

## Exoneration Clause in Freight Forwarding Agreements from the Perspective of Consumer Protection

Indah Nuraini<sup>1</sup>, Nur Handayati<sup>2</sup>, Wahyu Prawesti<sup>3</sup>, Hartoyo<sup>4</sup>, Noenik Soekorini<sup>5</sup>

Universitas Dr. Soetomo, Surabaya, Indonesia

indahnuala@gmail.com<sup>1</sup>, nur.handayati@unitomo.ac.id<sup>2</sup>, wahyu.prawesthi@unitomo.ac.id<sup>3</sup>,  
hartoyo@unitomo.ac.id<sup>4</sup>, noenik.soekorini@unitomo.ac.id<sup>5</sup>

Informasi Artikel	Abstract
E-ISSN : 3026-6874 Vol: 3 No : 11 November 2025 Page : 32-44	<i>Freight forwarding agreements in Indonesia frequently contain exoneration clauses that exempt logistics providers from liability for loss or damage, raising serious concerns regarding consumer protection. While such clauses are designed to manage contractual risk, they often conflict with the principles enshrined in Law No. 8 of 1999 on Consumer Protection (UUPK), particularly those ensuring fairness, good faith, and legal accountability. This study investigates the legality and ethical implications of exoneration clauses within standard-form freight forwarding contracts used by companies such as JNE, TIKI, and SiCepat. Employing a doctrinal legal research methodology, the study integrates statutory, conceptual, and case-based approaches to analyze primary legislation, judicial decisions, and relevant legal doctrines. It critically evaluates the use of these clauses in light of consumer rights, contract theory, and the economic impact on service quality. Findings reveal that exoneration clauses not only contravene the UUPK but also create systemic contractual imbalances due to the lack of negotiation opportunities and transparency. The study proposes a normative legal framework for reform, including clause classification, interactive consent mechanisms, and regulatory enforcement to ensure contractual fairness. This research contributes to both legal scholarship and policy development by highlighting the urgent need for doctrinal clarity and regulatory oversight in Indonesia's logistics sector.</i>
<b>Keywords:</b> Exoneration clause, Consumer protection, Freight forwarding, UUPK	

### Abstrak

Perjanjian pengiriman barang di Indonesia seringkali mengandung klausul pembebasan tanggung jawab yang membebaskan penyedia logistik dari tanggung jawab atas kerugian atau kerusakan, menimbulkan kekhawatiran serius terkait perlindungan konsumen. Meskipun klausul-klausul tersebut dirancang untuk mengelola risiko kontraktual, mereka sering bertentangan dengan prinsip-prinsip yang tercantum dalam Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (UUPK), khususnya yang menjamin keadilan, itikad baik, dan pertanggungjawaban hukum. Penelitian ini mengkaji legalitas dan implikasi etis dari klausul pembebasan tanggung jawab dalam kontrak pengiriman barang standar yang digunakan oleh perusahaan seperti JNE, TIKI, dan SiCepat. Menggunakan metodologi penelitian hukum doktrinal, studi ini menggabungkan pendekatan hukum, konseptual, dan berbasis kasus untuk menganalisis undang-undang utama, putusan pengadilan, dan doktrin hukum yang relevan. Studi ini secara kritis mengevaluasi penggunaan klausul-klausul tersebut dalam konteks hak konsumen, teori kontrak, dan dampak ekonomi terhadap kualitas layanan. Temuan menunjukkan bahwa klausul pembebasan tanggung jawab tidak hanya bertentangan dengan UUPK tetapi juga menciptakan ketidakseimbangan kontraktual sistemik akibat kurangnya kesempatan negosiasi dan transparansi. Studi ini mengusulkan kerangka hukum normatif untuk reformasi, termasuk klasifikasi klausul, mekanisme persetujuan interaktif, dan penegakan regulasi untuk memastikan keadilan kontrak. Penelitian ini berkontribusi pada both kajian hukum dan pengembangan kebijakan dengan menyoroti kebutuhan mendesak akan kejelasan doktrinal dan pengawasan regulasi di sektor logistik Indonesia.

**Kata Kunci :** Klausul pembebasan tanggung jawab, Perlindungan konsumen, Pengiriman barang, UUPK.

## INTRODUCTION

In the modern logistics and transportation industry, freight forwarding agreements play a pivotal role in facilitating the movement of goods across regions. These agreements, however, often contain exoneration clauses, contractual provisions designed to exempt service providers from liability for loss or damage during the transportation process. While such clauses are ostensibly included to manage risk and delineate responsibility, their application has raised significant legal and ethical questions, particularly concerning the fairness of such terms when applied to individual consumers. International legal literature has increasingly critiqued these clauses for creating contractual imbalances, especially in contexts where consumers are subjected to non-negotiable, standardized agreements (Kristiyani, 2020; Syam et al., 2021).

In Indonesia, the inclusion of exoneration clauses in freight forwarding contracts has drawn attention under the framework of Law No. 8 of 1999 concerning Consumer Protection (UUPK), which aims to protect consumers from unfair trade practices. The law explicitly prohibits standard clauses that unilaterally transfer risk or limit liability in ways detrimental to consumers (Presiden Republik Indonesia, 1999). This legislation recognizes the structural power imbalance between business actors and consumers, particularly in standardized service agreements where the consumer has limited room for negotiation. As such, the law mandates that contractual arrangements must reflect principles of fairness, transparency, and accountability. Nevertheless, many freight companies in Indonesia continue to include broadly worded exoneration clauses, often rendering consumers vulnerable in the event of disputes over lost or damaged goods (Wijaya et al., 2023).

