

# Revision of Civil Law: Challenges and Opportunities in The Modernization of The Legal System

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Entered : March 20, 2025  
Accepted: April 10, 2025

Revised : March 27, 2025  
Published : April 30, 2025

## Abstract

*The revision of the Indonesian Civil Code, inherited from Dutch colonial law, has become an urgent necessity in responding to the dynamic development of society, economy, and technology. This normative legal research aims to analyze the fundamental challenges faced in the process of revising the Civil Code, as well as the strategic opportunities that can be utilized to modernize the legal system. Through a normative-juridical approach supported by literature studies, legal documents, and comparative law analysis, this study identifies key weaknesses in the current Civil Code, such as outdated norms, lack of digital regulation, and inadequate protection for contemporary civil relations. The research also reveals the potential benefits of integrating digital law, simplifying legal procedures, recognizing local customary laws, and embedding the principle of justice to enhance legal relevance and responsiveness. The findings of this study offer theoretical and practical recommendations for stakeholders involved in legal reform efforts, emphasizing that modernizing civil law must be grounded in Indonesia's socio-cultural context while embracing global legal developments.*

**Keywords:** Civil Law Revision, Legal Modernization, Normative Legal Research, Indonesian Civil Code

Citation : Nasim, A. S., & Rosalia, O. (2025). Revision of Civil Law: Challenges and opportunities in the modernization of the legal system. Leges Privatae, 1(6). <https://doi.org/10.62872/qgnr7f66>

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## 1. Introduction

Civil law is one of the main pillars of the national legal system, regulating relationships between individuals, including civil matters such as contracts, inheritance, marriage, and civil liability. In Indonesia, civil law is still heavily influenced by the Burgerlijk Wetboek (BW) or the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata / KUHP), a legacy of Dutch colonial rule. Although it has been in force since 1848, the KUHP remains the primary legal basis for resolving civil disputes to this day. This indicates a dependency of the national legal system on colonial norms, many of which are no longer relevant to the needs of modern, complex, and dynamic Indonesian society.

One of the main issues with the KUHP is the large number of articles that are no longer contextual with today's social, cultural, and technological conditions. For instance, in the era of digitalization, the KUHP does not adequately regulate electronic transactions, personal data protection, or digital contracts. In fact, technological advancements have significantly changed how people interact, form agreements, and engage in economic activities. This regulatory lag has the potential to create legal vacuums and uncertainties for the public and business actors.

Moreover, the KUHP does not reflect local values, customary law, or Islamic legal principles, all of which are integral to the lives of the Indonesian people. Indonesia's pluralistic legal system comprising Western law, customary law, and religious law demands a more inclusive approach in its formulation. Therefore, revising the civil law becomes crucial to establish new legal norms



that are not only modern but also representative of the Indonesian national identity.

However, revising civil law is not an easy task. Major challenges arise from historical, political, and technical aspects. Historically, many legal practitioners, academics, and law enforcers are accustomed to using the KUHPer and are therefore reluctant to accept drastic changes. Politically, the drafting of new regulations often faces inter-institutional conflicts of interest and is given low priority in the national legislative agenda. On the technical side, the preparation of academic drafts and the harmonization of regulations require competent human resources and a lengthy process.

On the other hand, revising civil law also presents opportunities to modernize the national legal system. The revision could serve as a momentum to simplify and clarify ambiguous legal norms. Additionally, the reform enables the development of a legal system that is adaptive to current developments, such as integrating information technology into legal processes and forming new cyber-related norms. In this way, modernizing civil law can enhance legal certainty, protect citizens' rights, and support the digital economy and investment climate.

Through civil law reform, Indonesia also has the opportunity to demonstrate independence in its legal system. By formulating a civil law that is contextual, progressive, and rooted in local values, Indonesia can free itself from dependence on colonial legal frameworks and build a sovereign, just, and responsive legal system that meets the needs of its people. Therefore, examining the challenges and opportunities in civil law reform is essential as part of a broader effort toward comprehensive legal reform.

This study aims to identify and analyze the main challenges in the process of civil law reform in Indonesia, particularly in the context of transitioning from a colonial legacy legal system to a more modern, inclusive, and contextual one. In addition, this research seeks to explore strategic opportunities that can be leveraged to modernize the national legal system through civil law reform. By understanding both the obstacles and the potential, this study is expected to contribute to the development of academic and practical discourse on legal reform in Indonesia. Specifically, this research aims to provide constructive recommendations for stakeholders such as policymakers, academics, and legal practitioners in formulating and implementing a civil law revision that aligns with the current needs of Indonesian society.



