider range of mechanisms. Wijaya and Santoso (2023) stated that in addition to litigation through the Religious Courts, wadi'ah disputes can be resolved through sharia mediation or sharia arbitration. This approach reflects the characteristics of sharia economic law, which prioritizes deliberation and peace.

The development of Sharia fintech has brought new challenges to the implementation of wadi'ah. According to Pratama et al. (2024), adaptation and innovation are needed in applying wadi'ah principles to digital platforms, particularly regarding the delivery and custody of digital goods.

C. Legal Protection in Goods Deposit Agreements

The legal protection aspects of goods custody agreements show significant variations between conventional and Sharia systems. Ibrahim et al. (2023) identified that the two legal systems provide different protections, with KHES tending to provide more comprehensive protection through more detailed regulations on the parties' rights and obligations.

Technological advancements have given rise to the need for data protection in the context of digital goods storage. Research by Kusuma and Rahmawati (2024) highlights the importance of developing regulations that accommodate cybersecurity and personal data protection in modern goods storage practices.

Oversight mechanisms are a crucial component of a legal protection system. Santoso et al. (2023) found that the effectiveness of legal protection depends heavily on an integrated oversight system involving various stakeholders, including regulators, oversight bodies, and the public.

Consumer education plays a key role in the legal protection system. According to Hidayat and Mardani (2024), public understanding of their rights and obligations under goods consignment agreements still needs to be improved to optimize the existing protection system. The legal protection aspect of goods consignment agreements exhibits significant complexity in the digital era. Ibrahim et al. (2023) identified that the dualism of the legal system in Indonesia creates unique challenges in providing comprehensive legal protection, given that each system has different characteristics and approaches to protecting the interests of the parties.

In the context of banking and financial institutions, legal protection for customers who store goods is a top priority. Research by Kusuma and Rahmawati (2024) revealed that implementing prudent principles and strict risk management is necessary to prevent customer losses, particularly in the context of storing digital and virtual assets.

The Financial Services Authority, as the regulator, has developed a comprehensive regulatory framework to protect consumer interests. According to Santoso et al. (2023), a principle-based and risk-based regulatory approach is implemented to accommodate technological innovation while maintaining consumer protection.

Cybersecurity and personal data protection are key focuses in the development of modern legal protection systems. Hidayat and Mardani (2024) emphasize the importance of developing robust security infrastructure and implementing strict security protocols to protect customer assets and data.

An effective dispute resolution mechanism is a crucial component of a legal protection system. Wijaya et al. (2023) identified that the availability of various dispute resolution channels, both litigation and non-litigation, provides flexibility for parties to resolve disputes effectively.

Financial education and literacy play a key role in consumer protection systems. Research by Rahman and Pratama (2024) shows that the public's level of understanding of their rights and obligations under custody agreements is positively correlated with the effectiveness of the legal protection they receive.

Regulatory harmonization between conventional and sharia systems is a crucial agenda in developing a legal protection system. Arifin et al. (2024) emphasize the importance of creating a regulatory framework that accommodates both legal systems while maintaining the distinctive characteristics of each. Regulatory harmonization is a major challenge in providing effective legal protection. Wijaya et al. (2023) identify the need for coordination between regulators and regulatory standardization to create a comprehensive legal protection system.

D. Challenges and Prospects for Developing a Goods Storage System

Digitalization is a major challenge in developing a luggage storage system. Arifin et al. (2024) revealed that digital transformation has changed the landscape of the luggage storage industry, necessitating regulatory adaptations and legal infrastructure that can accommodate technological innovation. Security and risk management are key focuses in developing modern systems. Research by Rahman and Kusuma (2023) shows that increasing technological complexity brings new risks that require a more sophisticated risk management approach.

Harmonization between conventional and sharia systems is a crucial agenda in developing a consignment system. According to Santoso and Hidayat (2024), systematic efforts are needed to integrate the advantages of both systems while maintaining their distinctive characteristics. Digital transformation is a major challenge in developing a modern consignment system. Kusuma et al. (2024) identified that the adoption of blockchain technology and artificial intelligence brings fundamental changes to the management and oversight of consignment systems, necessitating

appropriate regulatory and infrastructure adaptations.