The persistent use of these clauses, despite the legal safeguards provided by the UUPK, suggests a gap between the normative framework and its implementation. Consumers frequently lack both the legal literacy and bargaining power to contest such clauses, effectively undermining the protections offered under the law. This challenge is particularly visible in the digital context, where consumers often accept terms without fully understanding the implications, especially within fast-evolving e-commerce ecosystems (Purnomo et al., 2024). Similarly, start-ups in Indonesia are growing rapidly, but little is known about the mechanisms that ensure their long-term sustainability. How do networks, capital structure, and government policies impact the viability of start-ups in Indonesia? To create an environment where start-ups thrive and are equipped to meet the obstacles of growth, it is essential to comprehend these dynamics (Bernardus et al., 2024). Furthermore, although the courts and institutions like the Badan Penyelesaian Sengketa Konsumen (BPSK) offer mechanisms for dispute resolution, the accessibility and efficacy of these avenues remain limited for many individuals. As Indonesia continues to develop its regulatory architecture in response to economic modernization and digital transformation, reassessing the legal status and limits of exoneration clauses within freight forwarding agreements becomes increasingly necessary.

Despite the existence of robust consumer protection laws, such as Law No. 8 of 1999, the reality of contractual practice in the logistics sector reveals a substantial imbalance between service providers and consumers. Exoneration clauses that shield freight forwarding companies from liability regardless of fault challenge the legal principles of fairness, transparency, and good faith in contractual dealings. These clauses often render the consumer powerless in the face of logistical errors, leading to material loss without adequate recourse. The issue is exacerbated by consumers' limited legal awareness and the standard nature of service contracts, which do not allow for meaningful negotiation or modification of terms (Hapsari & Kurniawan, 2020; Syam et al., 2021).

The general solution lies in a doctrinal reevaluation of the legal legitimacy of such clauses under Indonesian contract and consumer protection law. A critical analysis of prevailing freight forwarding agreements in light of the UUPK, especially Articles 4, 7, 18, and 19 can provide a normative framework to identify which exoneration clauses violate consumer rights (Presiden Republik Indonesia, 1999). In addition, integrating legal theories such as the inequality of bargaining power, contractual justice, and economic analysis of law will enable the formulation of a more equitable contractual model. This approach not only reaffirms the protective objectives of

the UUPK but also guides the development of regulatory and judicial responses that better align with contemporary commercial realities.

Legal scholarship and consumer advocacy have proposed several solutions to address the imbalance caused by exoneration clauses in standard contracts. From a doctrinal perspective, scholars argue that such clauses should be voided *ab initio* when they contradict principles of good faith or are proven to have been included without mutual consent or understanding (Kristiyani, 2020). Article 18 of the UUPK substantiates this view by listing specific clause types that are considered illegal, including those that shift liability to consumers unilaterally or waive the service provider's obligation to compensate for damages. The legal system, therefore, has a foundational basis for nullifying such clauses when they infringe on consumer rights or reflect unequal bargaining dynamics.

The theory of inequality of bargaining power by Robert Hale provides an essential framework for understanding how these exoneration clauses are often coercive in nature. Hale's theory emphasizes that power asymmetry in contractual relations often due to differences in legal knowledge, economic capacity, and negotiation leverage renders freedom of contract a legal fiction rather than a lived reality (Kapoor & Shyamsundar, 2023). This framework supports regulatory intervention to ensure that contractual fairness prevails, especially in consumer transactions where the weaker party requires legislative protection to prevent exploitation. Hale's insights are critical to framing exoneration clauses not as neutral legal tools, but as mechanisms that can entrench inequity if left unchecked.

The foundation of contract law rests on freedom of contract, allowing parties to structure agreements autonomously (Serohin et al., 2021). However, absolute freedom can lead to inequitable outcomes, especially when used to enforce unilateral clauses in consumer contracts (Christie et al., 2022). Indonesian Civil Code (*KUHPerdata*) recognizes good faith (*itikad baik*) as an essential principle in contract execution, compelling parties to act honestly and fairly (Arofah et al., 2024).

Moreover, the Law and Economics approach also provides a complementary solution by assessing the economic efficiency of such clauses. If exoneration clauses disincentivize service providers from maintaining quality and reliability in freight handling because they are shielded from liability then they fail to serve the broader economic goal of consumer welfare. Legal rules, from this perspective, should create incentives for optimal behavior while minimizing social and transactional costs (Iefimova et al., 2021). In the case of logistics, this means designing contractual terms that promote accountability, service quality, and transparency rather than merely protecting business actors from risk.

International conventions such as the UN Guidelines for Consumer Protection discourage exoneration clauses that waive liability for physical harm or property damage. These principles are echoed in jurisdictions that mandate transparency, mutual accountability, and procedural fairness in consumer contracts. In Indonesia, consumer advocacy organizations have emphasized the need for better legal education, public awareness, and institutional support (Hapsari & Kurniawan, 2020). These groups have also highlighted case precedents where exoneration clauses have been declared unenforceable for contravening public order and good faith (Syam et al., 2021). These developments point toward a growing recognition of the need for regulatory reform and a more assertive application of the UUPK's protections in standard service agreements, especially those involving logistics providers.

Although prior studies have extensively addressed the use of standard clauses in consumer contracts, they have largely overlooked the specific context of freight forwarding services a sector with distinct operational risks and contractual dynamics. Existing literature has discussed standard clauses in banking, real estate, and e-commerce, yet the logistics industry, despite its centrality to trade and consumer goods circulation, remains understudied (Syafri & Hartati, 2021). The lack of focused scholarly inquiry into exoneration clauses within this sector results in a significant gap in doctrinal understanding and policy formulation. Given the increasing volume of domestic freight movement and the reliance on standardized online shipping platforms, this area requires urgent legal scrutiny.