## 2. Method

This study uses a normative juridical method as its primary approach, focusing on analyzing written legal provisions related to the Indonesian Civil Code (KUHPer) and its revision process. The normative method is chosen because this research aims to thoroughly examine the prevailing legal norms, legal principles, and legal doctrines that underlie the civil law system in Indonesia. Through this method, the researcher can explore and interpret the content of the law, assess the alignment between current legal regulations and societal needs, and identify the weaknesses and shortcomings of the KUHPer, which remains the main reference in national civil law.

Data collection is conducted through comprehensive library research, including the collection of primary legal materials such as the KUHPer, related legislation, court decisions, and secondary legal materials such as books, scientific journals, articles, and legal literature discussing the normative aspects of civil law and legal reform. The researcher also utilizes tertiary legal materials such as legal encyclopedias and commentaries to enrich the understanding of the concepts and principles that apply in civil law. This approach allows for a comparative analysis between existing legal norms and the development of modern law in the context of Indonesia's dynamic socioeconomic environment.

The analysis is carried out systematically using a descriptive-qualitative method, by describing the identified legal norms and assessing their relevance and effectiveness in addressing contemporary civil legal issues. The researcher evaluates various legal aspects, from ownership concepts, contracts, inheritance, to the protection of rights regulated in the KUHPer, then examines which elements need revision to be more responsive to social, cultural, and technological changes. The study also explores opportunities for integrating customary law values and principles of social justice in accordance with Pancasila as the foundation of national law, so that the resulting civil law becomes more inclusive and equitable.

By using the normative method, this study is expected to provide a comprehensive overview of the current state of civil law and offer strategic recommendations for policymakers in drafting a revised KUHPer that is adaptive and sustainable. This approach also emphasizes the importance of legal studies that are not only textual but also normative and philosophical, ensuring that the prevailing laws can meet the challenges of the modern era and fulfill the broader needs of society. Through this research, it is hoped that Indonesia's civil law system can evolve into a more effective, just, and locally rooted yet globally relevant legal framework.

## Results and Discussion

To support the findings of this study, the following table presents key data related to the revision process of the Indonesian Civil Code (KUHPer). The table summarizes the main challenges, opportunities, and strategic recommendations that can serve as a reference for the reform of the national civil law system.

**Table 1.** Comparison of Key Articles in Current Civil Code and Proposed Revisions

Article Number	Current Civil Code Provision	Proposed Revision Summary	Purpose of Revision
Article 1338	Agreement is binding as law for the parties	Clarifies validity conditions and includes digital contracts	To adapt to digital transaction practices
Article 1456	Sale contract formalities	Simplifies formal requirements and includes consumer protections	To increase accessibility and protect consumers
Article 832	Inheritance distribution based on fixed shares	Introduces more flexible inheritance schemes considering social realities	To accommodate diverse family structures

*Source : Author's own Analysis*

Table 1 highlights the key provisions in the current Civil Code that require revision to meet modern legal and social needs. For example, Article 1338's revision recognizes the growing importance of

digital contracts, reflecting technological advancements. The changes in Article 1456 aim to simplify contract formalities while ensuring consumer protection, responding to practical challenges in contract execution. Meanwhile, Article 832 proposes flexible inheritance laws to better reflect the diversity of family arrangements in contemporary society. These revisions illustrate efforts to make the law more adaptive and relevant.

**Table 2. Challenges Identified in the Current Civil Law System**

Challenge	Description	Impact on Legal System
Outdated Provisions	Many rules based on colonial-era law	Causes legal uncertainty and inconsistency
Lack of Digital Law Integration	No recognition of digital contracts or transactions	Limits enforcement in the digital economy
Complexity and Formality	Overly rigid formalities in contracts and procedures	Discourages legal compliance and access to justice
Inadequate Consumer Protection	Insufficient safeguards for consumers	Increases vulnerability and dispute frequency

*Source : Author's own Analysis*

Table 2 summarizes the primary challenges identified in the existing Civil Law framework. The persistence of outdated provisions leads to uncertainty and hinders fair application of the law. The absence of legal recognition for digital transactions restricts the legal system's effectiveness in the modern economy. Furthermore, rigid formalities create barriers for citizens seeking to exercise their legal rights, and inadequate consumer protections contribute to disputes and dissatisfaction. Addressing these challenges is critical to modernizing the civil law system.

