IJOLARES: Indonesian Journal of Law Research
CV. Tirta Pustaka Press
Vol 4 No 1, Maret 2026
P ISSN: 3025-1540 E-ISSN: 2988-375X
Available Online at https://journal.tirtapustaka.com/index.php/ijolares

Pacta Sunt Servanda Principles: Implementation in Agreements Managing Unanticipated Circumstances

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Abstract

Conventional law is built on the idea of *pacta sunt servanda*, which means that both sides must follow through on their deal. The study analyzes the application and limits of the *pacta sunt servanda* principle in cases of unforeseen circumstances, particularly economic hardship, and the legal protection available to the parties. This study uses a normative legal approach by examining contract law provisions, the doctrine of hardship, and selected Indonesian Supreme Court decisions over the past decade. Although the *pacta sunt servanda* concept is formally binding, it can be overturned in very rare cases of foresight, the ideals of good faith and suitability, as well as Article 1338 paragraph 3 of the Civil Code.Although Article 1338(1) of the Civil Code affirms that agreements are binding, the pacta sunt servanda principle is not absolute and must be balanced with fairness and good faith. Indonesian judges have a tendency to recognize although the theory of unforeseen circumstances is meant to stop extreme unfairness, the most important rule for keeping commercial ties steady and clear is still "*pacta sunt servanda*. It is suggested that parties to an agreement plan for the chance of things changing by including suffering, force majeure, or rewriting methods in their contracts. This will make the answer simple and easier to measure when something unexpected happens. This study recommends that every agreement include clear hardship or force majeure clauses. It also suggests that Indonesian law should regulate unforeseen circumstances more clearly to ensure legal certainty for both parties.

Keywords: The Parties; Agreements; Justice; Good Faith

I. INTRODUCTION

In civil law systems, contractual certainty is firmly rooted in the principle of *pacta sunt servanda*, which requires agreements to be honored as binding law between the parties. This principle ensures stability, predictability, and trust in contractual relations. However, contractual performance does not always occur under stable conditions. Economic crises, regulatory changes, or other unforeseen circumstances may significantly alter the balance of obligations initially agreed upon. In such situations, strict enforcement of the contract may conflict with considerations of fairness and good faith. This tension between legal certainty and equitable adjustment forms the central issue in examining the contemporary application of the pacta sunt servanda principle. An agreement is a key part of modern society and the economy. This includes everything from small purchases in everyday life to business deals worth trillions of rupiah. Agreements provide legal certainty and structure the rights and obligations of the parties. However, this certainty becomes problematic when unforeseen circumstances substantially alter the conditions under which the contract was formed, raising questions about the limits of strict enforcement and the need for equitable adjustment. (Dongoran & Aminah, 2024). There is conflict between the principle of legal security and the principle of justice because agreements are often put into action in ways that were not planned for when the agreements were made.

Pacta sunt servanda, which means "the treaty must be kept," is the most important rule in human rights law. This rule is accepted by all legal systems around the world (Priyono, 2025). Trust and legal security are at the heart of this principle, which is why it forms the basis of all contracts. Article 1338 paragraph (1) of the Civil Code makes the idea of "*pacta sunt*

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servanda" very clear. It says that all legal deals will be enforceable as laws for the people who make them. An deal between two or more people has the same legal power as the law, which is a deep psychological meaning behind this clause, it has to be carried out completely, and neither side can back out without the other's permission or a legal reason.

The freedom of the parties and the concept of freedom of contract are respected by Indonesian treaty law. This is what current contract law is all about. Instances of the principle "*pacta sunt servanda*" being followed show this (Kesuma & Mahfud, 2023). Individuals involved in the deal are thought to be on similar footing. They can choose what the agreement says and are fully responsible for what happens as a result of their choice. The saying "a man is as good as his word" means that everyone must keep the promises they make. This principle also gives moral and legal support to this idea. Injustice can happen, though, if this principle is applied rigidly and without taking into account how thingshave changed, this is especially true when there is a big change in the situation that neither party could have seen coming when the deal was made.

Significant changes in situations that were not planned for or thought about by the parties when they agreed to the agreement often happen during the implementation of the agreement (Adiyanto, 2025). Changes like a global economic crisis, major policy changes, natural disasters, pandemics, wars, hyperinflation, or other unusual events that completely alter the economic basis of the deal are examples of these. In civil law doctrine, force majeure and hardship are distinct concepts. Force majeure refers to unforeseeable and unavoidable events that render contractual performance impossible, while hardship concerns unforeseen circumstances that fundamentally alter the contractual equilibrium without making performance impossible. It happens when factors change so drastically that one party finds it hard or impossible to carry out the agreement as agreed upon in the first place. Not only are these changes making things harder or cutting into income, but they also change the balance of success that is at the heart of the deal.