Several legal scholars have called for more targeted legal reforms addressing sector-specific consumer protection needs. Kristiyani (2020) emphasizes that the regulatory landscape, although comprehensive in design, is fragmented in its enforcement, especially in logistics where B2C interactions occur frequently but with minimal legal oversight. The National Consumer Protection Agency (BPKN) and other institutional bodies often lack the resources or mandate to investigate freight-related disputes thoroughly, leading to inconsistent application of the law. Furthermore, most consumer education initiatives do not adequately inform users of logistics services about their rights concerning unfair contractual terms.

This study fills a significant void by conducting a doctrinal legal analysis focused specifically on the enforceability and fairness of exoneration clauses in freight forwarding contracts. Using major Indonesian freight providers (JNE, TIKI, SiCepat) as a legal sample, the research critically evaluates whether these clauses comply with the UUPK and broader principles of contract law and consumer rights. Through this lens, the research provides new insights into how consumer protection law can evolve to meet the unique challenges posed by the logistics industry in Indonesia.

The objective of this study is threefold: first, to analyze the legal validity of exoneration clauses in freight forwarding agreements within the frameworks of Indonesian contract law and consumer protection law; second, to evaluate whether these clauses uphold the principles of fairness and contractual balance; and third, to develop a normative model that aligns such clauses with both legal and ethical standards of consumer protection. The research applies a normative juridical method using statutory, conceptual, and case-based approaches to identify doctrinal inconsistencies and propose actionable legal reforms.

The novelty of this research lies in its focused examination of freight forwarding agreements, a domain previously overlooked in legal discourse despite its growing significance in the digital and logistics economy. This study bridges doctrinal legal analysis with consumer protection theory and law and economics perspectives to propose a comprehensive evaluative model for assessing the legitimacy of exoneration clauses. Geographically focused on Indonesia, the study limits its scope to domestic freight forwarding contracts over the past five years, drawing legal inferences from major logistics providers while incorporating relevant consumer dispute cases and legal interpretations of the UUPK.

## METHOD

This study applies a doctrinal legal research methodology to examine the legal principles and regulatory frameworks governing exoneration clauses in freight forwarding agreements in Indonesia (Hutchinson & Duncan, 2012; Majeed et al., 2012). Through a combination of statutory, conceptual, and case-based approaches, the research investigates how such clauses align or conflict with established legal norms, particularly those embedded in Law No. 8 of 1999 on Consumer Protection (UUPK) and the Indonesian Civil Code. The study focuses on understanding key legal doctrines, such as freedom of contract, good faith, and contractual justice and explores judicial decisions and dispute resolutions, especially from the Consumer Dispute Settlement Agency (BPSK), to assess the practical application of these laws.

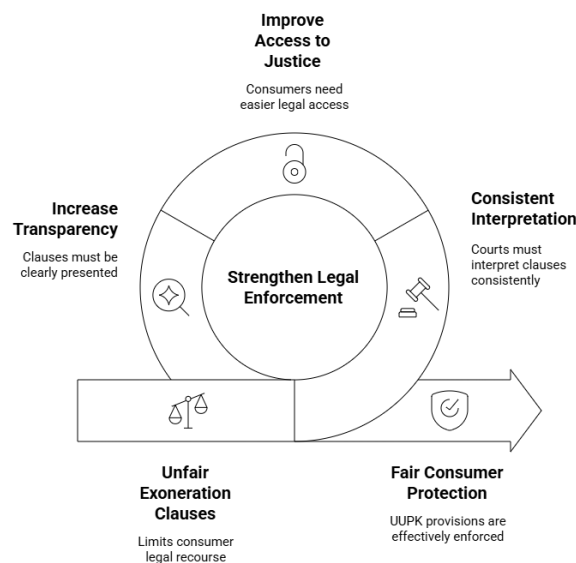
Legal materials are drawn from primary sources (laws, court decisions), secondary sources (scholarly articles, expert commentary), and tertiary references (legal dictionaries and encyclopedias). Data are analyzed using a qualitative normative approach, enabling a critical evaluation of the coherence between legal texts, theory, and enforcement practices. The object of study centers on standard exoneration clauses found in contracts issued by major logistics companies like *JNE*, *TIKI*, and *SiCepat*. Where necessary, supplementary data from consumer disputes are included to illustrate the real-world implications of these clauses. The research ultimately seeks to contribute a doctrinally sound and policy-relevant framework for enhancing consumer protection in Indonesia's freight forwarding sector.

## RESULTS AND DISCUSSION

### Exoneration Clauses and Their Legal Contradictions

Exoneration clauses, typically inserted into standard freight forwarding agreements by logistics service providers, have emerged as significant contractual tools aimed at limiting liability for loss or damage during the delivery process. While these clauses are often justified as instruments of risk allocation, their practical application frequently undermines core principles of consumer protection law in Indonesia. Article 18 of Law No. 8 of 1999 on Consumer Protection (UUPK) explicitly declares void any standard clause that transfers responsibility from business actors to consumers, waives liability, or limits legal recourse for damages (Presiden Republik Indonesia, 1999). In freight forwarding contracts, however, such clauses remain prevalent and are often embedded without transparency or opportunity for consumer negotiation (Irawati & Hutagalung, 2023; Kristiyani, 2020).

This contradiction highlights a profound legal conflict: the widespread use of exoneration clauses directly opposes the legal mandate to ensure fairness, accountability, and informed consent in consumer transactions. These clauses are often presented as non-negotiable within digital platforms operated by freight companies such as JNE, TIKI, or SiCepat, leaving consumers no real choice but to accept them. The imbalance in such arrangements is not merely contractual but structural, resulting in the systemic erosion of consumers' legal rights. While courts and the Consumer Dispute Settlement Agency (BPSK) have occasionally nullified these clauses, inconsistent interpretation and limited access to justice have prevented meaningful enforcement of UUPK's protective provisions (Wijaya et al., 2023).



