

Unlawful Act (Tort) as an Instrument for the Protection of Private Civil Rights and Individual Human Rights: A Comparative Analysis between Indonesia and Germany

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Abstract

This study aims to analyze the concept and application of Unlawful Acts (Perbuatan Melawan Hukum, PMH) in Indonesian and German civil law as an instrument for protecting civil rights and individual human rights. PMH plays a strategic role as the basis for civil liability, emphasizing not only material compensation but also the protection of non-material rights such as honor, reputation, privacy, and personal integrity. This research employs a normative juridical method with a comparative approach, examining Article 1365 of the Indonesian Civil Code (KUHPPerdata) and §823 of the German Bürgerliches Gesetzbuch (BGB), alongside relevant legal doctrines and court decisions. The findings indicate that Indonesia's interpretation of "unlawful acts" remains limited and has yet to fully accommodate the protection of non-material rights, while Germany has systematically integrated the protection of personality rights (Persönlichkeitsrechte) and human dignity through the principles of Schutznormtheorie and Allgemeines Persönlichkeitsrecht. The comparison implies the need for doctrinal reform in Indonesia's PMH framework to strengthen legal protection for modern civil rights violations and align with the principle of human dignity. Therefore, PMH functions not only as a civil liability mechanism but also as an effective tool for the protection and enforcement of individual human rights within private legal relations.

Keywords: Unlawful Acts, Civil Rights, Individual Human Rights, Indonesian Law, German Law

INTRODUCTION

In the development of modern civil law, the concept of Unlawful Act (PMH/Tort) becomes a fundamental instrument in maintaining social balance and providing protection for the private civil rights of every individual. In Indonesia, the regulation concerning Unlawful Act is stipulated in Article 1365 of the Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPPerdata), which states that 'Every unlawful act which causes damage to another person, obliges the person who through his fault caused the damage, to compensate the damage' (Cevitra & Djajaputra, 2023). The formulation of this article is simple, yet it contains an extremely broad dimension. It serves as an entry point for the enforcement of civil liability when a violation occurs against rights guaranteed by law, whether those rights are material or immaterial, including the rights to honor, privacy, freedom, and personal integrity.

According to Cevitra & Djajaputra (2023), the concept of Unlawful Act (PMH) in Indonesia is an adoption of the Dutch legal system, which originates from the *Burgerlijk Wetboek* (BW) and has conceptual roots in the Roman-Germanic legal tradition (civil law system). Therefore, the understanding of PMH in Indonesia cannot be separated from the context of doctrinal developments in Continental Europe, particularly from Germany, which serves as a crucial theoretical foundation for modern civil law. In the German legal system, the concept equivalent to PMH is known as *unerlaubte Handlung*, which is regulated in §823 of the *Bürgerliches Gesetzbuch* (BGB) (van Boom et al., 2007). That article stipulates that 'A person who, intentionally or through negligence, unlawfully injures the life, body, health, freedom, property or any other right of another, is obligated to compensate the damage arising therefrom.'

Article 1365 of the KUHPPerdata and §823 of the BGB share a nearly identical substance: both regulate a person's liability for damage caused by the infringement of another person's rights. However, in practice and doctrine, both have developed differently. As reported by *Hukum*

Online (2024), Indonesia inherited a continental legal system that increasingly emphasizes the jurisprudential and interpretive aspects by the judges to expand the meaning of "unlawful", especially after being influenced by the Lindenbaum vs Cohen decision (*Hoge Raad*, 1919), which broadened the understanding of "unlawful" not only to cover violations of written law but also violations against norms of propriety, morality (*kesusilaan*), and social interest. Meanwhile, as quoted from Markesinis et al., (2019), Germany developed a more systematic and structured system through the BGB, with a clear division between the elements of fault (*Schuld*), causation (*Kausalität*), and damage (*Schaden*), as well as the existence of specific liability categories such as *Gefährdungshaftung* (liability for danger) which allows for the application of strict liability under certain conditions.

In the context of protecting private civil rights, the Unlawful Act functions as a corrective and preventive mechanism. It is not merely an instrument for compensation for losses but also plays a role in maintaining social order and justice in inter-individual relations (Halipah et al., 2023). According to Wibowo et al., (2024), civil rights in the modern era are no longer limited to ownership or contractual relationships but also encompass the rights to honor, reputation, privacy, and freedom of expression. Violations of these rights are becoming more frequent with the development of information and communication technology, such as the unauthorized dissemination of personal data or defamation through social media. Under these conditions, the role of the Unlawful Act becomes increasingly crucial as a basis for a civil lawsuit to provide compensation while restoring the dignity of the aggrieved individual.