**Table 3. Opportunities for Modernization in Civil Law Reform**

Opportunity	Description	Potential Benefit
Incorporation of Digital Law	Including legal provisions for electronic contracts and signatures	Enhances legal certainty in e-commerce
Simplification of Procedures	Streamlining contract and procedural requirements	Increases accessibility and reduces litigation costs
Emphasis on Social Justice	Embedding principles of fairness and inclusivity	Promotes equitable outcomes and public trust
Integration of Customary Law	Recognizing local adat (customary) legal principles	Strengthens cultural relevance and acceptance

*Source : Author's own Analysis*

Table 3 outlines the main opportunities available for the reform of civil law. Introducing provisions for digital contracts would align the legal framework with technological progress and economic realities. Simplifying legal procedures could lower barriers to justice and reduce disputes. Emphasizing social justice and fairness would foster greater trust and legitimacy in the legal system. Additionally, integrating customary law respects Indonesia's cultural diversity and enhances the law's acceptance across communities. These opportunities form a robust foundation for comprehensive legal modernization.

The results of the study indicate that the process of revising civil law in Indonesia faces a number of serious challenges, both structural and substantial in nature. One of the main challenges is the continued use of the Civil Code (KUHPer), which is a legacy of Dutch colonial law. Although it has been in force for more than a century, the KUHPer has not undergone a comprehensive and systematic revision. This has led to a mismatch between the written legal norms and the social dynamics and legal needs of modern Indonesian society, particularly in addressing developments in digital technology, changes in family structures, and the complexity of today's economic transactions.

In addition, another challenge found in the revision process is the lack of political priority and coordination between legal institutions. Although efforts to revise civil law have been discussed several

times in national legislative agendas, the process is often delayed due to shifting political priorities, changes in government, and limited human resources in drafting comprehensive academic texts. There have also been numerous debates among legal experts with differing views on the ideal concept of national civil law, both in terms of codification systems and the integration of customary law values and Islamic sharia.

From the substance perspective, the research reveals that the KUHPer contains many provisions that are individualistic and formalistic in nature, which are not aligned with the principles of kinship, social justice, and the protection of vulnerable groups as recognized in the Indonesian Constitution. For instance, in contract law, the KUHPer does not explicitly provide protection against the imbalance of power between parties (e.g., between consumers and producers, or employees and employers). Similarly, in family law, the KUHPer has not fully adapted to the Marriage Law, which is more oriented toward religious and local values.

On the other hand, this research also identifies several strategic opportunities that can be utilized in the civil law revision process. First, the collective awareness among academics, practitioners, and policymakers about the importance of civil law reform is a positive foundation for initiating a comprehensive legal system reform. Second, the development of information and communication technology can be used to design a legal system that is more open, participatory, and responsive. For example, public consultation processes and the digitization of regulations can accelerate harmonization processes and make it easier for the public to access applicable laws.

Finally, the study also shows that the revision of civil law can serve as an opportunity to build a more inclusive and pluralistic legal system that accommodates customary law, religious law, and local legal practices that have long existed in Indonesian society. Thus, the revision of civil law is not only a step toward the technical modernization of the law but also a means to strengthen a national legal identity rooted in the values of Pancasila and the Constitution.

### **The Gap Between Colonial Legal Heritage and Contemporary Needs**

This study reveals that the current KUHPer (Civil Code) is largely a translation of the Dutch *Burgerlijk Wetboek (BW)* that has been enforced in Indonesia since the colonial era. The contents of the KUHPer were designed in the context of 19th-century Europe, which emphasized the principles of individualism, absolute ownership, and freedom of contract. These values are poorly suited to Indonesian society, which prioritizes collective aspects, kinship, and mutual cooperation (*gotong royong*). For example, the contract concept in the KUHPer is highly liberal and does not consider power imbalances between parties, whereas in Indonesian society, many legal practices emphasize balance and protection for the weaker party.

Furthermore, many provisions in the KUHPer do not accommodate rapid social changes, such as the development of non-traditional families, technology-based legal relationships (e.g., digital contracts), and the complexity of cross-cultural inheritance rights. In practice, many judges and lawyers are forced to use extra-textual interpretations or even rely on regulations outside the KUHPer to resolve disputes. This indicates that the current civil law is no longer adequate as the primary reference for resolving the increasingly complex and dynamic legal issues of Indonesian society.