**Figure 1.** Enforcing Consumer Rights in Freight

The figure demonstrates the intersection of three core legal principles: freedom of contract, good faith, and contractual justice, highlighting that a valid and fair agreement requires the simultaneous fulfillment of all three. In the context of freight forwarding agreements in Indonesia, these principles are frequently compromised, especially with the widespread use of exoneration clauses that limit service provider liability. While freedom of contract assumes equal bargaining power, consumers typically lack the opportunity to negotiate such clauses. Similarly, the principle of good faith is undermined when critical terms are hidden in inaccessible language, and contractual justice is violated when agreements shift all risk to the consumer, even in cases of provider negligence. The central idea is that legal contracts must go beyond formal validity to meet standards of fairness and transparency. The failure to uphold any one of these principles—autonomy, honesty, or equity—renders the contract normatively deficient, even if technically legal. The diagram underscores the importance of legal reform and stronger enforcement of consumer protection laws, particularly in logistics services where imbalanced contractual relationships are



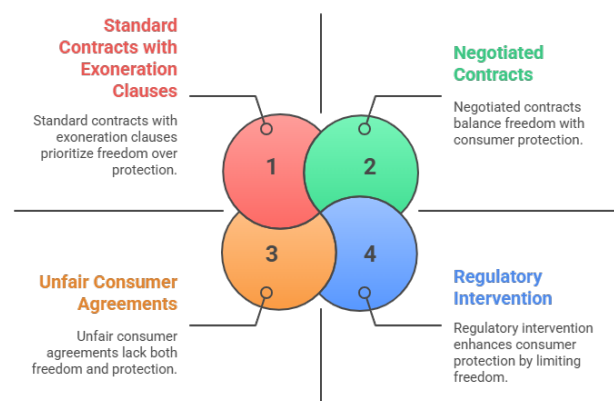
common. It supports a doctrinal approach that evaluates not just whether exoneration clauses are lawful, but whether they uphold the integrated ideals of a just and ethical contractual framework.

### Theoretical Perspectives: Contract Law, Fairness, and Economic Logic

The legitimacy of exoneration clauses must be examined not only through statutory frameworks but also via legal theory. The principle of *freedom of contract*, rooted in classical contract law, emphasizes autonomy and voluntariness between contracting parties. However, as several scholars argue, absolute freedom of contract can produce unjust outcomes, especially in consumer transactions where unequal bargaining power distorts the assumption of voluntariness (Christie et al., 2022; Serohin et al., 2021). The insertion of exoneration clauses into standard contracts without negotiation contradicts the broader values of transparency, equality, and *good faith* (Arofah et al., 2024). These values are recognized in the Indonesian Civil Code (*KUHPerdata*), which mandates that every agreement must be executed in good faith.

Moreover, the principle of *contractual justice* reinforces the need for fair terms that do not disproportionately benefit one party. When freight forwarding companies disclaim liability while maintaining full control over contract drafting, they exploit the asymmetry in power and information between themselves and consumers. Robert Hale's theory of the *inequality of bargaining power* offers a powerful critique of such contractual structures, asserting that consumers, due to limited options, knowledge, and negotiation leverage, are effectively coerced into accepting clauses that would otherwise be unacceptable in a fair exchange (Wiener, 2020; Kapoor & Shyamsundar, 2023). These dynamics negate the moral and legal presumption of genuine consent and demand regulatory intervention to restore equilibrium.

Economic analysis of law further supports this critique. From the perspective of Law and Economics, contracts must not only be legally valid but also economically efficient. Exoneration clauses that allow service providers to escape liability reduce their incentive to invest in service quality, customer care, and risk mitigation (Kovalenko, 2023; Iefimova et al., 2021). Consequently, while these clauses may lower costs for logistics companies in the short term, they generate negative externalities, such as higher damage rates, consumer distrust, and increased litigation that reduce overall economic efficiency. An efficient legal rule should balance risk appropriately and ensure that liability remains with the party best positioned to control it, in this case, the service provider.



**Figure 2.** Balancing Contractual Freedom and Consumer Protection

The figure presents a quadrant model that categorizes four types of contractual relationships based on the balance (or imbalance) between freedom of contract and consumer protection. In the top-left quadrant, "Standard Contracts with Exoneration Clauses" are shown to prioritize contractual freedom at the expense of consumer protection. These are typically one-sided agreements where the consumer is bound by pre-drafted terms that favor the service provider, such as clauses limiting liability. Moving to the top-right quadrant, "Negotiated Contracts" represent ideal contractual conditions where both freedom and protection are

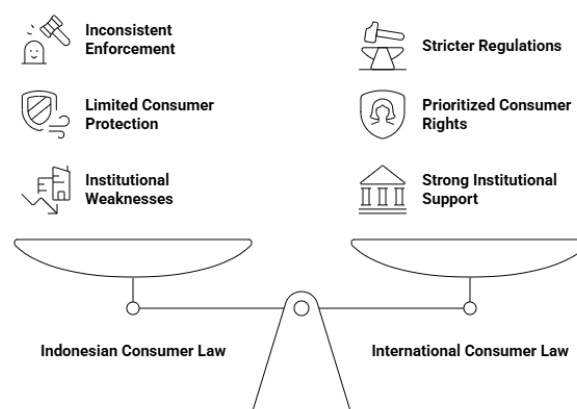
preserved. These agreements allow parties, including consumers, to negotiate terms fairly, ensuring mutual consent and balanced obligations.