However, in Indonesian legal practice, the application of the Unlawful Act (PMH) against the infringement of non-material civil rights remains inconsistent. Many judges still interpret the element of 'unlawful act' narrowly, especially when concerning rights that are not explicitly regulated in statutory law. Furthermore, the framework of the Indonesian civil liability system is still heavily oriented towards the principle of fault liability, a concept of liability that only arises when there is actual fault on the part of the perpetrator, without providing adequate space for the concept of strict liability, which has long been recognized in the German legal system (Atmadja et al., 2025). This condition creates a gap in legal protection for individuals who suffer damages due to the actions of others, particularly in cases involving the infringement of personal or immaterial rights.

Meanwhile, German law demonstrates a more mature and comprehensive approach. Besides providing a clear legal basis through §823 BGB, German law also recognizes various forms of rights that can be protected through an Unlawful Act lawsuit, such as the right to reputation (*Ehre*), bodily integrity (*Körperliche Unversehrtheit*), personal liberty (*Freiheit*), and property (*Eigentum*) (Dannemann & Schulze, 2020). The development of doctrine and jurisprudence in Germany has also broadened the scope of legal liability for the infringement of modern civil rights, including violations of the right to personal data and the right to one's own image (*Recht am eigenen Bild*) (Dreier & Andina, 2022). Thus, German law not only positions the Unlawful Act as an instrument for compensation but also as an effective means to protect the dignity and autonomy of the individual amidst the development of the digital society.

A comparison between Indonesia and Germany in this context is important because both share the same legal system roots yet demonstrate different directions of development. According to Aridah et al., (2024), Indonesia is still in a transition phase between the classic interpretation and the modern interpretation of the Unlawful Act, while Germany has successfully integrated the concept systematically into legal practice and the protection of citizens' human rights. This comparative study is expected to provide deeper insights into how the principles of the Unlawful Act can be expanded to protect civil rights, which are increasingly complex and dynamic in the era of globalization.

Considering the development of the modern legal paradigm, the protection of civil rights cannot truly be separated from the dimension of individual human rights. The rights to honor,

privacy, and reputation are fundamental human rights inherent to every person, guaranteed by the constitution and international legal instruments (Amalia et.al, 2023). In this context, the Unlawful Act (PMH/Tort) can be understood not only as a basis for civil liability but also as a legal mechanism that upholds respect for human dignity and individual human rights within the private sphere. Therefore, this research positions the Unlawful Act as the meeting point between civil law and the values of individual human rights in modern legal society.

For these reasons, this research is directed to answer several main questions: (1) To analyze the concept and elements of the Unlawful Act in Indonesian and German civil law as a basis for the protection of civil rights and individual human rights; (2) To explain how the two legal systems position the Unlawful Act as an instrument for protecting civil and non-material rights as part of individual human rights; and (3) To identify the comparative implications for the reform of Indonesian civil law so that it is more adaptable to the values of individual rights protection.

Thus, this research is not only descriptive-comparative but also possesses normative value, namely to provide direction for the reform of Indonesian civil law so that it is more adaptive to the needs of modern society. Through this comparative study, it is hoped that a meeting point can be found between the values of individual justice and legal certainty, which is the core of the civil law system. The Unlawful Act, ultimately, is not merely an article in the Civil Code, but a representation of the law's social responsibility in safeguarding human dignity, liberty, and personal integrity in inter-individual relations.

RESEARCH METHODS

This research employs a normative legal method (*yuridis normatif*) with a library research approach. According to Peter Mahmud Marzuki (2007), normative legal research is a process of discovering legal rules, legal principles, and legal doctrines to address the legal issues faced. This involves examining positive legal norms and relevant legal doctrines to understand the concept of the Unlawful Act in the context of protecting civil rights and individual human rights. The data utilized are sourced from primary legal materials in the form of statutory regulations, particularly Article 1365 of the Indonesian Civil Code (*KUHPerdata*) and §823 of the *Bürgerliches Gesetzbuch* (BGB) in Germany. The data also include secondary legal materials such as academic literature, law journals, and court decisions in both countries that discuss the application of the Unlawful Act principle. A comparative approach is used to contrast the similarities and differences between the Indonesian and German legal systems concerning the regulation, elements, and application of civil liability for the infringement of individual rights. The analysis is conducted using a qualitative descriptive method, emphasizing the systematic and conceptual interpretation of legal norms, to find the relevance and potential application of German legal principles in the context of Indonesian civil law reform.

