

REGULATION OF SOCIAL BONDS FOR AFFORDABLE HOUSING FULFILMENT (A LEGAL COMPARISON BETWEEN INDONESIA AND THE PHILIPPINES)¹

REGULAMENTAÇÃO DE TÍTULOS SOCIAIS PARA A IMPLEMENTAÇÃO DE HABITAÇÃO ACESSÍVEL (UMA COMPARAÇÃO JURÍDICA ENTRE INDONÉSIA E FILIPINAS)

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Abstract

Achieving the affordable housing aspect of SDG 11 requires robust regulatory and financial support. Consequently, capital market financing instruments, such as social bonds, are essential. The study's main focus is a comparative analysis of the regulations for affordable housing programs financed through social bond instruments in Indonesia and the Philippines. The results show differences that the Philippines provides more specific regulatory provisions for social bonds. However, a similarity exists, as both nations adopt the Social Bond Principles issued by the International Capital Market Association (ICMA) and the ASEAN Social Bond Standards. From international law's perspective, the recognition of regulations, principles, and legal standards developed by nonstate organizations implies a shift in their legal status. The Vienna Convention of 1986 has shifted the position of ICMA and ACMF for member countries like Indonesia and the Philippines from merely coordinative to a subordinative status. Furthermore, Indonesia's social bond regulation leans toward legal harmonization, whereas the Philippines employs the unification concept for ICMA and ASEAN standards. The Philippines' use of the unification concept for the ASEAN Social Bonds Standards

Resumo

Alcançar o aspecto de habitação acessível do ODS 11 requer suporte regulatório e financeiro robusto. Consequentemente, instrumentos de financiamento do mercado de capitais, como os títulos sociais, são essenciais. O foco principal do estudo é uma análise comparativa das regulamentações para programas de habitação acessível financiados por meio de instrumentos de títulos sociais na Indonésia e nas Filipinas. Os resultados mostram diferenças, sendo que as Filipinas fornecem disposições regulatórias mais específicas para títulos sociais. No entanto, existe uma semelhança, pois ambas as nações adotam os Princípios de Títulos Sociais emitidos pela International Capital Market Association (ICMA) e os Padrões de Títulos Sociais da ASEAN. Do ponto de vista do direito internacional, o reconhecimento de regulamentos, princípios e normas jurídicas desenvolvidos por organizações não estatais implica uma mudança em seu status legal. A Convenção de Viena de 1986 alterou a posição da ICMA e da ACMF para países membros como Indonésia e Filipinas, de um status meramente coordenativo para um status subordinado. Além disso, a regulamentação de títulos sociais da Indonésia tende para a harmonização legal, enquanto as Filipinas empregam o conceito de

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offers greater potential to boost confidence among foreign investors, especially those in ASEAN, in its social bond issuances.

Keywords: Affordable Housing. Indonesia. Legal Comparison. The Philippines. Regulation. Social Bonds.

unificação para os padrões da ICMA e da ASEAN. O uso do conceito de unificação pelas Filipinas para os Padrões de Títulos Sociais da ASEAN oferece maior potencial para aumentar a confiança entre investidores estrangeiros, especialmente aqueles na ASEAN, em suas emissões de títulos sociais.

Palavras-chave: *Habitação Acessível. Indonésia. Comparação Legal. Filipinas. Regulamentação. Títulos Sociais.*

1 INTRODUCTION

In the past few decades, Indonesia has committed to being part of the global community, as shown by ratifying the Paris Agreement to the United Nations Framework Convention on Climate Change based on Law Number 16 of 2016 (Undang-Undang Nomor 16, 2016). In addition, it has also ratified its commitment to achieving the Sustainable Development Goals (SDGs), which were enacted through Presidential Regulation No. 59 of 2017 (Indonesia, 2017)(Irhamyah, 2019), which was followed up with a presidential regulation governing the setting of targets for the 2024 National Sustainable Development Goals, which were formulated with reference to the global goals and targets of the 2030 SDGs (Pemerintah Republik Indonesia, 2023). Based on these two agreements, development in Indonesia must be oriented towards fulfilling these commitments.

