
EXISTENCE OF ARTIFICIAL INTELLIGENCE FOR AUTOMATION OF CONTRACT FORMATION BASED ON THEORY CONTRACT LAW

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ABSTRACT

Artificial intelligent technology gives rise to contract automation. In contract law, intention is one of the principles of making contracts. In addition, contracts must also be formed based on the results of discussions and meetings of minds which result in accordance with the wishes or desires so that they can be included in a contract. Contract automation through Artificial Intelligent can be called a conflict of fundamental requirements for contract formation. The general contract law that has emerged through Artificial Intelligence does not take into account mental state and does not examine the true thoughts or intentions of the parties. Based on the explanation above this research aim is to find out Artificial Intelligent in contract formation based on the theory of contract law.

Law is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior in normative legal research with the goal of discovering facts that are used as research data relating to the existence of artificial intelligent for automation og contract formation based on contract theory contract law. This research method employs a statutory approach involving a review of all relevant laws and regulations. This type of research is also known as descriptive-analytical research because the findings are presented descriptively and analytically, so this method was chosen

The findings research, contracts formed using artificial intelligence are not legally binding, even if the technology underlying them advances. The technology that underpins them advances. Currently, despite the fact that computer programs or Artificial Intelligence create contracts. There is no authority to support any legal distinction based on the level of human involvement or program complexity. If the common law of contract is to

introduce a distinction depending on how the theory of contract law is based on the appearance of the intent of a person or legal entity in making the statements in the contract as intended."Unintended contracts," or contracts that do not arise from the intention of a person or legal entity and are not based on the fairness and trust theory, will be prohibited

KEYWORDS

Contract, law, Artificial intelligent



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INTRODUCTION

The degree of human participation in the economy has been steadily decreasing as technology has advanced. transacting process. Every day, millions of decisions are made based on information provided by computers, and millions of contracts are automatically, through the use of or with the assistance of computers.

In recent years, the advancement of artificial intelligence has started a new trend. DeepMind's AlphaGo defeated Chinese and South Korean Go masters in a man-machine competition in 2016 and 2017, demonstrating to the world the power of artificial intelligence (Curran, Nathaniel & Sun, Jingyi & Hong, Joo-Wha, 2020). Artificial intelligence has been widely and profoundly applied to society and our lives, gradually altering the operational scene and social relations model and becoming the driving force of industrial and social revolutions.

There are already Artificial Intelligence Judges and Artificial Intelligence Lawyers. Limited AI Judges were used in China in 2017 to handle digital-related legal disputes such as copyright disputes, e-commerce product liability claims, and online buying and selling disputes. According to the results of a contract understanding competition analyzed by Stanford University law professors, Duke University School of Law, and the University of Southern California, it was the first time an AI lawyer had beaten 20 American-trained human lawyers in identifying 5 agreements (Non-Disclosure Agreements) in analyzing similar information. 30 legal disputes involving arbitration, confidentiality, relationships, and damages were identified (Wan Yong, Lu Hongxuyang, 2021). An artificial intelligence lawyer, Law Geex AI, achieved 94 percent accuracy. Human lawyers, on the other hand, achieve only 85% accuracy. Law Geex AI completes its task in 26 minutes, 66 minutes faster than the average human time. Intelligent investment advisers, which can sign contracts and trade stocks on their own, are one example of artificial intelligence in finance that is already widely used on Wall Street in New York. These changes have posed new challenges to the legal system (Tanza Loudenback, 2023).

In Indonesia, the Law on Electronic Information and Transactions is one of the fundamental legal sources that governs technology in particular. Law No. 19 of 2016 on Amendments to Law No. 11 of 2008 on Electronic Information and Transactions. development and technological progress. Law 19/2016 has been entrusted with resolving all technological issues. However, Law 19/2016 does not go into great detail about what Artificial Intelligence entails. What does Artificial Intelligence mean? If Artificial Intelligence is linked to Law 19/2016, then Artificial Intelligence is only classified as Electronic Information, as explained in "Article 1 Point 1 of Law 19/2016". The meaning

of "Article 1 Point 1 of Law 19/2016" can be interpreted to mean that Artificial Intelligence is only classified as Electronic Information. can be interpreted as limiting Artificial Intelligence to legal objects and not viewing Artificial Intelligence as a legal subject. The legal status of artificial intelligence. a) "Sender"; b) "Recipient"; c) "Person"; d) "Business Entity"; e) "Government" are all legal subjects in Law 19/2016. In point c, the preamble of Law 19/2016 also allows Law 19/2016 to make changes or adapt and follow technological developments to new forms of legal acts. As a result, the position of Artificial Intelligence as a legal subject is not a dream or a fantasy; rather, the position of Artificial Intelligence as a legal subject is a reality. Artificial intelligence as a legal subject represents a shift, advancement, and breakthrough that enables the law itself (Frederik Zuiderveen Borgesius, 2018).