RESULT AND DISCUSSION

A. Concept and Elements of Unlawful Act in Indonesian and German Civil Law

The unlawful act (*onrechtmatige daad* or tort) is a fundamental concept in civil law that serves as the basis for civil liability when an action by one person causes damage to another. In many legal systems, including Indonesia and Germany, this doctrine is not only a mechanism for compensation for the victim but also acts as an instrument for maintaining social balance and order among legal subjects. Although both adhere to the civil law tradition, Indonesia and Germany have historical and conceptual differences in formulating and applying the principle of

the Unlawful Act (PMH). The following elaborates on the concept of the Unlawful Act in both countries:

1. Concept and Scope of the Unlawful Act in Indonesia

In the Indonesian legal system, the fundamental regulation for the Unlawful Act (PMH) is stipulated in Article 1365 of the Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPerdata), which states:

"Every unlawful act which causes damage to another person, obliges the person who through his fault caused the damage, to compensate the damage."

This formulation serves as the general norm that opens the space for civil liability *outside of contractual obligations*. Thus, *onrechtmatige daad* in Indonesia applies to non-contractual legal relationships, where a person can be held accountable for their action or omission that causes damage to another party. Initially, the interpretation of the Unlawful Act in Indonesia was heavily influenced by Dutch jurisprudence prior to independence, especially the Supreme Court of the Netherlands (*Hoge Raad*) decision dated January 31, 1919, in the case of *Lindenbaum vs. Cohen*. Before this decision, the Unlawful Act was interpreted narrowly, limited only to a violation of statutory law. However, *Lindenbaum vs. Cohen* broadened this meaning by affirming that an unlawful act not only covers violations of written regulations but also violations of norms of morality (*kesusilaan*), propriety, and general principles of society (Yasin, 2024). Since then, the understanding of the Unlawful Act has no longer been restricted to written legal norms but also includes unwritten law (*norma tidak tertulis*), thereby opening the possibility for the recognition of non-material civil rights such as honor, good name (reputation), and privacy.

In Indonesian judicial practice, this doctrine has been applied in various cases involving the infringement of non-material rights. In several Supreme Court decisions, actions that defame a person through mass media have been qualified as an unlawful act (PMH), because such actions violate personal rights (*privacy rights*) which are part of the civil rights protected by law, as regulated in Article 1365 of the Civil Code (*KUHPerdata*) (Andryawan et al., 2024). This indicates that the Unlawful Act in Indonesia is developing into a dynamic means of protection, encompassing aspects of a person's personality and moral integrity. According to Cevitri and Djajaputra (2023), when viewed from its elements, Article 1365 of the KUHPerdata contains four main elements, namely:

- 1) The existence of an unlawful act, whether in the form of an active deed or an omission (negligence).
- 2) The existence of fault (*schuld*) on the part of the perpetrator, which can be in the form of intention (*kesengajaan*) or negligence (*kelalaian*).
- 3) The existence of damage (*schade*) suffered by the other party, whether in the form of material or immaterial damage.
- 4) The existence of a causal link (*causal verband*) between the unlawful act and the resulting damage.

All four of these elements must be fulfilled cumulatively for a person to be held accountable on the basis of the Unlawful Act (PMH). However, in practice, the interpretation of the element of "unlawful" is the most flexible because it opens room for doctrinal development, especially in the context of protecting civil rights that are not always explicitly listed in statutory law. Furthermore, Indonesian civil law recognizes the unlawful act by the authorities (*onrechtmatige overheidsdaad*), where the state or public officials can be held accountable if their administrative actions infringe upon the rights of citizens.

In the context of protecting individual human rights, the formulation of Article 1365 of the KUHPerdata also possesses an important humanitarian dimension. When a person violates the personal rights of another, such as honor, good name, or privacy, the action not only causes civil damage but also constitutes a violation of individual human rights guaranteed by the

constitution. Thus, the application of the Unlawful Act in Indonesia can be understood as a juridical mechanism that plays a role in upholding human rights values, particularly in inter-individual relations (the horizontal effect of human rights). This principle shows that Indonesian civil law has the potential to expand protection for immaterial rights as part of fundamental human rights.

Nevertheless, the focus in the context of this research is directed toward the unlawful act between private subjects, namely the legal relationship between one individual and another, where the protection of civil rights becomes the core discussion.