There are some differences between the ideas of foreknowledge and Force Majeure, also known as "*overmacht*," or situations that are beyond your control (Kurniawan & Noer, 2024). Force Majeure means that the agreement can't be carried out at all, while unforeseen circumstances means that it is technically possible to carry out the agreement, but it will be very unfair or extremely unequal in terms of what each party achieves. Knowing what would happen in the future, the economic factors that the agreement was based on have changed a lot. Keeping the agreement the same as it was before would go against the idea of fairness and honesty (Law et al., 2025). In the future, changes in circumstances are long-lasting or permanent, not just short-term problems that can be fixed by delaying adoption.

The legal question is how to combine the principle of *pacta sunt servanda*, which means that you must stick to the terms of the deal, with the principles of fairness and honesty so that no one is punished. One of the most important issues in modern contract law is the conflict between legal security (*rechtssicherheit*) and justice (*gerechtigkeit*) (Ardhie, 2024). The *pacta sunt servanda* principle, on the one hand, makes sure that legal relationships are stable and predictable. It also protects the parties' reasonable expectations and stops people who aren't honest from getting out of their obligations by saying that things have changed. In contrast, making someone follow through on an agreement even though the circumstances have changed greatly can be unfair, benefit one party unfairly, and go against the basic principle of proper behavior that every good contract relationship is based on.

There is an Indonesian Civil Code that was based on the *Dutch Burgerlijk Wetboek* of 1838. There are some things that aren't clear in this rule about when or why a deal can be changed or canceled (Manurung & Siregar, 2025). In current law systems, on the other hand, the theory of difficulty, the failure of purpose clause, or the boil sic stantibus clause are used to get around situations where the facts have fundamentally changed. Legally speaking, there is no clear agreement, so parties and judges are left guessing how to handle foresight situations. When cases involve changes in circumstances, judges often have to make tough decisions: Article 1338(1) of the Civil Code says that *pacta sunt servanda* must be closely followed. Another choice is to use a teleological reading that takes into account

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Article 1338(3)'s principle of good faith and the principle of decency (Aisyah et al., 2025).

There are differences in how courts have decided cases of poverty in Indonesia over the years as the country's law has grown. This ruling reflects a strict interpretation of the *pacta sunt servanda* principle, as the court rejected requests for contract modification based on changed circumstances. However, when compared with other decisions that allow limited adjustments under certain conditions, it reveals an inconsistent judicial approach and highlights the absence of clear doctrinal standards in addressing unforeseen circumstances. They do this by saying that both parties should be responsible for the risks that come with their agreements and that changes in circumstances are part of those risks that must be considered (Meryadinata et al., 2025). Alternatively, more recent decisions recognize the doctrine of boil sic stantibus as an exception to the rule of *pacta sunt servanda*. In this case, the court either adapts the contract (changes the rules of the deal) or throws it out since it's not fair. Indonesian positive law does not provide a clear doctrinal framework for addressing unforeseen circumstances within contract law, resulting in inconsistent judicial interpretation. While previous studies have discussed the binding force of contracts and the doctrine of force majeure, limited attention has been given to the boundaries of *pacta sunt servanda* in cases of economic hardship. This gap highlights the need for a systematic analysis of how the principle should be applied and limited under changing circumstances.

Recent global crises have exposed the limitations of rigid contractual enforcement and underscored the need for clearer legal standards governing contractual adjustment under unforeseen circumstances. Economic instability, regulatory shifts, and large-scale disruptions have challenged the assumption that contractual obligations can always be performed as originally agreed. These conditions intensify the tension between the principle of *pacta sunt servanda*, which safeguards legal certainty, and the necessity for flexibility to preserve fairness and contractual equilibrium. Consequently, the issue is no longer whether contracts are binding, but how far their binding force should extend when fundamental changes disrupt the contractual basis. The Asian financial crisis in 1997 and 1998, which caused the value of the rupiah to drop by a huge amount, has caused thousands of contract disagreements, especially ones where payment is due in a foreign currency (Human et al., 2025). Unexpected changes in the exchange rate that are out of their control make it very hard for many borrowers to meet their obligations. Along the same lines, the COVID-19 outbreak that started in 2020 has made it very hard to carry out many types of agreements, from business contracts and loans to building work agreements. The economic conditions that these deals are based on have changed a lot because of social limits, business closings, and problems in global supply lines (Putri & Lampung, 2023). Not being able to see ahead isn't just an academic issue; it's a real problem with real-world economic and social effects, as shown by these crises.

