



Construction of Authority in Corporate Contracts: The Dialectic of Formal Validity and Substantive Justice in the Perspective of Kelsen and Rahardjo

William Chandra

Master of Law, Tarumanagara University, Jakarta, Indonesia

Wilma Silalahi

Master of Law, Tarumanagara University, Jakarta, Indonesia

ABSTRACT

Objective - This study aims to analyze the construction of contractual authority in corporate law from a theoretical perspective, particularly by examining the tension between Hans Kelsen's Pure Theory of Law and Satjipto Rahardjo's Progressive Legal Theory. The central research question explores how formal legality and substantive justice interact in validating corporate contracts, especially in cases involving unauthorized representation.

Methodology - This study adopts a normative juridical approach, relying on primary legal sources such as the Indonesian Civil Code and Company Law, and theoretical literature from Kelsen and Rahardjo. The analysis is conducted qualitatively through conceptual, systematic, and comparative methods, focusing on reconstructing the notion of authority in corporate contracts.

Findings - The findings reveal that Kelsen's theory mandates strict normative delegation for legal validity, while Rahardjo's approach allows for the recognition of good faith and implied authority when aligned with justice and fairness. Through this dialectic, the study demonstrates how corporate law can incorporate both normative order and commercial adaptability, as reflected in Indonesian jurisprudence and comparative doctrines like apparent authority and indoor management.

Novelty - This study contributes a theoretical synthesis that bridges rigid normativism with contextual legal realism. It offers a new conceptual framework for interpreting *ultra vires* acts and corporate liability, encouraging a shift toward more responsive and inclusive legal interpretations in modern business law.

Keywords: *authority, contextual justice, corporate contract, general legal theory, Hans Kelsen*

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Article Correspondence: williamchlaw@gmail.com

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I. INTRODUCTION

The legal construction of authority in corporate contracts has significant implications for the validity and enforceability of business transactions. In many jurisdictions, including Indonesia, questions arise when



contracts are entered into by individuals who lack formal authorization but whose actions are subsequently ratified or accepted by the corporation (Akbar, 2020). Such cases reflect a growing tension between legal formality and commercial reality, especially in the context of modern corporate governance where decisions are often decentralized (Sari et al., 2019). This tension calls for a deeper theoretical examination that goes beyond black-letter legal doctrine.

The traditional legal approach, as exemplified by Hans Kelsen's Pure Theory of Law, emphasizes formal delegation of authority as the cornerstone of legal validity (Kelsen, 1967). However, in practice, this strict normativism may clash with transactional realities in which implied authority or good faith dealings prevail (Jusuf & Mazin, 2024). At the same time, progressive legal scholars such as Satjipto Rahardjo offer an alternative framework that prioritizes justice, responsiveness, and substantive fairness (Rahardjo, 2009). The challenge lies in reconciling these two paradigms to form a coherent theory of corporate authority that is both legally grounded and socially responsive.

Recent developments in corporate litigation, both in Indonesian courts and international jurisdictions, underscore the limitations of rigid formalism. Legal disputes involving *ultra vires* actions often arise not from bad faith but from procedural ambiguities and operational exigencies (Waruwu, 2022). Courts have increasingly been called upon to evaluate not just whether a corporate representative had formal authority, but whether the company's conduct implies ratification or acceptance (Zamroni, 2019). This evolving judicial trend calls for a theoretical framework that can accommodate the legal significance of implied authority without undermining the need for institutional accountability.

This article aims to analyze the construction of corporate authority through a dialectical engagement between Kelsen's normative positivism and Rahardjo's contextual justice. It offers a theoretical synthesis that is not only conceptually robust but also practically relevant to issues of *ultra vires* acts and corporate liability. By situating the Indonesian legal context within a broader comparative framework, including references to doctrines of apparent and implied authority in UK and US law (*Royal British Bank v. Turquand*, 1856; *Rubin v. Manufacturers Hanover Trust Co.*, 1981), this study contributes to an enriched understanding of how formal and substantive dimensions of law intersect in corporate contracting.

Based on the above discussion, this study formulates three central legal questions as follows: (1) How does positivist legal theory explain the validity of contracts signed by individuals lacking formal authority within corporate structures? (2) How does progressive legal theory address the protection of good faith third parties in cases of unauthorized contractual actions? (3) How can the construction of authority in corporate contracts be dialectically analyzed through a synthesis of formal legality and substantive justice?

II. METHODOLOGY

This study employs a normative juridical approach, focusing on the interpretation of legal norms and the conceptual framework that surrounds them (Salim, 2013; Marzuki, 2005). This method is appropriate because the research does not aim to test empirical data but rather to construct systematic legal arguments based on principles, doctrines, and relevant legal theories (Soekanto, 2006). The central focus lies in reconstructing the understanding of contractual authority in corporate agreements through the lens of two contrasting legal theories (Kelsen, 1967; Rahardjo, 2009).