2. Concept and Scope of the Unlawful Act in Germany

Meanwhile, in the German legal system, the concept of the Unlawful Act (PMH) is systematically regulated in §823 Paragraph (1) of the *Bürgerliches Gesetzbuch* (BGB), which stipulates:

"A person who, intentionally or through negligence, unlawfully injures the life, body, health, liberty, property, or any other right of another, is obligated to compensate the damage arising therefrom."

This formulation indicates that German law positions *Unrechtmäßige Handlung* (unlawful action) as a more structured form of civil liability compared to Indonesia. The BGB explicitly mentions the categories of protected rights, especially non-material rights such as life, body, and individual liberty. This confirms that German law provides strong recognition for personality rights (*Persönlichkeitsrechte*) within the civil law sphere (van Boom et al., 2007). According to Markesinis et al., (2019), the elements of the Unlawful Act in German law include:

- 1) The existence of an unlawful action (*rechtswidrige Handlung*), namely an action that infringes upon the legal rights of another.
- 2) Fault (*Verschulden*), which can be in the form of intention (*Vorsatz*) or negligence (*Fahrlässigkeit*).
- 3) Damage (*Schaden*) actually incurred by the victim.
- 4) Causality (*Kausalität*) between the action and the resulting damage.

However, according to Schwerdtfeger (2007), German law adds one crucial principle: the *Schutznormtheorie* or the theory of protective norms. Under this theory, an action can only be categorized as unlawful if it violates a norm that is *intended to protect the interests of a specific party*. This means that not every violation of the law gives rise to civil liability unless the violated norm has a function of individual protection. This approach affirms that *rechtswidrigkeit* (the quality of being unlawful) must have an orientation toward the protection of a specific right, not merely a violation of the law in general.

Furthermore, German law also recognizes the concept of the *allgemeines Persönlichkeitsrecht* (general personality right), which was developed through the jurisprudence of the German Federal Court of Justice (*Bundesgerichtshof*) (Čtvrtník, 2023). This concept allows for the protection of non-material rights such as reputation, honor, and privacy, even when they are not explicitly mentioned in the BGB. For example, in the Mephisto Decision in 1971, the German Constitutional Court recognized that the publication of a literary work that offended a person's reputation could be sued on the basis of violating personality rights (Global Freedom of Expression, 2023b). With a philosophical basis that places human dignity (*Menschenwürde*) as the highest principle in the *Grundgesetz* (German Constitution), German civil law treats the Unlawful Act as an instrument for protecting individual human rights. §823 BGB not only regulates compensation for the infringement of property or liberty rights but also guarantees personality rights that are an essential part of human rights, such as bodily integrity, honor, and privacy. This doctrine affirms that civil law in Germany is not separate from constitutional values but serves as an extension of Human Rights protection in the horizontal relationship domain. Therefore, the Unlawful Act system in Germany can be considered an ideal model of integration between civil law and the principles of individual human rights.

B. PMH as an Instrument for the Protection of Civil Rights & Individual Human Rights, Especially Non-Material Rights

In the development of modern civil law, the concept of the Unlawful Act (PMH/Tort) is no longer understood merely as a mechanism for compensation for material damages, but also as a means to protect non-material civil rights, such as honor, good name (reputation), privacy, and personal liberty. In this context, both Indonesia and Germany demonstrate an interesting evolution of thought, although through different historical and dogmatic paths. The following is an explanation:

1. The Function of PMH in the Protection of Civil Rights & Individual Human Rights in Indonesia

In the Indonesian legal system, the Unlawful Act (PMH) serves as a very flexible basis for civil liability because its formulation in Article 1365 of the Civil Code (KUHP_{Perdata}) is general and does not restrict the types of rights infringed upon. This flexibility allows for the broadening of judicial interpretation to encompass various forms of infringement of civil rights, including those of a non-material nature. Since the adoption of the *Lindenbaum vs. Cohen* interpretation into Indonesian legal doctrine, the element of “unlawful act” is no longer limited to the infringement of written regulations but also includes violations of norms of morality (*kesusilaan*), propriety, and the principle of caution (*asas kehati-hatian*) in society (Yasin, 2024).