Debates over contractual adjustment also raise fundamental questions about the nature of agreements and the role of fairness in their enforcement. Classical contract theory, grounded in liberal individualism and freedom of will, views contracts as the product of autonomous parties whose obligations must be strictly honored. However, in the context of Indonesian contract adjudication, this philosophical foundation is increasingly tested when courts confront cases involving economic hardship and unforeseen circumstances. The tension between autonomy and fairness thus becomes not merely theoretical, but directly relevant to judicial interpretation of the limits of *pacta sunt servanda*. Laws like "freedom of contract" and "pacta sunt servanda" are given the most weight by these ideas (Perjanjian, 2025). But newer theories that take into account social and economic situations stress how important it is for contractual relationships to have meaningful justice, balance of success, and social unity. The Civil Code's Article 1338(3) talks about the idea of "good faith." This can be a theoretical link between the two models because good faith needs not only official compliance with the agreement but also fairness and justice in how it is carried out (Akyuwen et al., 2023). Not having to change the Civil Code is possible if "good faith" is understood in a way that is changing and takes into account the situation.

Within the practical aspect of this problem, there is also the question of how companies can safeguard themselves against the

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P ISSN: 3025-1540 E-ISSN: 2988-375X
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risk of unplanned changes in circumstances. Modern business contracts often include a "broader hardship," "material adverse change," or "Force Majeure" language that tries to cover a wide range of possible situational changes (Divanadia et al., 2024). Nevertheless, not all agreements have these kinds of terms. This is especially true when bargaining positions are unfair between parties or when agreements are made without the help of lawyers. There are often disagreements about how to understand and use these phrases, even when they are there. The presence or lack of a certain phrase in the contract is not enough to determine when and how a change in circumstances could be a reason to back out of a deal or change it. Clearly written rules must govern this.

There are several reasons why this study is important and useful. First, it is very important to make it clear what the unforeseen circumstances doctrine means in Indonesian contract law. This is because the Civil Code doesn't say it clearly, and the courts' decisions have been inconsistent. Second, the global economy is getting more complicated and unpredictable, which makes it more likely that things will change in a big way. This means that there needs to be a good legal way to deal with it. Third, theoritically, this study can help Indonesian contract law become more fair without losing legal clarity. The fourth thing that this study's results should do is help lawmakers, lawyers, and businesspeople make and carry out deals that are more fair and last longer.

In this study, the idea of *pacta sunt servanda* is used to look at how it works when people break a deal without getting in trouble, considering the right and wrong, the theory, and the real world. This study analyzes the limits of the *pacta sunt servanda* principle in situations of unforeseen circumstances that significantly affect contractual performance. It focuses on the role of the hardship doctrine (*rebus sic stantibus*) as a potential exception to strict contractual enforcement. In addition, the study examines how the principle of good faith can function as an interpretative tool for courts in balancing contractual certainty with fairness, thereby ensuring proportionate legal protection for both parties. The goal of this study is to find the best way to balance the principle of legal certainty with justice when dealing with poverty. It will do this by comparing regulations in other countries and analyzing laws and regulations from different countries' points of view. This will help make Indonesian treaty law more fair, predictable, and flexible in response to changes in the community's economic and social life.

II. METHODS

The normative judicial method (legal study) is used to look at how the concept of *pacta sunt servanda* is used when deals include things that were not planned. It does this by looking at Indonesian legal norms, laws, regulations, and case law. Nominative juridical method was picked because this study is mostly about looking at legal principles, especially treaty legal principles, and how they are used in court practice. Researchers can use this method to find, study, and rate the legal rules that control the binding power of deals and the adjustments that can be made when important things change. therefore, this article explains in detail how the principle of "*pacta sunt servanda*" is related to the idea of "imprevisie" in Indonesian law. A descriptive-analytical study method was used to explain in detail how the *pacta sunt servanda* principle is used when deals are broken by things that were not planned. The research then looked at the legal issues that arise and how the Indonesian legal system handles them.