Legal subjects who can make legal actions or legal subjects contained in Indonesian positive law are "humans (natuurlijke persoon)" and "legal entities (rechtspersoon)" in theory. According to Salmond, "In legal theory, a person is a being whom the law regards as capable of rights and duties." Any being with such abilities is a person, even if he is a man." Legal subjects have human or non-human capacities that have been determined by law. The law did not recognize humans as legal subjects or persons during the era of slavery (Jean Allain and Robin Hickey, 2021). According to him, the law did not recognize humans as legal subjects or persons during the era of slavery. Meanwhile, non-humans defined by law can be viewed as legal subjects or persons with obligations and rights equal to humans.

This paper addresses this controversy, Artificial intelligent technology gives rise to contract automation. In contract law, intention is one of the principles of making contracts. In addition, contracts must also be formed based on the results of discussions and meetings of minds which result in accordance with the wishes or desires so that they can be included in a contract. Contract automation through Artificial Intelligent can be called a conflict of fundamental requirements for contract formation. The general contract law that has emerged through Artificial Intelligence does not take into account mental state and does not examine the true thoughts or intentions of the parties (Boris, 2022). Contracts, however, are legally legally enforceable agreement. The general contract law that has emerged through Artificial Intelligence does not take into account mental state and does not examine the true thoughts or intentions of the parties. Based on the explanation above, this research aims to find out Artificial Intelligent in contract formation based on the theory of contract law.

RESEARCH METHOD

This is normative legal research, which is legal research that examines applicable legal provisions and what happens in reality in society, or research conducted on the actual situation that occurs in society, with the goal of discovering facts that are used as research data relating to the existence of artificial intelligent for automation og contract formation based on contract theory contract law. (Willem at all, 2018). This research method employs a statutory approach involving a review of all relevant laws and regulations (McConville et al., 2017). This type of research is also known as descriptive-analytical research (Creswell J.W., 2015); because the findings are presented descriptively and analytically, so this method was chosen. This study collects primary and secondary data from written sources such as government documents, guidebooks, and published research results in reports, and diaries (Hamed Taherdoost, 2021). Like most legal research, focuses on secondary evidence, particularly written documents about the law: a) Primary sources of law, such as laws and relevant legal regulations, such as statutes, regulations, and legal limitations.

RESULT AND DISCUSSION

The Notions of Theory contract law

Consider the promise theory proposed by Charles Fried (Randy, 2022). It is considered to be one of the most influential contract theories. A promise, on the other hand, cannot describe what is notable or distinctive about a contractual obligation. Many contracts are formed without any promise as a foundation. However, what is especially relevant for us here is that there are many promises that are not legally binding but may be morally or socially binding outside of the law.

When we examine what makes a promise a contractual feature, we discover that it is the intention to create a legal relationship with the promise, manifested as an objective manifestation of mutual assent to contracting, that makes the promise a contractual feature, not the promise itself (Fried, Charles, 2023).

Will, reliance, efficiency, fairness, and bargain theories are the five theories. 5 -are most commonly used to explain which commitments should and should not be enforced. These contractual obligation theories are examples of three types of contract theories (Schwartz, A., and R. E. Scott, 2003). The will and reliance theories are partisan in nature. The theories of efficiency and fairness are standards-based. Processes are central to bargain theory. Each theory's flaws are inherent in its class.

Theories of Will. Commitments are enforceable under will theories because the promisor "willed" or chose to be bound by his commitment. "According to the classical view, contract law expresses and protects the parties' will, because will is something inherently worthy of respect." Using force against a reneging promisor is morally justified, according to this viewpoint, because the promisor herself has warranted the use of force through her prior exercise of will. A promisor cannot complain about the use of force against her because she agreed to it when she made the commitment.

Reliance Theories. Theories that explain contractual obligation as an effort to protect a promisee's reliance on the promises of others appear to explain why people can be bound by the common meaning of their words regardless of their intentions. As a result, it has become fashionable to assert that relying on a promise creates a contractual obligation. A reliance theory is based on the idea that we should be held liable in contract law for our assertive behavior when it causes "foreseeable" or "justifiable" reliance in others, similar to how we are held liable in tort law for the harmful consequences of other acts.

Theories of Efficiency. - The efficiency approach associated with "law and economics" is one of the most well-known standards-based legal theories. The maximization of some concept of social wealth or welfare is viewed as economic efficiency: "the term efficiency will refer to the relationship between the aggregate benefits of a situation and the aggregate costs of the situation (Fried, Charles, 2023)."

According to a substantive fairness theory, there can be found a value standard by which the substance of any agreement can be objectively evaluated. This type of criterion has yet to be articulated and defended. Substantive fairness theories rely on one or both of two incomplete approaches in the absence of such a criterion. On the one hand, such theories tend to focus their entire attention on a small subset of commitments deemed "extreme" enough to "shock the conscience" of the courts. The vast majority of real-world contracts are assumed to be enforceable. Such theories, on the other hand, are process-oriented, looking for either information asymmetries or "unequal bargaining power."