The legal materials used in this research consist of primary and secondary sources. Primary legal materials include provisions from the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*), particularly Article 1320 which regulates the legal requirements for a valid agreement, including consent, capacity, a specific object, and a lawful cause (Indonesia, KUHPerdata). It also includes Law Number 40 of 2007 on Limited Liability Companies (*Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas*), which governs the structure of corporate authority in Indonesia (Indonesia, *Undang-Undang*



Nomor 40 Tahun 2007). Secondary sources include academic literature on the legal theories of Hans Kelsen and Satjipto Rahardjo, as well as scholarly articles discussing authority practices in business transactions (Satrio, 1995; Subekti, 2008; Waruwu, 2022; Kinanti, Saptono, & Mahmudah, 2016).

The analysis is conducted qualitatively using both systematic and comparative methods (Mertokusumo, 2010). This allows the author to dissect the construction of authority from two opposing legal paradigms: Kelsen's normative positivism and Rahardjo's progressive law grounded in substantive justice (Jusuf & Mazin, 2024; Nur, 2023). The comparison extends beyond normative reasoning to the legal consequences each theory might generate when applied to non-ideal contractual scenarios.

In addition, this research utilizes legal interpretation as a tool to bridge the text of positive law with theoretical foundations (Friedman, 2001). The interpretative process does not merely examine the formal meaning of applicable norms but also evaluates the philosophical framework and values underlying those rules (Hadjon, 1987). Accordingly, the research aims to demonstrate how legal theory can serve both as an evaluative and constructive framework for addressing authority in contracts.

As a limitation, this study does not involve fieldwork, does not comprehensively assess jurisprudence, and does not engage in comparative legal systems. The entire focus is directed toward theoretical and interpretative reconstruction of authority structures and contractual validity within Indonesia's positive legal context. The ultimate objective is to contribute conceptual insights that enrich the legal theory discourse in the field of contract and corporate law (Fuady, 2014).

III. DISCUSSION

Kelsen's Perspective on Formal Authority

According to Hans Kelsen's Pure Theory of Law, every legal act derives its validity from a higher norm within a structured hierarchy (Kelsen, 1967). In the context of corporate law, this implies that any act of representation, including contract execution, must be grounded in an explicitly delegated authority from the articles of association or statutory mandates. Under Indonesian Company Law, the Board of Directors possesses the primary authority to represent the company (Indonesia, Undang-Undang Nomor 40 Tahun 2007). Any deviation from this mandate, such as an unauthorized manager signing a contract, would constitute an *ultra vires* act, rendering the act *ultra vires* and legally disputable (Kinanti, Saptono, & Mahmudah, 2016). This view underscores the crucial role of formal delegation in determining the legitimacy of corporate acts.

Kelsen's positivist model ensures predictability and legal certainty, especially in hierarchical institutions like corporations. Legal acts must follow a rigid chain of normative validation to be considered binding (Jusuf & Mazin, 2024). However, this strict formalism does not always align with the operational demands of modern business, where swift decisions and informal delegations are commonplace (Akbar, 2020). From a Kelsenian lens, even efficient and mutually beneficial contracts could be nullified solely due to procedural irregularities, ignoring the business rationale or the parties' actual intentions. This raises concerns about the practical adaptability of formal legal systems when confronted with evolving commercial realities.

Furthermore, Kelsen's theory suggests that legal validity is objective and independent of the moral or social consequences of a legal act (Kelsen, 1967). This can be problematic when applied to corporate environments, where relationships with third parties, shareholders, and employees often involve complex ethical and pragmatic considerations (Friedman, 2001). The exclusive reliance on legal hierarchy may produce outcomes that are legally correct but socially counterproductive. In such cases, the absence of flexibility within the legal framework can undermine the broader function of law as an instrument of order



and fairness (Rahardjo, 2009). Therefore, while Kelsen's model provides a structurally sound basis for legal interpretation, it may lack the adaptability needed in modern transactional contexts.

Rahardjo's Contextual and Substantive Justice

In contrast to Kelsen's formalism, Satjipto Rahardjo's Progressive Legal Theory repositions law as a tool to serve human interests rather than as a rigid, self-contained system (Rahardjo, 2009). Rahardjo argues that law should prioritize justice, social values, and moral outcomes over strict adherence to textual norms. According to this perspective, the law must be responsive and adaptive, capable of addressing the social contexts in which it operates. Legal validity is not solely determined by procedural correctness but by the fairness and substantive consequences of legal actions (Friedman, 2001). This approach expands the function of law from rule enforcement to a broader responsibility of realizing justice in concrete situations (Soekanto, 2006).

When applied to corporate authority, Rahardjo's theory allows for recognition of contracts signed by individuals lacking formal authority, provided there is clear evidence of good faith and benefit to the corporation (Akbar, 2020; Zamroni, 2019). In Indonesian corporate practice, it is not uncommon for branch managers or mid-level officials to enter into agreements that are later ratified through company behavior such as fulfilling obligations or receiving benefits (Waruwu, 2022). This reflects tacit ratification and operational legitimacy, even if formal procedures were bypassed. Rahardjo's approach affirms that substance should prevail over form when evaluating the legal effect of corporate transactions (Salim, 2013). Through this lens, the intent of the parties, the reasonableness of reliance, and the ethical dimension of performance become central to assessing enforceability.