This research employs a normative legal approach based on the analysis of legal materials rather than empirical data. The study uses primary legal materials, consisting of statutory regulations and Supreme Court decisions, as the main sources of authority. These are supported by secondary legal materials, including legal doctrines, scholarly works, and academic commentaries, as well as tertiary materials where relevant to clarify legal terminology. The Civil Code, especially Book III on Engagement, Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution is one example of a law that regulates these areas. as well as court decisions that are important for putting the principles of *pacta sunt servanda* and imprevisie into practice, are the main sources of law. Legal writings from texts, scientific journals, legal papers, the results of earlier research, and scientific works that talk about treaty law, the theory of imprevisie, the *rebus sic stantibus* clause, and the principles of *pacta sunt servanda* are all examples of secondary legal materials. Law

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manuals, encyclopedias, and other sources that explain or give directions on the primary and secondary legal materials used in this study are examples of tertiary legal materials.

Library research and document studies are used to collect data for this study. These include making an inventory, identifying, and categorizing legal materials that are important to the research problem. A lot of legal information was gathered by the researcher by searching libraries, online legal databases, listings of Supreme Court decisions, and repositories for scientific journals. Legal materials were collected through a systematic review of statutory provisions, Supreme Court decisions, and relevant scholarly literature directly related to contractual enforcement and unforeseen circumstances. The sources were selected and evaluated based on their authority, doctrinal relevance, and contribution to clarifying the limits of pacta sunt servanda. This approach ensures that the analysis is grounded in authoritative legal sources and structured according to their normative weight. As the base for the law analysis in this study, this method lets researchers get correct, full, and properly proven data.

The study applies a doctrinal legal analysis based on statutory interpretation and case-law examination. Contract law provisions and Supreme Court decisions are analyzed using grammatical, systematic, and teleological interpretation to identify normative principles and their limits. Legal arguments are developed by examining the consistency of judicial reasoning with established doctrines of *pacta sunt servanda*, hardship, and good faith, and are validated through coherence with authoritative legal sources and logical reasoning. A planned approach is used to look at the collected data, which includes several steps: describing, interpreting, organizing, judging, and arguing. The analysis's results are then shown in a way that is both detailed and orderly., an argumentative and logical story to answer research questions about how to apply the principle of *pacta sunt servanda* to agreements that include things that can't be predicted and how the Indonesian legal system handles the conflict between legal certainty and contractual fairness.

III. RESULT AND DISCUSSION

A. Indonesia's treaty legal system uses the "Pacta Sunt Servanda" principle.

The Civil Code's Article 1338(1) says that all public agreements are law for the people who make them. This concept is one of the most important parts of treaty law. Indonesian law follows this idea, which means that people who sign an agreement are bound to do what they agreed to do and can't back out on their own (Ali, 2023). This idea of binding power shows that the law is clear and protects the parties' free will when they decide what the agreement says.

The principle of *pacta sunt servanda* states that an agreement is legally binding if it is regarded as equivalent to law by those who entered into it. The Civil Code's Article 1320 says that the court and the police must accept and uphold the deal as long as it meets the requirements for being legal. Judges usually uphold the binding power of deals and expect parties to follow through with the original agreement, unless there is a very strong legal reason to do otherwise, according to research on different court cases (Eunico, 2025).

The concept of *pacta sunt servanda* is not always and completely followed, though. The Indonesian judicial system knows that this principle has its limits, especially when it comes to the basic principles of fairness, proper behavior, and adapting to new situations. These limits can be found in different law rules, such as misusing circumstances (*misbruik van omstandigheden*), making a mistake (*dwaling*), forcing someone to do something (*dwang*), or lying (*bedrog*), all of which can be used to get out of the deal or change it. The idea of good faith, which is explained in Article 1338 paragraph (3) of the Civil Code, means that a strict *pacta sunt servanda* cannot be put into action. Keeping moral and legal standards in mind, the deal must be carried out (Agus & Yuanitasari, 2023).

The idea of "*pacta sunt servanda*" is used in different ways in business deals and ties between employers and employees. A rule called "*pacta sunt servanda*" says that agreements between employers and workers must be followed, but they are also limited by mandatory labor laws and rules (*dwingendrecht*) that protect the interests of workers, who are usually less powerful in negotiations. Number 13 of 2003 concerning Manpower sets the minimum wage, maximum

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P ISSN: 3025-1540 E-ISSN: 2988-375X
Available Online at https://journal.tirtapustaka.com/index.php/ijolares

working hours, leave rights, and processes for firing employees. These rules cannot be changed by employment agreements. Employer and employee may agree to something in their job contract, but if that something breaks the law or hurts the employee, the contract's terms can be thrown out. In the area of labor law, this signifies that the doctrine of pacta sunt servanda must be harmonized with the principles of social justice and employee safety. This way, freedom of contract cannot be used to take advantage of workers or hurt their basic rights (Dimitria Pawestri Kusumadewi, Iwan Erar Joesoef, 2025).