In contrast, the bottom-left quadrant, labeled "Unfair Consumer Agreements," represents the worst-case scenario in which both freedom and protection are absent. These contracts are often coercive or deceptive, providing neither the opportunity to negotiate nor safeguards for the consumer. Finally, the bottom-right quadrant, "Regulatory Intervention," shows how legal frameworks can enhance consumer protection by limiting certain freedoms of contract, especially when imbalance exists. Regulation ensures that consumer rights are preserved even in standard-form agreements, such as through mandatory liability rules or the prohibition of unfair clauses. Overall, the figure illustrates the trade-offs and intersections between legal freedom and protection in consumer contracts, particularly highlighting where intervention is necessary to ensure fairness.

### Empirical Observations: Judicial Trends and International Comparisons

Despite clear statutory prohibitions, the enforcement of protections against unfair standard clauses in Indonesia has been inconsistent. While some BPSK decisions and court rulings have invalidated clauses that waive liability without consumer consent, others have failed to recognize the coercive structure behind such contracts. This inconsistency stems from varying interpretations of "good faith" and "public order" among judges, as well as from the limited capacity of consumers to pursue redress through litigation. Institutional weaknesses, including the underfunding of consumer protection bodies and the lack of judicial specialization in consumer law, further exacerbate these challenges (Hapsari & Kurniawan, 2020; Rahmah et al., 2023).

In contrast, international legal systems have moved toward stricter regulations on unfair terms in consumer contracts. The European Union's Directive 93/13/EEC on Unfair Terms in Consumer Contracts prohibits terms that cause a significant imbalance in parties' rights and obligations. Australian consumer law imposes mandatory consumer guarantees and disallows contract terms that limit those guarantees. These systems prioritize *transparency*, *clarity*, and *equal bargaining rights*, providing a model for Indonesian law to emulate. Aligning Indonesian consumer protection law with these international standards particularly in the logistics sector would improve both legal predictability and consumer confidence.



**Figure 3.** Comparison Indonesian and International Consumer Law

The figure illustrates a comparative imbalance between Indonesian consumer law and international consumer law, using a symbolic scale to highlight disparities in legal protections and enforcement. On the left side, representing Indonesian consumer law, the scale is weighed down by three major issues: inconsistent enforcement, limited consumer protection, and institutional weaknesses. These elements suggest that while legal provisions may exist on paper, they are not uniformly applied, leaving consumers vulnerable and without strong mechanisms for redress. Additionally, the institutions responsible for upholding consumer rights in Indonesia often lack the resources, authority, or coordination necessary to be effective.

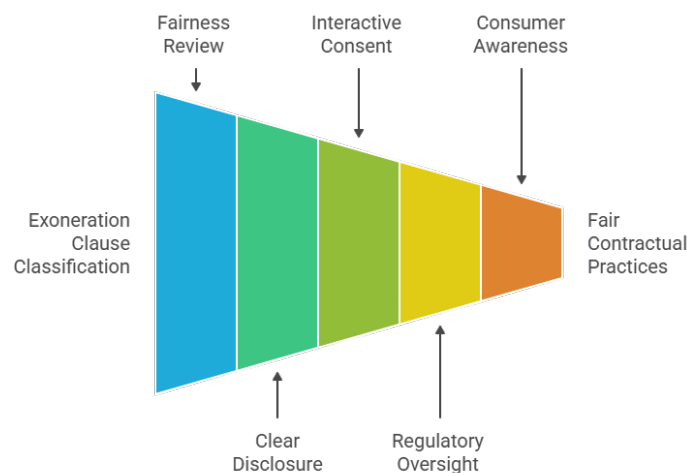
In contrast, the right side of the scale representing international consumer law shows a more robust and supportive legal environment. It is characterized by stricter regulations, which ensure that businesses adhere to high standards of consumer protection; prioritized consumer rights, where legal frameworks explicitly empower consumers; and strong institutional support, including well-functioning agencies and dispute resolution bodies. The imbalance depicted in the scale metaphorically underscores the need for Indonesia to strengthen its regulatory mechanisms, enforcement consistency, and institutional capacity to align more closely with global best practices in consumer protection.

### Proposed Legal Reform: A Normative Framework for Fair Contracting

To bridge the gap between legal theory and contractual practice, this study proposes a normative framework for assessing the validity of exoneration clauses in freight forwarding agreements. First, such clauses should be classified into three categories: (1) **void clauses**, which eliminate liability for negligence or gross fault; (2) **conditional clauses**, which allocate risk but are subject to mutual consent and clear disclosure; and (3) **permissible clauses**, which outline limitations within reason and do not infringe upon statutory rights. Second, all clauses should be subject to a *fairness review* based on the consumer's ability to understand, negotiate, and reject the terms without penalty.

Moreover, logistics providers should be mandated to present such clauses in clear, understandable language, with visual emphasis (e.g., bold text) and explicit consumer acknowledgement before acceptance. In the case of digital platforms, regulatory authorities should require interactive consent mechanisms that explain the risks of the clause. This approach aligns with both the *principle of informed consent* in contract law and the *transparency requirements* under international consumer protection norms.

From a regulatory standpoint, the Ministry of Trade and the National Consumer Protection Agency (BPKN) must strengthen their monitoring functions and issue sector-specific regulations to prevent the blanket use of exoneration clauses. Enforcement bodies like BPSK should also receive enhanced procedural training to adjudicate freight-related disputes effectively. Finally, consumer awareness programs should be intensified, especially targeting digital users who rely heavily on logistics services but lack familiarity with contractual rights.