Jurisprudence in Indonesia has strengthened the function of the Unlawful Act (PMH) as a means of protection for non-material rights (Suryoutomo & Lindgren, 2025). In various Supreme Court decisions, actions such as the publication of defamatory or insulting writings through mass media are qualified as PMH, as they damage a person's good name (reputation) and violate their personal rights (privacy). The courts have also recognized the existence of immaterial damages resulting from the violation of privacy and honor, demonstrating that PMH plays a crucial role as a legal mechanism for restoring the moral and psychological damages suffered by the victim.

Protection for non-material rights is further strengthened by the recognition of human rights in the Indonesian Constitution. Article 28G Paragraph (1) of the 1945 Constitution (*Undang-Undang Dasar 1945*) guarantees the protection of honor and human dignity, while Law No. 39 of 1999 concerning Human Rights recognizes the right to privacy, freedom of expression, and protection against humiliation (Andriansyah & Kusnadi, 2024). In practice, a civil lawsuit based on the Unlawful Act (PMH) is frequently used to enforce these rights when public legal mechanisms are inadequate. Thus, the Unlawful Act in Indonesia functions as a bridge between civil law and the protection of individual human rights in society.

However, a systemic weakness is still evident in the lack of clarity regarding parameters for determining the form and amount of immaterial damages. The Civil Code (KUHP_{Perdata}) does not provide specific guidelines for the assessment of non-material losses, often leading to reliance on judicial discretion. This is where the importance of Indonesian civil law doctrine reform lies, to provide a more certain normative framework for assessing the infringement of immaterial civil rights, especially in the digital era where violations of privacy and reputation occur in cyberspace and are difficult to measure economically.

2. PMH as an Instrument for the Protection of Non-Material Rights in German Law

In contrast to Indonesia, the German legal system explicitly places the Unlawful Act (PMH) within the *Bürgerliches Gesetzbuch* (BGB) as the main instrument for the protection of individual human rights, both material and non-material. §823 Paragraph (1) BGB covers not only the infringement of property rights but also of fundamental individual rights such as life, body, health, and liberty (van Boom et al., 2007). This recognition of *Persönlichkeitsrechte* or personality rights is a crucial characteristic of German law that is not found in the Indonesian Civil Code (KUHP_{Perdata}).

In addition to explicit protection in statutory law, German law also developed the doctrine of *Allgemeines Persönlichkeitsrecht* (General Personality Right) through the jurisprudence of the German Federal Court of Justice (*Bundesgerichtshof*). This doctrine recognizes the individual's right to protect their personal integrity from interference or misuse, including in the domain of media and public communication (Čtvrtník, 2023). A classic example is the Lebach Case (1973), reported by Global Freedom of Expression (2023a), where the German Constitutional Court ruled that the re-broadcasting of a documentary about an old crime for which the sentence had already been served violated the defendant's individual human rights by threatening their social reintegration. This decision demonstrates that the infringement of non-material rights can give rise to civil liability, even when there is no direct material damage.

The development of technology and digital media has also driven the strengthening of the concept of civil liability in Germany. For example, in the Caroline von Monaco case, the German Federal Court of Justice stated that the publication of photos of a public figure's private life without consent constitutes an infringement of personality rights. This case became an important milestone in the development of privacy law in Europe and strengthened the position of the Unlawful Act as a mechanism for protecting non-material rights against the mass media and digital economic actors. The German approach emphasizes the principles of proportionality and *Schutznormtheorie* (Theory of Protective Norms), where every infringement can only be sued if the violated norm is indeed intended to protect the interests of a specific individual (Schwerdtfeger, 2007). Thus, the balance between freedom of expression and the protection of private rights can be maintained proportionally. This system demonstrates that German law successfully integrated the protection of non-material civil rights into the civil law structure through a combination of written regulation and progressive jurisprudence.

C. Comparative Implications for the Reform of Civil Law Doctrine in Indonesia

The comparison between the concept and application of the Unlawful Act (PMH/Tort) in Indonesia and Germany indicates that Indonesian civil law needs to revitalize its doctrine of civil liability to be more adaptable to social and technological developments. Although Article 1365 of the Civil Code (*KUHPerdata*) is open-ended and flexible, this approach also creates weaknesses in terms of legal certainty and consistency of application. Meanwhile, the German legal system, enshrined in the *Bürgerliches Gesetzbuch* (BGB), demonstrates a balance between the certainty of norms and interpretive room for judges to protect non-material rights. The reform of the Unlawful Act doctrine in Indonesia can utilize the German experience as a reference to strengthen the normative, methodological, and functional dimensions of national civil law.