This contextualist view aligns with established doctrines in common law jurisdictions. In the United Kingdom, the principle of indoor management as set forth in *Royal British Bank v. Turquand* affirms that third parties dealing in good faith with company agents are entitled to presume that internal company procedures have been properly observed. Likewise, in the United States, the doctrine of apparent authority, as recognized in *Rubin v. Manufacturers Hanover Trust Co.*, supports the enforceability of contracts when third parties reasonably rely on a representative's conduct. Both cases highlight the legal imperative to protect commercial expectations and transactional reliability (Subekti, 2008; Sari et al., 2019). Rahardjo's normative vision finds reinforcement in these global principles, strengthening the case for integrating substantive justice into the evaluation of corporate authority.

Synthesis: Reconciling Normativity and Pragmatism

To bridge these opposing frameworks, a synthesis is necessary, one that honors legal certainty while embracing substantive justice (Rahardjo, 2009; Kelsen, 1967). Corporations should maintain strong internal controls to ensure delegation is clear and verifiable, thereby reinforcing structural integrity (Kinanti, Saptono, & Mahmudah, 2016). However, legal interpretation must remain open to acknowledging *de facto* authority when business realities justify it. This dual approach promotes a more nuanced legal environment that respects the normative foundations of law while addressing practical commercial complexities (Salim, 2013).

To illustrate how this synthesis might function in practice, consider the case of a regional branch manager who enters into a supply agreement with a vendor without explicit board authorization. Although the company charter does not formally delegate such authority to regional managers, the head office consistently approves payments and receives deliveries from the contract. According to Kelsen's perspective, this contract would be *ultra vires* and hence invalid due to a breach in normative structure (Kelsen, 1967). However, Rahardjo's contextualism would view the consistent acceptance of performance as evidence of tacit ratification and good faith, justifying the enforcement of the agreement (Akbar, 2020;



Waruwu, 2022). This hypothetical example highlights the legal necessity of balancing formal delegation with recognition of de facto authority when business realities demand adaptive interpretation.

This interpretive tension is also reflected in Indonesian jurisprudence. For instance, in Supreme Court Decision No. 1051 K/PDT/2014, the Court upheld the validity of a contract signed by an unauthorized company officer on the grounds of implied ratification and good faith. The Court reasoned that the company's conduct effectively validated the transaction, aligning with Rahardjo's emphasis on contextual fairness (Jusuf & Mazin, 2024; Nur, 2023). This case illustrates the judiciary's growing awareness of practical corporate dynamics and supports the view that substantive legitimacy can, in exceptional cases, override strict formal requirements (Zamroni, 2019).

IV. CONCLUSION

This study finds that the structure of legal authority within a corporation fundamentally determines the validity of contracts entered on its behalf. Kelsen's Pure Theory of Law emphasizes a strict hierarchy of norms, where only formally authorized individuals may bind the company. This positivist approach ensures legal certainty and consistency but may lead to rigid outcomes when applied to dynamic commercial settings. In contrast, Rahardjo's Progressive Legal Theory argues for a more substantive and contextual understanding of law, prioritizing justice, fairness, and social responsiveness over procedural formality.

The dialectic between these two theories offers important insight into the practical tension between legal form and commercial function. In reality, corporate decisions are often made by individuals whose authority is informal yet operationally effective. Relying exclusively on formal delegation may invalidate beneficial contracts and undermine trust in business practices. Rahardjo's contextualism, supported by global doctrines such as indoor management and apparent authority, provides a flexible legal lens that better protects third-party expectations and transactional fairness.

This article contributes to legal scholarship by proposing a theoretical synthesis that bridges Kelsen's normative precision with Rahardjo's emphasis on substantive justice. It suggests that modern corporate law must evolve beyond rigid formalism, especially in jurisdictions like Indonesia, where business practices frequently exceed statutory constructs. By integrating legal theory with practical jurisprudence, this study encourages a more adaptive legal framework that upholds legitimacy while responding to commercial realities. Such a perspective is essential for developing inclusive and just corporate governance.

Recommendations

In light of these findings, companies are encouraged to implement stricter internal verification procedures to ensure that every contractual act is executed by authorized officials. Such measures are essential for risk management and maintaining legal certainty.

In addition, legal scholarship and lawmakers should further develop a normative framework that accommodates reasonable business flexibility without compromising legal order. This includes clarifying the legal consequences of de facto authority and enhancing protection for third parties acting in good faith under ambiguous conditions.

Finally, legal education should emphasize the importance of combining doctrinal understanding with practical insight, equipping legal professionals to navigate the intersection between formal legitimacy and real-world fairness in corporate transactions.



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