The application of the pacta sunt servanda principle presents complexities within the sphere of state administrative law., especially when the government buys goods and services. This is because it includes the public interest and managing the state's funds. The Presidential Regulation on the Procurement of Government Goods/Services and other related regulations make it clear that agreements between the government and the private sector must follow strict rules when it comes to infrastructure projects, buying goods, or providing public services. There are exceptions to the rule that a signed contract must be followed, but the principle of pacta sunt servanda still stands. These include contract addendums, the government's right to end a contract on its own terms in certain situations, and the need to renegotiate obligations when state policies or budgets change (Sujana et al, 2025). There are a lot of disagreements in State Administrative Courts and arbitration groups about how to carry out these government contracts. Adjudicators, including judges and arbitrators, are obligated to reconcile the public interest with the legal certainty of a concluded agreement (Qadri Qadri, S. Sami'an, 2024). Good governance principles, like openness, responsibility, and making good use of the state budget, must also be taken into account when this principle is put into practice in state management.

The expansion of technology and the digital economy has significantly altered the application of *pacta sunt servanda* principles within Indonesia. The concept of *pacta sunt servanda* applies to millions of electronic agreements made every day through e-commerce, banking, online transportation, and other digital services. These agreements are legally binding even though the parties have not met or signed them in person (Dyah Ayu Sulistyarini, 2024). Law 11 of 2008, as you may know. Legislation on Electronic Information and Transactions, Law Number 19 of 2016 (ITE Law) recognizes electronic contracts and digital signatures as legal documents. This means that agreements made electronically are just as valid as agreements made in person (RI, 2016).

Although the principle of *pacta sunt servanda* remains central to contractual certainty, its application in Indonesian judicial practice is not without controversy. Some judicial decisions strictly uphold contractual binding force to preserve predictability, while others allow limited intervention to prevent manifest unfairness in cases of significant changed circumstances. This divergence reflects an ongoing doctrinal debate between the protection of party autonomy and the court's role in safeguarding substantive justice. The tension raises questions about the appropriate threshold and justification for judicial modification of contracts. Contractual obligations must be performed in good faith, stipulating that neither party may exercise their rights under the agreement to the detriment of the other. Article 1338, paragraph (3), of the Civil Code stipulates the following. People also agree that there are exceptions to the rules, like misusing the situation, force majeure, and unplanned events, which can change or limit the parties' responsibilities. Freedom of contract is not completely unrestricted because of the Consumer Protection Law, which forbids standard terms that hurt customers (Dewi et al., 2025). In some situations, Indonesian courts have also used the concepts of balance and fairness. This principle is particularly applicable in situations where the contracting parties do not possess equivalent bargaining power (Santika, 2023).

The principle of *pacta sunt servanda* will pose significant challenges for future application within the Indonesian contract law system due to the increasing complexity and variability of commercial agreements. As the world becomes more digital, new types of agreements like electronic contracts, smart contracts based on blockchain, and agreements made on digital platforms have come up that need this principle to be applied in a different way (Sunandar et al., 2025). The concept of *pacta sunt servanda* is still useful as a way to

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Vol 4 No 1, Maret 2026
P ISSN: 3025-1540 E-ISSN: 2988-375X
Available Online at https://journal.tirtapustaka.com/index.php/ijolares

make sure that business agreements are valid and stable. Lawmakers and lawyers need to keep improving how these principles are interpreted and used so that they can continue to meet the needs of society, strike a balance between safeguarding justice and providing legal certainty, and be able to adapt to changes in society and the economy without weakening the basic principles of treaty law. Within the prevailing Indonesian contract law framework, characterized by principles of fairness, the doctrine of *pacta sunt servanda* will continue to hold paramount significance.

The principle of *pacta sunt servanda* is among the most fundamental concepts in treaty law (Panjaitan et al., 2024). It says that any legally binding deal is law for the people who make it. The opening clause of Article 1338 of the Civil Code states that all legally enforceable agreements are likewise binding upon the parties who enter into them. Legal security and steadiness are provided by this concept in contractual relationships because both parties are bound to do what they agreed to do and can't get out of it (Sujana & Kandia, 2024).