**Figure 4.** Ensuring Fairness in Exoneration Clauses

The figure titled "Ensuring Fairness in Exoneration Clauses" illustrates a progressive framework designed to transform problematic exoneration clauses into fair contractual practices. It begins on the left with the classification of exoneration clauses, which involves identifying and categorizing the types of liability-limiting provisions found in contracts, especially in freight forwarding agreements. This classification is the first step in addressing potential imbalances in consumer contracts and sets the foundation for further regulatory and ethical evaluation.



The process then moves through several interconnected stages to promote fairness. The fairness review assesses whether the clauses align with legal and ethical standards, ensuring that they do not unfairly disadvantage consumers. This is followed by interactive consent, which requires that consumers actively understand and agree to such clauses, rather than being passively bound by them. Enhancing consumer awareness is crucial in this context, empowering individuals with the knowledge needed to recognize unfair terms. Simultaneously, clear disclosure ensures that contractual terms are presented in a transparent and understandable manner, while regulatory oversight provides institutional monitoring and enforcement to prevent abuse. Together, these elements culminate in fair contractual practices, representing a balanced and legally sound agreement structure where consumer rights are respected and protected. The figure thus presents a holistic strategy for reforming how exoneration clauses are used, emphasizing procedural justice, informed consent, and regulatory safeguards.

### **Synthesis and Implications for Policy and Legal Scholarship**

This study reveals that exoneration clauses in freight forwarding contracts, as currently implemented in Indonesia, undermine the doctrinal principles of fairness, legal accountability, and economic efficiency. The contractual imbalance created by these clauses, coupled with institutional and educational shortcomings, places consumers at significant legal and practical disadvantage. Legal theory whether viewed through the lens of contract doctrine, bargaining inequality, or economic analysis converges in concluding that these clauses must be strictly regulated or declared void.

The implications for policy are substantial. There is a pressing need to revise Indonesia's consumer protection framework to explicitly address freight forwarding contracts, integrate international best practices, and equip enforcement bodies with clearer guidelines. For legal scholarship, this study fills a doctrinal gap by providing a focused, theory-informed analysis of a contractual issue that has been overlooked in the logistics sector. It proposes a viable model for reform that balances consumer rights with business predictability, offering a valuable reference for legislators, regulators, and judicial authorities.

### **DISCUSSION**

The Sidoarjo District Court Decision No. 199/Pid.Sus/2023/PN Sda reaffirmed that the disposal of hazardous waste without a permit constitutes a criminal offense, even in the absence of demonstrable environmental damage. This conclusion was based on the application of Article 104 in conjunction with Article 60 of Law No. 32 of 2009 on Environmental Protection and Management (Presiden Republik Indonesia, 2009). The factual basis of the ruling was supported by witness testimony, inspection reports prepared by environmental supervisory officials, and internal company records confirming that no license for hazardous waste management had been issued for the Fly Ash and Bottom Ash (FABA) disposal site. Although laboratory results indicated that the toxicity level of FABA was relatively low, the court maintained that its legal classification as hazardous waste was sufficient to establish criminal liability. This reasoning reflects a formalistic approach that emphasizes administrative compliance as the foundation of criminalization.

The judicial reasoning adopted a textual and normative juridical method, with explicit reliance on Article 60 of the Environmental Protection Law. The court did not consider potential environmental risks or damage, relying instead on deductive reasoning centered on statutory compliance. Nonetheless, the court implicitly applied identification theory by attributing liability to the corporation through its director, Johnny Hidajat, whose decisions and actions were deemed to represent the will of the company. This reasoning illustrates an attempt to reconcile strict liability with corporate accountability, although the analysis remained narrowly focused on individual responsibility.

Doctrinally, the ruling reflects a hybrid model of corporate criminal liability. The application of strict liability, as stipulated under Articles 60, 88, and 104 of Law No. 32 of 2009, demonstrates that malicious intent (*mens rea*) is unnecessary, with liability arising solely from non-compliance

with statutory obligations. At the same time, by prosecuting the director, the court adopted the identification theory. However, the analysis did not extend to broader elements of corporate governance, internal control mechanisms, or organizational culture. This limitation underscores the absence of a vicarious liability or aggregation theory framework, thereby restricting culpability to the personal level rather than addressing systemic or structural corporate failures (Inayah, 2020; Wijaya & Dzaki, 2023). In practice, this approach may present challenges in cases involving systemic negligence or procedural deficiencies, which cannot be adequately addressed through individual identification alone.

The ratio decidendi of the ruling rests on two key propositions: the disposal of hazardous waste without a valid permit constitutes a criminal offense regardless of whether environmental harm occurs, and corporate directors, when acting in their official capacity, may serve as the locus of corporate liability. These propositions establish environmental permits as substantive legal instruments rather than procedural formalities. Such a position aligns with the underlying philosophy of Indonesian environmental law, which emphasizes prevention and precaution, even though the court did not explicitly invoke the precautionary principle, sustainability, or intergenerational justice as outlined in Articles 2 and 3 of the Environmental Protection and Management Law (Presiden Republik Indonesia, 2009). In doing so, the court reinforced the view that administrative compliance forms the core of environmental protection, rather than merely a technical requirement.

Despite its statutory consistency, the ruling demonstrates limitations in explicitly integrating fundamental principles of environmental law. The precautionary principle and the polluter pays principle could have enriched the reasoning by situating the case within a broader normative framework of ecological justice. By restricting the analysis to procedural legality, the court missed an opportunity to incorporate moral reasoning and societal values into its decision. As Dworkin and MacCormick argue, judicial rulings should not only adhere to legal texts but also embody principles of fairness and justice. The absence of teleological reasoning renders the decision legally sound but philosophically incomplete.