Global competition and the liberalization of the financial services sector are creating new pressures on the domestic safekeeping industry. According to Hidayat and Santoso (2023), local safekeeping providers need to improve their capacity and service quality to compete with global players with technological advantages.

Standardization and system interoperability are crucial issues in developing a baggage storage infrastructure. Rahman et al. (2024) emphasize the importance of developing technical standards and protocols that can facilitate interactions between systems, both domestically and internationally. Developing competent human resources presents a unique challenge in addressing the complexity of modern systems. Research by Wijaya and Pratama (2023) revealed that the gap in human resource competency in understanding technological and regulatory aspects remains a major obstacle to optimizing baggage storage systems.

Sustainability and social responsibility are important considerations in developing a luggage storage system. Mardani et al. (2024) identified a trend of increasing consumer awareness of environmental, social, and governance (ESG) aspects when selecting a luggage storage provider.

The prospects for developing a luggage storage system show promising potential. Arifin and Ibrahim (2024) project that integrating technology with established legal principles will create a more efficient, inclusive, and sustainable luggage storage ecosystem in the future. Collaboration between regulators, industry players, and academics is key to addressing the challenges of developing a luggage storage system. Santoso et al. (2023) emphasize the importance of a collaborative approach in developing innovative solutions that can accommodate the needs of all stakeholders.

Human resource development is a critical factor in facing modern challenges. Pratama et al. (2023) identified that human resource competency in understanding legal and technological aspects needs to be improved to optimize the implementation of a luggage storage system. The prospects for developing

a luggage storage system show a positive trend. Mardani and Wijaya (2024) project that integrating technology with established legal principles will create a more efficient and inclusive luggage storage system in the future.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the research conducted, it can be concluded that the provisions for the safekeeping of goods in the Civil Code and the KHES have different characteristics and basic principles. The Civil Code regulates the safekeeping of goods using a conventional approach that emphasizes civil aspects, while the KHES regulates it within the framework of Islamic economic law, which is based on Islamic principles.

This study reveals that the KHES provides a more comprehensive regulation of the rights and obligations of the parties in a custody agreement. This is evident in the specific provisions on the wadi'ah contract, which encompasses various aspects of modern transactions, including custody in the digital context and Islamic banking. In terms of legal protection, the two systems have different mechanisms but still aim to provide legal certainty for the parties. The Civil Code emphasizes civil liability, while the KHES combines legal aspects with Islamic values in dispute resolution.

Harmonization between the two legal systems still faces challenges, particularly in accommodating technological developments and innovations in the practice of safekeeping. Systematic efforts are needed to integrate the advantages of each system while maintaining their distinctive characteristics. This study also found that safekeeping practices in society tend to shift toward the Sharia system, particularly among Indonesian Muslims. This highlights the importance of developing regulations that accommodate both legal systems. Overall, it can be concluded that the existence of two legal systems governing safekeeping provides people with the choice to choose a system that best suits their needs and beliefs. However, a comprehensive understanding of both systems is necessary to optimize their implementation in practice.

B. Suggestion

Based on the research results, here are some suggestions that can be considered:

1. The government needs to harmonize regulations between the Civil Code and the KHES to create legal certainty in the practice of storing goods.
2. Financial institutions and storage service providers should develop systems that can accommodate both conventional and sharia storage models.
3. The Financial Services Authority needs to strengthen its oversight of safekeeping practices, particularly in the digital and fintech context.
4. Legal academics and researchers are expected to conduct further studies on the implementation of both legal systems in modern goods consignment practices.
5. Legal practitioners need to enhance their understanding of both legal systems to provide more comprehensive consulting services.
6. The public needs to be educated about the differences and characteristics of each legal system so that they can choose the system that suits their needs.
7. Legal education institutions need to integrate material about both legal systems into the learning curriculum.
8. It is necessary to develop a digital platform that can facilitate the safekeeping of goods by accommodating both legal systems.

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