The fundamental tenet of pacta sunt servanda, however, may engender inequitable outcomes when unforeseen and significant alterations occur in the conditions underpinning an agreement. The strict principle of *pacta sunt servanda* can't always be used because of the concept of imprevisie, which means "unexpected circumstances." The word "improvevisie" comes from the Latin word "imprevisus," which means "not what you expect." Once there is a big change in circumstances that neither party could have predicted and that they can't control, this theory says that the agreement as it was originally made might be too hard or unfair for either party to follow through with. The occurrence of a force majeure event renders the fulfillment of the agreement infeasible., hardship refers to a situation in which contractual performance remains possible but becomes excessively burdensome due to unforeseen circumstances, fundamentally altering the economic balance of the agreement.

Multiple conditions must be met in order for the theory of poverty to be used. First, there has to be a very big change in the situation that changes what the deal is all about (Santika, 2022). Second, the parties must not have known about these changes or could have known about them when they made the deal in good faith. The third thing is that the change in situations is not because of one party's mistake or carelessness. Fourth, the new situation creates a huge difference in how well both parties are doing, so enforcing the agreement will either cost one party a lot of money or be unfair to them. Impunciation is often used when there is an economic disaster that leads to very high inflation, a big change in the exchange rate, or a big change in government rules that affects the economics of a long-term deal.

The concept of imprevisie is accepted in Indonesian law, even though it is not stated directly in the Civil Code. It is found in case law and other specific rules. Article 1338, paragraph 3, of the Civil Code stipulates that individuals are obligated to act in good faith. The Supreme Court has, on multiple occasions, determined that this tenet functions as a constraint on the principle of pacta sunt servanda (Jibril et al., 2023). If events change in a way that meets the standards of insight, the court can make changes or reviews to the agreement's terms to make sure that everyone is treated fairly. In current contract law, especially in foreign business contracts, suffering or major unfavorable change clauses are often included. This is because of the theory of forethought, which says that deals can be renegotiated when important things change.

The idea of impvisie, or unplanned events, refers to when there is a big change in circumstances after an agreement is made that neither party could have seen coming and makes it very hard or unfair for one party to follow through with the agreement as written. Even though the Civil Code of Indonesia doesn't say anything directly about imprevision, this idea has been accepted as an exception to the principle of *pacta sunt servanda* in different legal theories and lines of thought (Bianty & Gunadi, 2025). The presumption of innocence comes from the rebus sic stantibus clause, which says that an agreement is still valid as long as things stay the same as they were when the agreement was made.

Several conditions must be met in order for something to be considered an unexpected event that changes the agreement's execution (Hafiz, 2024). First, these changes must be major and unusual. They can't just be normal changes in the way business or the economy works. Second, these changes in circumstances

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P ISSN: 3025-1540 E-ISSN: 2988-375X
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were not something that either party could have seen coming when they made the deal with due care. Third, the parties were not at fault or in charge of the change in circumstances (Force Majeure in a general sense). Fourth, enforcing the deal as written will unfairly affect one party more than others. Fifth, the agreement section doesn't say anything about how the parties will handle the risk of these kinds of changes in situations (Sila et al, 2025).

There are also big differences between the two ideas in how they affect the success and what the legal effects are. Force Majeure is when something totally and irreversibly changes, making it impossible to finish the task. As a result, the debtor is freed from his obligations or at least gets more time to pay until the events that caused the change end. In line with Articles 1244 and 1245 of the Civil Code, this is what happens when debtors can't pay back money because of important events they couldn't have avoided (Supriadi & Judge, 2023). In cases of poverty, however, achievement is still technically possible, but putting it into action would be very unfair, so the legal effect is not the release of obligations but the changing or renegotiation of the agreement to make it more fair for everyone. The prediction change is relative and partial, which means it doesn't fully remove the ability to perform but makes a big difference in the amounts of money made and lost.

Legally speaking, the biggest difference between these two ideas is how they are handled in Indonesia, especially in the Civil Code. The Civil Code's Articles 1244 and 1245 clearly define "force majeure," including its requirements, conditions, and legal effects. This makes its use in court cases more certain and consistent. It is not specifically mentioned in the Civil Code, however, so its acceptance and use rest a lot on case law, the law and how courts understand general concepts like fairness, good faith (Article 1338, line 3), and appropriateness. The lack of clear rules on imprevisie has caused legal confusion and inconsistent court decisions. This is one of the main problems with putting the unforeseen circumstances theory into practice in Indonesia. It is important for everyone involved in an agreement, including lawyers and judges, to understand the differences between these two ideas so that everyone can figure out the best way to settle a dispute when something changes that puts the agreement into action.