Questioning the Existence of Artificial Intelligence for automation of contract formation

Artificial means artificial in the English term "Artificial Intelligence," which is abbreviated AI, whereas intelligence is an adjective that means intelligent. Artificial intelligence was developed to mimic the functions of the human brain in terms of reasoning, thinking, knowledge, language comprehension, decision making, and problem solving. Artificial intelligence can learn from humans and then use that knowledge and think like humans to solve existing problems by simulating the reasoning process. Although it cannot accept researchers, experiences, or knowledge in the same way that humans can, Through the efforts of humans, Artificial Intelligence can obtain the knowledge it requires. It can be concluded that Artificial Intelligence was created with the goal of being equal to, if not exceeding, humans in assisting or replacing humans in performing an action. Thus, AI capable of carrying out legal actions cannot be classified as a legal object, but rather as a legal subject on par with other legal subjects.

As Will Theories, Contracts are made by humans, not computers, who use computers to automate various tasks involved in the transaction. To name a few, such tasks include data acquisition and analysis, price calculation, and offer submission. Despite the widespread use of Concerns about the legality of contracts formed with the assistance of computer programs continue to be expressed in legal scholarship, particularly if such programs fall under the amorphous category of Artificial Intelligence.

To realize the theory of efficiency and fairness in contract formation, it is necessary to have the approval of the parties who each have an important role in any effort to achieve economic or allocative efficiency. The idea of efficiency and justice requires a commitment that is based on a legal order. In contract law, one of the conditions in making a contract is the intention of the person or persons. People are given advantages, including reason and thoughts that are different from computers, robots, or programs. Intentions in the abstract remain a legal requirement in making contracts. In a contract that is not too selfish, the most important display is the contents of the contract and the things that form the background of the contract. Contracts can only be made based on the results of discussions and transactions between the parties so that it shows the value of an intention from both parties. Based on the objective theory, the agreed contract will lead to legal consequences which are the embodiment of intention. This will later appear in the statements, behavior, attitudes, actions and mental state of the parties. Contract law doubts the legality of contracts formed by Artificial Intelligence or are called automatic contracts. An automatic contract developed through Artificial Intelligent will never be possible because there is no human intention or thought or concept that will bind themselves in a contract. This debate is nothing new. In early 2000 this contract discussed the validity of contracts made using Artificial Intelligence because it did not ignore the principles of making contracts. What has been formulated by Artificial Intelligence so far has only focused on the form of the contract but not on the essence of the contract so that the validity of contracts made by Artificial Intelligence cannot be measured. A computer program is the process of downloading a computer to perform a specific task.

Humans create these instructions, which vary in type and complexity. Since the 1990s, there have been recurring concerns about the (alleged) lack of human intent when contracts are formed through the use or assistance of computer programs. These brief descriptions of computer programs become doctrinal as such programs become more complex or, according to popular belief, contracts formed by "software agents" or "self-learning algorithms". Application of traditional legal principles, for example, can be distorted by AI or machine learning algorithms. To overcome the potential problems caused by the use of computer programs in the contract formation process, a strong legal basis is needed. Before

assuming a problem exists, it is best to review the relevant legal principles to see if there is one. The legality of contracts formed with the help of computer programs, or "automated contracts", appears to be based on a misunderstanding of the role of mental states in the contract formation process. A common argument is that computer-generated contracts cannot be valid because computers cannot have mental states such as intent. When using artificial intelligence to reform contracts, the true subjective intentions of the parties are generally ignored.

At the contract formation, a person has the right to enforce the law and therefore must rely on commitments to be enforced by law. Therefore, the dependency theory which is based on agreement and the principle of trust in making contracts must be realized at the time of making contracts.

In theory, legal subjects who can bring legal actions or legal subjects mentioned in Indonesian positive law are "humans (natuurlijke persoon)" and "legal entities (rechtspersoon)". According to Salmond, "in legal theory, a person is a being whom the law regards as capable of rights and duties." "Any being with such abilities is a person, even if he is a man," he says. Legal subjects, according to Salmond's statement, have human or non-human capacities that have been determined by law. During the era of slavery, the law, he claims, did not recognize humans as legal subjects or persons. Non-humans who are bound by law, on the other hand, can be considered legal subjects or persons.

Because minors and people under guardianship are referred to as legal subjects because they have rights, the ability to hold the mentioned rights must be distinguished by its capacity in legal actions. However, these individuals are said to be legally incompetent in legal proceedings. The law determines whether or not a legal subject is competent in this case."

Based on this explanation, it is clear that whether something is a legal subject or not is determined by the applicable law. Similarly, Artificial Intelligence, like other legal subjects, has rights and obligations because obligations and rights are actions that must be governed by legal norms. Artificial Intelligence cannot be equated with humans as a whole because it lacks humanist characteristics; however, Artificial Intelligence can be equated with the position of a legal entity, which is also stated legally as a legal subject.

CONCLUSION

Contracts formed using artificial intelligence are not legally binding, even if the technology underlying them advances. The technology that underpins them advances. Currently, despite the fact that computer programs or Artificial Intelligence create contracts, no authority can be cited to support any legal distinction based on the level of human involvement or complexity of the program. If the common law of contract is to introduce a distinction depending on how the theory of contract law is based on the appearance of the intent of a person or legal entity in making the statements in the contract as intended."Unintended contracts," or contracts that do not arise from the intention of a person or legal entity and are not based on the fairness and trust theory, will be prohibited.

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