The decision carries significant implications for the development of Indonesian environmental jurisprudence. It confirms that corporations may be held criminally liable under a strict liability regime, yet its failure to address structural corporate deficiencies risks undermining its precedential value. A more integrative doctrine is required one that combines individual accountability with organizational analysis. Legal reforms should also provide clearer guidance for courts in assessing collective corporate fault, including the evaluation of environmental audits, risk management systems, and evidence of cultural or systemic non-compliance.

Moreover, strengthening judicial capacity in environmental legal reasoning is imperative. Training in environmental jurisprudence would enable judges to balance textual interpretation with ecological and teleological perspectives. As demonstrated by (Soekiman et al., 2025) in the realm of public policy, institutional coherence and adaptive learning are critical for effective regulation. The same principle applies to environmental adjudication, where legal interpretation must respond to ecological complexities while reinforcing corporate accountability.

In conclusion, Decision No. 199/Pid.Sus/2023/PN Sda represents a meaningful advancement in the enforcement of strict liability within Indonesian environmental law, affirming the substantive role of permits as instruments of legality. However, the ruling's limitations lie in its narrow focus on individual culpability and its failure to incorporate broader environmental principles. Moving forward, Indonesian courts should expand their legal reasoning methodologies by embracing more comprehensive doctrines of corporate liability and by integrating environmental principles to establish a jurisprudence that is not only normatively coherent but also ecologically just and globally relevant.

## **CONCLUSIONS**

This study critically examined the use of exoneration clauses in freight forwarding agreements in Indonesia from the perspective of consumer protection law. The research found

that many standard-form contracts issued by logistics providers, such as JNE, TIKI, and SiCepat routinely include clauses that exempt the service provider from liability for loss or damage, even in cases of negligence. This practice directly conflicts with the mandates of Law No. 8 of 1999 on Consumer Protection (UUPK), particularly Articles 4, 7, 18, and 19, which prohibit contractual terms that shift responsibility to consumers or waive service obligations. Despite these legal safeguards, exoneration clauses persist due to enforcement gaps, limited consumer awareness, and the non-negotiable nature of digital contracts.

The study also found that the widespread application of such clauses violates essential principles of contract law, including freedom of contract, good faith, and contractual justice. Consumers, often lacking the ability or opportunity to negotiate these terms, are subjected to contractual imbalances that challenge both legal legitimacy and economic efficiency. The findings underscore a disconnect between normative legal frameworks and actual contracting practices, calling for doctrinal clarity and structural reform. The current state of legal enforcement remains fragmented, allowing unfair clauses to prevail and limiting consumers' access to meaningful remedies.

Theoretically, this research reinforces the relevance of several critical legal doctrines in understanding and reforming consumer contracts. Drawing from Robert Hale's theory of bargaining inequality, the study demonstrates that exoneration clauses in logistics contracts are not simply expressions of contractual freedom but are often coercive tools used in asymmetrical relationships. The law and economics perspective further supports the argument that such clauses reduce service quality, undermine market efficiency, and generate negative externalities by allowing businesses to operate without sufficient accountability. Thus, legal doctrines must evolve to ensure that formal contractual freedom does not come at the expense of substantive fairness.

Practically, the study proposes a normative model for legal reform, including the classification of exoneration clauses into void, conditional, and permissible categories. The model also recommends interactive consent mechanisms in digital platforms, fairness reviews of liability clauses, and clearer disclosure obligations. Regulatory bodies such as the Ministry of Trade and BPKN are urged to develop sector-specific guidelines, strengthen monitoring, and provide legal literacy programs tailored to digital consumers. In doing so, Indonesia can move toward a more equitable legal framework that supports both consumer rights and contractual legitimacy in the logistics sector.

## SUGGESTIONS

In response to the findings, this study recommends a multifaceted legal reform agenda that integrates doctrinal analysis with regulatory and technological innovation. Freight forwarding contracts must be scrutinized not only for their legality but also for their fairness, transparency, and economic rationality. Legal education campaigns should be intensified to inform consumers of their rights under UUPK, particularly in sectors where online standard contracts dominate. Moreover, dispute resolution institutions like BPSK must receive adequate support and training to interpret exoneration clauses in line with consumer protection principles.

Future research should explore empirical analyses of consumer experiences and dispute outcomes related to exoneration clauses in freight forwarding and adjacent industries such as e-commerce, insurance, and banking. Comparative studies with jurisdictions that have successfully regulated unfair standard clauses could also provide actionable insights for Indonesian lawmakers. Additionally, interdisciplinary research combining legal, behavioral, and data science perspectives could further illuminate how consumers interact with digital contracts and how to design more effective legal safeguards in an increasingly digitized economy.

## REFERENCES

- Arofah, S. N., Sabila, F., Luthfiyah, A., Solichin, S., & Andri, G. Y. (2024). Ambiguous Genitalia Causing Principle of Utmost Good Faith in Insurance Agreements' Violation. *Indonesian Journal of Multidisciplinary Science*, 3(8). <https://doi.org/10.55324/ijoms.v3i8.881>