The idea of *pacta sunt servanda* is limited by the theory of imprevisionie. This shows how treaty law balances legal clarity and fairness. Firstly, the *pacta sunt servanda* idea is still the most important way to make sure that contractual agreements are stable and predictable. So that treaty law doesn't become a tool that causes unfairness, the theory of impoversion gives us the freedom to deal with sudden and extreme changes in circumstances. This concept should only be used carefully and according to tight rules, so it's not abused as a way to get out of binding responsibilities. A modern treaty legal system that adapts to the changing social and economic conditions of society can find a balance between legal security (*pacta sunt servanda*) and justice (*imprevisie*).

B. Changing Patterns of the Bond Between the Pacta sunt servanda Principles and Imprevisie in Court Decisions

An analysis of Indonesian court decisions reveals evolving dynamics and potential conflicts between the principle of *pacta sunt servanda* and the adoption of state planning initiatives. Judicial bodies frequently uphold the principle of *pacta sunt servanda* by denying attempts to modify or void contracts based on the emergence of new information. Concerns about maintaining legal clarity and stopping people from abusing the theory of poverty as a way to get out of contracts that are no longer profitable led to this conservative stance (Santika, 2021).

Recently, though, especially since the monetary crisis of 1997-1998 and the COVID-19 pandemic, there has been a trend in the law for judges to be more open to changing the terms of deals when the unexpected happens. The courts started to look at cases in a broader context by taking into account the ideals of fairness, proper behavior, and honesty when carrying out agreements. Several Supreme Court decisions demonstrate a gradual shift in judicial reasoning regarding contractual enforcement under unforeseen circumstances. In these cases, the courts have not automatically upheld strict performance, but instead examined whether the change in circumstances fundamentally altered the contractual equilibrium. The ratio decidendi in such decisions indicates that judicial intervention may be justified when continued enforcement

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P ISSN: 3025-1540 E-ISSN: 2988-375X
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would result in manifest unfairness, provided that the alteration was unforeseeable and beyond the parties' control. This pattern suggests an evolving interpretative approach rather than a uniform departure from *pacta sunt servanda*.

The court employs various procedural mechanisms to address the condition of destitution while maintaining adherence to the principle of *pacta sunt servanda*. First, the principle of bona fide conduct, as delineated in Article 1338, paragraph (3), of the Civil Code, can be used to force the parties to revise in good faith when there are major changes in the situation. Second, using the theory of abuse of circumstances (*misbruik van omstandigheden*) to get out of deals that aren't fair anymore because of changes in circumstances and cancel or change them. Third, using fairness and proper behavior as guides when figuring out what the deal means or what goals need to be met. Fourth, extending the time for implementation (*respijt*) or reorganizing responsibilities to give those who are being pressed time to adapt to new situations.

In addressing unforeseen circumstances (*imprevisie*), renegotiation, mediation, litigation, and arbitration function as distinct remedial pathways, each reflecting a different balance between contractual autonomy and judicial intervention. Renegotiation and mediation prioritize party autonomy and align more closely with the spirit of *pacta sunt servanda*, as they preserve the agreement while adjusting its terms consensually. In contrast, litigation and arbitration involve third-party adjudication, where the binding force of the contract may be reassessed against principles of fairness and good faith. The effectiveness of each mechanism depends on the severity of the disruption, the parties' willingness to cooperate, and the clarity of hardship clauses within the contract. Judicial practice indicates that consensual adjustment is generally preferred, with formal adjudication serving as a last resort when renegotiation fails (Muhammad, 2022). People can easily talk about changing the terms of a contract, according to Article 1338 of the Civil Code. This is the first way that the agreement can be changed. This method is the best and most efficient way to settle a dispute because it gives both sides complete freedom to decide for themselves what changes need to be made to their deals. Tendencies are renegotiated between the parties, having the ideal of good faith as the main idea. Both sides freely seek a solution that is fair and helpful for everyone. Renegotiation can lead to either a new agreement that completely replaces the old one or an addition that changes some of the agreement's terms so that performance can be adjusted to fit new circumstances. The parties must be willing and honest to agree in order for this process to work so that they can keep working together without having to involve a third party (Alelxander, 2023).