Firstly, the normative implication of this comparison is the necessity for substantive reform of Article 1365 *KUHPerdata* to more firmly affirm the recognition of non-material civil rights. German law provides an example through §823 BGB, which explicitly protects the rights to life, body, health, liberty, and property, as well as opening room for the jurisprudential recognition of the General Personality Right (*Allgemeines Persönlichkeitsrecht*) (Čtvrtník, 2023). In the Indonesian context, the still-general formulation of Article 1365 can be strengthened with an explanation or derivative norms that affirm the protection of personality rights, such as good name, privacy, self-image, and digital reputation. This step aligns with the direction of national legal reform being pursued in the Draft Civil Code (*RKUHP*), which has begun to consider immaterial aspects in civil relationships (Cevitra & Djajaputra, 2023).

Secondly, from a methodological perspective, the reform of the Unlawful Act doctrine in Indonesia needs to adopt the *Schutznormtheorie* (Theory of Protective Norms) developed in Germany. This principle emphasizes that an act can only be categorized as unlawful if the violated norm is indeed intended to protect the interests of a specific party (Schwerdtfeger, 2007). Consequently, not every violation of the law automatically gives rise to civil liability. The implementation of this principle in Indonesia will clarify the boundary between social-moral violations and legal violations that entail juridical responsibility. This is important to prevent the

overlapping between civil law and criminal law and to provide a more rational direction in determining civil liability.

Thirdly, the functional implication of this comparison lies in the role of the Unlawful Act as a means of protecting civil rights in the digital era. The advancement of information technology has given rise to new forms of rights infringement, such as the unauthorized dissemination of personal data, online defamation, and digital copyright infringement. In this situation, the Unlawful Act becomes a critical instrument for enforcing civil liability, especially when the resulting damage is non-material (Suryoutomo & Lindgren, 2025). Indonesia can emulate the German approach, which provides strong protection for personality rights in the public and digital spheres, without neglecting freedom of expression. This can be achieved through the establishment of judicial guidelines or normative interpretations by the Supreme Court that affirm the boundaries of civil rights protection in cyberspace.

Overall, the comparison between Indonesia and Germany shows that the strengthening of the Unlawful Act doctrine in Indonesia does not require a radical change to the structure of civil law, but rather a conceptual and interpretive reform that affirms the position of individual human rights as part of the civil rights protected by law. An approach that balances certainty of norms and flexibility of interpretation will make the Unlawful Act a legal protection instrument that is responsive to the development of modern society.

CONCLUSION

Based on the results of the comparative analysis between the Indonesian and German civil law systems, it can be concluded that the concept of the Unlawful Act (PMH/Tort) in both countries shares common roots in the Continental European legal tradition but has developed in different directions according to their respective social contexts and legal systems. In Indonesia, the Unlawful Act, regulated in Article 1365 of the Civil Code (*KUHPerdata*), tends to retain the character of a general clause that emphasizes the elements of fault, damage, and a causal link as its main components. However, its application in judicial practice is often still limited to the infringement of written legal norms, meaning that the protection of non-material rights such as honor, privacy, and reputation has not yet reached its optimal level. Meanwhile, German law, through §823 of the *Bürgerliches Gesetzbuch* (BGB), presents a more systematic formulation, clearly distinguishing between the infringement of absolute rights and the infringement of general duties. Furthermore, the German legal system also extends the protection of individual human rights through dynamic jurisprudential interpretation, even when written norms do not explicitly regulate them.

In the context of protecting civil rights, both legal systems position the Unlawful Act as a liability mechanism aimed at restoring the social and moral balance resulting from an unlawful act. However, the advantage of the German system lies in its ability to adapt the principle of delictual liability to the developments of modern society, especially in the sphere of non-material rights and liability without fault (strict liability). For Indonesia, this comparison provides an important lesson that the reform of the Unlawful Act doctrine needs to be directed towards strengthening the protection of individual human rights and a broader recognition of forms of immaterial damages. Such reform can be carried out through jurisprudential reinterpretation and the revision of the *KUHPerdata*, enabling it to adjust to the development of the digital society, modern economy, and the values of social justice. Thus, the Unlawful Act (PMH) holds a strategic position as a bridge between civil law and the protection of individual human rights. Through the strengthening of the principle of civil liability and the recognition of immaterial rights, the Unlawful Act not only provides compensation for losses but also upholds humanitarian values in every legal relationship. This makes the Unlawful Act a concrete instrument for the

protection of human dignity, liberty, and personal integrity within the civil law order of both Indonesia and Germany.

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