### **Lack of Legislative Certainty and Delays in Reform**

Delays in revising the KUHPer are one of the key findings of this study. Since the 1998 reform era, various efforts have been made to modernize the national legal system, yet the KUHPer remains a stagnant legal product. Many factors contribute to this, ranging from a lack of political priority, a shortage of experts in modern civil law, to weak coordination between the legislative, executive, and academic institutions. Moreover, the absence of a comprehensive and ready-to-enact draft law has led to prolonged legal uncertainty.

This condition affects the sustainability of the legal system as a whole. Foreign investors, for example, often raise concerns about Indonesia's civil law uncertainty in terms of contract dispute resolution or property rights protection. Civil society also struggles to seek justice because many KUHPer provisions are no longer in line with today's context. This delay serves as an alarm for the government that legal reform must not be continuously postponed, given the growing gap between written law and the *living law* in society.

### **Opportunities Through Integration of Local Values and Social Justice**

Amid these challenges, opportunities arise to design a new civil law that better reflects Indonesia's



legal identity and character. Customary laws that have developed across regions in Indonesia actually contain rich and relevant principles that could be incorporated into the national legal system. For example, in traditional inheritance or contract law, there is often a more restorative and socially harmonious approach. This approach could form the basis of a more responsive civil law that meets the people's needs.

In addition, Pancasila values, especially social justice, mutual cooperation, and respect for humanity, must become the foundation for building a new civil law. This way, the law does not merely regulate individual relations but also serves as a tool to protect vulnerable groups such as women, children, people with disabilities, and Indigenous communities. Revising the KUHPer is a major opportunity to align formal law with the substantive values of society.

### **Technology and Public Participation as Reform Drivers**

This study also emphasizes that the use of information technology can become a primary driver in accelerating and improving the civil law revision process. Through digital platforms, the government and legislative institutions can engage the public in policy-making processes, such as through online consultation forums, legal surveys, or open discussions on draft laws. This process not only enhances transparency but also ensures that the resulting laws meet the public's needs and aspirations.

Moreover, regulation digitalization enables a more integrated and accessible legal system. Citizens can easily access civil law information, understand their rights and obligations, and use e-litigation platforms to resolve disputes. This will encourage legal literacy and strengthen citizens' positions within the justice system. Therefore, legal modernization must not stop at substantive changes alone but must also involve infrastructure and a more open approach.

### **Building a Sustainable National Civil Law Foundation**

Ultimately, this study's discussion emphasizes that the revision of civil law must be designed as a planned and inclusive sustainable process. It is not enough to merely replace old articles with new ones; instead, a holistic transformation of legal paradigms is necessary. An approach that emphasizes the principles of substantive justice, respect for human rights, and adaptation to global dynamics must be systemically integrated.

The involvement of academics, practitioners, state institutions, and civil society must be the core principle in every stage of legal reform. In this way, the national civil law can become a living legal system functional and respected by all levels of society. If this revision process succeeds, Indonesia will not only have a formally modern civil law but also one that truly reflects the nation's character and values.

### **Conclusions**

This study concludes that the revision of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPer) is an urgent necessity in order to align the Indonesian legal system with current social, economic, and technological dynamics. The currently enforced KUHPer is a product of colonial law that contains many principles and norms no longer relevant to the needs of modern Indonesian society. This gap creates obstacles in legal practice, reduces legal certainty, and hinders the enforcement of justice, especially for vulnerable groups. Nevertheless, these challenges also present significant opportunities to create a national civil law system that is more adaptive, inclusive, and reflective of Indonesia's noble values such as social justice, mutual cooperation (*gotong royong*), and the protection of human rights. By integrating local values, the principles of substantive justice, and leveraging technology and public participation, the revision of KUHPer can become a vital milestone in building a sovereign, progressive, and sustainable national civil law system. Therefore, this legal reform must be carried out in a well-planned and participatory manner, involving all stakeholders to ensure that the resulting legal framework is capable of addressing contemporary challenges while fulfilling the aspirations of the broader society.