Mediation is the second method, rule Number 1 of 2016 from the Supreme Court about Mediation Procedures in Court says it's okay to do. Mediation is different from free bargaining because it uses a neutral third party, called a mediator, to help the people involved in the conflict work out their differences. Mediators help the people involved in a dispute figure out what the issues are, look at different solution options, and come to a deal that works for everyone. Voluntary reworking is less organized than mediation, but both sides can still choose the answer they want. A peace deal is reached through mediation. Both sides must follow through with the agreement, and it can be asked for the court to give executory power.

There is a good way to settle a disagreement without going through a long and expensive court case when both sides are stuck in renegotiation. A court ruling is the third way. This comes from the Civil Code's Article 1338, line 3, requiring that agreements be executed in good faith and in accordance with principles of equitable dealing and propriety. One party files a case with the court to ask that the agreement be changed or thrown out because of insight when the parties are unable to come to an agreement through renegotiation or settlement.

The court process for settling a dispute is more formal and follows the rules of civil procedure. The judge will look at the evidence, hear what the parties and witnesses have to say, and decide if there has been a change in circumstances that meet the criteria of poverty. This process ends with a court decision. The decision can change the terms of the agreement by making the parties' behavior more fair, or it can cancel the agreement if it can't be carried out in a reasonable way anymore. Execution is one way to make sure that court decisions are followed, but the legal process usually takes a long time, expensive and can hurt the parties' business relationships (Santika, 2020).

IJOLARES: Indonesian Journal of Law Research
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Vol 4 No 1, Maret 2026
P ISSN: 3025-1540 E-ISSN: 2988-375X
Available Online at https://journal.tirtapustaka.com/index.php/ijolares

Arbitration is the fourth option. It is based on arbitration terms that both sides agreed to in the first deal. As an option to going to court, arbitration lets the judge or arbitration group look into and decide on any disagreements that come up because of the agreement. It is easier, faster, and more private to go through arbitration instead of going to court, and both sides can choose judges who are experts in the areas that are important to their issues (Nugraha, 2024). The arbitrator listens to both sides' reasoning, looks at the proof, and applies the law or the standards of justice based on what both sides agree on. It creates a final and binding judicial decision that can't be changed or challenged. This gives the parties faster legal assurance. It is common for arbitral awards to be used to settle complicated business issues both at home and abroad after a decision from the District Court that the award can be enforced (Juniarty et al., 2025).

The biggest problem with applying the unforeseen circumstances theory in Indonesia is that the Civil Code and other laws and rules don't have any clear and complete rules. This makes the law less clear and makes it harder for courts to make decisions about what the rules are and what the legal effects of unplanned events are (Dinda, 2025). There are very strict rules that some courts use to decide what kind of planning is happening, while others are more open to protecting people who are being hurt by changed situations. This lack of regularity can lead to unfairness and less legal clarity in business deals.

Several planned steps are needed to solve these issues. First, there should be better rules about the expected situation's requirements, steps, and legal effects. This can be done by updating the Civil Code and making more detailed rules for how it should be used (*Wambrauw* et al, 2025). Second, the creation of uniform law through Supreme Court rulings that lower courts can use as a guide. Third, making sure that the people who signed the agreement are more aware of and understand why it's important to include a hardship clause or an adjustment clause that can be used in case things change drastically. Fourth, making it easier for people to use different conflict settlement methods like mediation and arbitration to settle poverty-related issues in a more fluid and faster way.

II. CONCLUSION

The findings of this study demonstrate that the application of *pacta sunt servanda* in Indonesian contract law is not absolute, but conditionally limited through judicial interpretation grounded in good faith and contractual balance. Supreme Court decisions reveal a consistent pattern: strict enforcement remains the default position, yet courts are willing to allow contractual adjustment when unforeseen circumstances fundamentally disrupt the economic equilibrium of the agreement and were beyond the parties' control. This intervention, however, is treated as exceptional and subject to cumulative and rigorous requirements to prevent abuse.

The doctrine of *imprevisie* thus operates not as a negation of *pacta sunt servanda*, but as its corrective mechanism. Rather than weakening contractual certainty, it refines the principle by integrating proportionality and fairness into its application. The study clarifies that judicial modification is justified only where performance becomes excessively burdensome, not merely less profitable, and where renegotiation in good faith has failed.

Based on these findings, the research recommends clearer doctrinal guidelines—either through legislative clarification or consistent judicial standards to define the threshold of hardship and the scope of permissible contract adjustment. Contracts should also expressly regulate hardship and renegotiation clauses to reduce interpretative uncertainty. In this way, legal certainty and fairness are not opposing values, but complementary principles within a responsive and adaptive contract law framework.

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