- Bernardus, D., Arisa, F., Sufa, S. A., & Oka, D. (2024). *Supporting Start-ups in Indonesia : Examining Government Policies , Incubator Business , and Sustainable Structure for Entrepreneurial Ecosystems and Capital*. 5(1), 236–259.
- Bulat, I., & Pichko, R. (2020). Civil Legal Aspects of the Recodification of Intellectual Property Rights. *E3s Web of Conferences*, 168, 23. <https://doi.org/10.1051/e3sconf/202016800023>
- Christie, D. S., Saintier, S., & Viven-Wilksch, J. (2022). Industry-Led Standards, Relational Contracts and Good Faith: Are the UK and Australia Setting the Pace in (Construction) Contract Law? *Liverpool Law Review*, 43(2), 287–310. <https://doi.org/10.1007/s10991-022-09307-5>
- Dewi, R. S., Surjanti, S., Widowati, W., S. B. S. E., & Pangestuti, E. (2022). The Role of Mediators in ASEAN Trade Disputes in Consumer Protection Law Perspective. *Proceedings of the International Seminar on Business Education and Science*, 1, 241–251. <https://doi.org/10.29407/int.v1i1.2648>
- Hapsari, D. R. I., & Kurniawan, K. D. (2020). Consumer Protection in the Banking Credit Agreement in Accordance With the Principle of Proportionality Under Indonesian Laws. *Fiat Justisia Jurnal Ilmu Hukum*, 14(4), 337–352. <https://doi.org/10.25041/fiatjustisia.v14no4.1884>
- Hutchinson, T., & Duncan, N. (2012). Defining and Describing What We Do: Doctrinal Legal Research. *Deakin Law Review*, 17(1), 83. <https://doi.org/10.21153/dlr2012vol17no1art70>
- Iefimova, G., Марущак, С., & Pashchenko, O. V. (2021). Planning the Maritime Company's Development on the Basis of Its Economic Security Level. *Economic Innovations*, 23(2(79)), 76–86. [https://doi.org/10.31520/ei.2021.23.2\(79\).76-86](https://doi.org/10.31520/ei.2021.23.2(79).76-86)
- Irawati, J., & Hutagalung, K. G. K. (2023). Standard Clauses in Vehicle Purchase Credit Agreements in Indonesia: An Examination of Consumer Protection and Legal Enforcement. *Journal of Judicial Review*, 25(2), 255. <https://doi.org/10.37253/jjr.v25i2.8589>
- Kapoor, R., & Shyamsundar, P. (2023). Informalization of the Formal Sector: Evidence From India's Manufacturing Industries. *Iza Journal of Development and Migration*, 14(1). <https://doi.org/10.2478/izajodm-2023-0005>
- Kovalenko, H. (2023). The Significance of Legal Pragmatism and Economic Analysis of the Law for the Theory of Adjudication in the Conditions of Social Life. *The Bulletin of Yaroslav Mudryi National Law University Series Philosophy Philosophies of Law Political Science Sociology*, 1(56). <https://doi.org/10.21564/2663-5704.56.274317>
- Kristiyani, C. T. S. (2020). Consumer Legal Efforts Due to Abuse of Circumstances (Misbruik Van Omstandigheden) in Standardized Agreements. *Notariil Jurnal Kenotariatan*, 5(1), 1–7. <https://doi.org/10.22225/jn.v5i1.1729>
- Majeed, N., Hilal, A., & Khan, A. N. (2012). *Doctrinal Research in Law: Meaning, Scope and Methodology*. 12(4), 135–142.
- Presiden Republik Indonesia. (1999). Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen. *Peraturan Pemerintah Republik Indonesia*, 2003(1), 1–46.
- Purnomo, H., M. Arfani, Shadiq, T. F., Brumadyadisty, G., & Asnawi, A. (2024). Adapting And Resilient: How Indonesian Consumers Navigate E-Commerce Restrictions In The Post-Pandemic Retail Industry. *Journal of International Multidisciplinary Research*, 2(7), 253–272. <https://doi.org/10.62504/jimr739>
- Rahmah, M., Simanjuntak, M., Sari, A. M., & Johan, I. R. (2023). The Study of Program and Roles of National Consumer Protection Agency Using Qualitative and Quantitative Approaches. *Journal of Child Family and Consumer Studies*, 2(3), 209–222. <https://doi.org/10.29244/jcfcs.2.3.209-222>
- Sari, V. K., & Prastyani, D. (2021). The Impact of the Institution on Economic Growth: An Evidence From ASEAN. *Jurnal Ekonomi Pembangunan*, 19(1), 17–26. <https://doi.org/10.29259/jep.v19i1.12793>
- Serohin, V., Serohina, S., Гришко, Л., & Danicheva, K. (2021). Recognizing and Implementing International Human Rights Standards in Domestic Legislation: An Exposure Under Ukrainian Law. *Ius Humani Law Journal*, 10(2), 161–176. <https://doi.org/10.31207/ih.v10i2.291>

- Syafrida, S., & Hartati, R. (2021). Legal Protection of Consumer Rights Based on Article 18 Consumer Law Protection and the Implementation of Balance and Proportionality Principles in Raw Clausula. *JHR (Jurnal Hukum Replik)*, 9(1), 26. <https://doi.org/10.31000/jhr.v9i1.4261>
- Syam, M., Ismansyah, I., Azheri, B., & Hasbi, M. Z. N. (2021). Consumer Protection Enforcement Law Characteristics on Civil Law Aspects in Indonesia. *Linguistics and Culture Review*, 5(S2), 1471–1481. <https://doi.org/10.21744/lingcure.v5ns2.1976>
- Taklima, M., Sulistiyono, A., & Syamsudin, M. (2023). Consumer Protection as an Instrument for Fulfilling Human Rights in the Economic Sector and Its Constitutionalizing Efforts in the 1945 Constitution. *Jurisdictie Jurnal Hukum Dan Syariah*, 14(1), 75–105. <https://doi.org/10.18860/j.v14i1.20844>
- Wiener, N. (2020). Labor Market Segmentation and Immigrant Competition: A Quantal Response Statistical Equilibrium Analysis. *Entropy*, 22(7), 742. <https://doi.org/10.3390/e22070742>
- Wijaya, R., Sarmini, S., Jatiningsih, O., Setyowati, Rr. N., Listyaningsih, & Huda, M. (2023). Exoneration Clause as Limitation of Criminal Liability in Digital Business in Indonesia. *Technium Social Sciences Journal*, 50, 116–121. <https://doi.org/10.47577/tssj.v50i1.9877>