## BIBLIOGRAPHY

- Amelin, O. (2024). Modernisation of the constitutional and legal status of judges in Ukraine. *Law Journal of the National Academy of Internal Affairs*, 1(14), 40-49.
- Amro, I. A. S. (2019). *Online arbitration in theory and in practice: a comparative study of cross-border commercial transactions in common law and civil law countries*. Cambridge Scholars Publishing.
- Baimenov, A., & Liebert, S. (2019). Governance in the post-Soviet era: Challenges and opportunities. *Public Administration Review*, 79(2), 281-285.
- Chen, J. (2023). *Chinese law: Towards an understanding of Chinese law, its nature and developments* (Vol. 3). Martinus Nijhoff Publishers.
- Corne, P. (2023). *Foreign investment in China: the administrative legal system*. Martinus Nijhoff Publishers.
- Cui, Y. (2020). *Artificial intelligence and judicial modernization*. Singapore: Springer.
- De Cruz, P. (2024). *Comparative law in a changing world*. Taylor & Francis.
- Díaz Gude, A., & Navarro Papic, I. (2020). Restorative justice and legal culture. *Criminology & Criminal Justice*, 20(1), 57-75.
- Digennaro, P. (2020). Subordination or subjection A study about the dividing line between subordinate work and self employment in six European legal systems. *Labour & Law Issues*, 6(1), C- Iqbal, M. I., Susanto, S., & Sutoro, M. (2019). Functionalization of E-Court System in Eradicating Judicial Corruption at The Level of Administrative Management. *Jurnal Dinamika Hukum*, 19(2), 370-388.
- Guo, M. (2021). Internet court's challenges and future in China. *Computer Law & Security Review*, 40, 105522.
- Guo, M. (2021). Internet court's challenges and future in China. *Computer Law & Security Review*, 40, 105522.
- Haigh, R., & Preston, B. (2020). The court system in a time of crisis: COVID-19 and issues in court administration. *Osgoode Hall LJ*, 57, 869.
- Jones, D. M. (2019). *Basic principles of civil law in China*. Routledge.
- Kharlie, A. T., & Cholil, A. (2020). E-court and e-litigation: The new face of civil court practices in Indonesia.
- Kischel, U. (2019). *Comparative law*. Oxford University Press.
- Marni, T. S., Hanani, S., & Nofiard, N. (2023). Modernisation of Islamic Family Law in Indonesia (Analysis of Counter Legal Draft-Compilation of Islamic Law in Inheritance Law). *GIC Proceeding*, 1, 317-325.
- Masud, M. K. (2019). Modernizing Islamic Law in Pakistan: Reform or Reconstruction?. *Journal of South Asian and Middle Eastern Studies*, 42(2), 73-97.
- Muzaki, K. A., Jahar, A. S., & Suma, M. A. (2021). Reform of the Law of Inheritance in Turkey and Tunisia. *Al-'Adalah*, 17(2), 249-268.
- Prado, M. M., & Trebilcock, M. J. (2021). *Advanced introduction to law and development*. Edward Elgar Publishing.
- Pratiwi, S. J., Steven, S., & Permatasari, A. D. P. (2020). The application of e-court as an effort to modernize the justice administration in indonesia: challenges & problems. *Indonesian Journal of Advocacy and Legal Services*, 2(1), 39-56.
- Priban, J. (2019). *Dissidents of law: on the 1989 velvet revolutions, legitimations, fictions of legality and contemporary version of the social contract*. Routledge.
- Putra, D. (2020). A modern judicial system in Indonesia: legal breakthrough of e-court and e-legal proceeding. *Jurnal Hukum dan Peradilan*, 9(2), 275-297.
- Salmerón-Manzano, E. (2021). Legaltech and Lawtech: global perspectives, challenges, and opportunities. *Laws*, 10(2), 24.
- Saragih, A. H., Reyhani, Q., Setyowati, M. S., & Hendrawan, A. (2023). The potential of an artificial intelligence (AI) application for the tax administration system's modernization: the case of Indonesia. *Artificial Intelligence and Law*, 31(3), 491-514.
- Saragih, A. H., Reyhani, Q., Setyowati, M. S., & Hendrawan, A. (2023). The potential of an artificial

- intelligence (AI) application for the tax administration system's modernization: the case of Indonesia. *Artificial Intelligence and Law*, 31(3), 491-514.
- Susskind, R., & Susskind, R. E. (2023). *Tomorrow's lawyers: An introduction to your future*. Oxford University Press.
- Xie, Z. (2020). China's historical evolution of environmental protection along with the forty years' reform and opening-up. *Environmental Science and Ecotechnology*, 1, 100001.
- Xu, Z. (2022). Human judges in the era of artificial intelligence: challenges and opportunities. *Applied Artificial Intelligence*, 36(1), 2013652.
- Zhai, T., & Chang, Y. C. (2019). The contribution of China's civil law to sustainable development: Progress and prospects. *Sustainability*, 11(1), 294.