The commitment to sustainable development is part of the 2030 SDGs' agenda, which emphasises five key principles: people, planet, prosperity, peace, and partnership (Berkelanjutan, Indonesia, & Forum, 2022). This means that fulfilling the SDGs is a shared commitment among the countries that have ratified them, including Indonesia. As a result, all national development policies are orientated towards, and aligned with, the strategic plan of the SDGs, which is 'to end extreme poverty, fight inequality and injustice, and protect our planet (UN Global Compact, 2019).

One of the crucial issues in ending extreme poverty is the fulfilment of SDG Goal 11, 'Sustainable Cities and Communities', particularly in relation to affordable housing still a global issue (Soederberg, 2017). According to the 2025 Sustainable Development Goals Report, housing affordability has reached crisis levels amid rapid urbanisation, impacting between 1.6 and 3 billion people worldwide. Alarmingly, 1.12 billion

individuals live in slums or informal settlements, facing challenges such as overcrowding, homelessness, and the lack of basic services (United Nations Department of Economic and Social Affairs, 2025). Furthermore, it was reported that data from 124 countries showed that, in 2023, the global housing cost burden that is, the proportion of household expenditure on housing costs such as rent or mortgage payments and utilities reached 32.0 per cent, with significant differences between regions. Sub Saharan Africa had the highest burden at 43.5 per cent, followed by North Africa and the Middle East at 36.9 per cent. Meanwhile, Europe and North America reported lower burdens at 21.4 per cent, due to stronger regulatory frameworks and better financial support systems (United Nations Department of Economic and Social Affairs, 2025).

Various efforts have been made by the government to address these issues, such as subsidised housing policies, but these have not been effective enough in their implementation. Therefore, careful consideration is needed regarding regulatory frameworks and financial support systems to support the provision of affordable housing (Akinwande & Hui, 2024).

Further investigation reveals that the obligation to affordable housing is a constitutional right of every Indonesian citizen. This provision is clearly stipulated in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that ‘every citizen has the right to live in prosperity, both physically and spiritually, to have a place to live, and to enjoy a good and healthy environment.’ From this provision, it is clear that the fulfilment of adequate housing is a constitutional right of every citizen that must be fulfilled by the government. However, this is not easy, considering that economic conditions also influence the decline in the socio economic status and the purchasing power of the people in Indonesia. The decline in Indonesia's socio economic status is estimated to be significantly influenced by geopolitical conditions. These geopolitical conditions are part of the rapid global changes across all fields, known as global megatrends (Pemerintah Indonesia, 2024). This situation, also known as the current global paradigm, makes it increasingly difficult for Indonesia to achieve the SDGs.

The most current policy is the priority programme outlined in the 6th Asta Cita, specifically in the field of economic equality, particularly related to the accelerated provision of housing for the people. However, with the current spirit of budget efficiency, it is still difficult to achieve this goal without innovative financing for the provision of

public housing, especially if such financing is solely dependent on the State Budget (ABPN). In response to this situation, the government has developed the President's work programme, known as the Asta Cita, which has been incorporated as a National Priority in the Medium Term National Development Plan (RPJMN) 2025-2029. The Asta Cita programme is expected to serve as a solution or response to the global megatrends and to achieve the Sustainable Development Goals (SDGs).

Therefore, alternative financing instruments are needed, one of which is through the issuance of social bonds. Social bonds, as one of the instruments of a sustainable financial system, are fixed income securities issued to raise funds for projects and activities related to specific themes, such as climate change, education, housing, marine and ocean conservation, and the Sustainable Development Goals. These sustainable financial instruments include environmental, social, and sustainability bonds, as well as sustainability linked bonds (Kayaalp, 2022).

From this, it can be concluded that the concept of the SDGs also influences the finance industry, which is developing the concept of a sustainable financial system. One of the elements formulated in the sustainable financial system is the roadmap for finance, whereby OJK, as the financial services authority in Indonesia, must formulate a work programme known as the Sustainable Finance Framework (Otoritas Jasa Keuangan, 2021).

Academic studies related to social bonds are a relatively new topic that has not been widely discussed. However, based on our research, there are several studies, including a study conducted by Lenzi D titled 'Corporate Social Bonds: 'A Legal Analysis' (Lenzi, 2021). In his study, Lenzi emphasises the risk of social washing in the issuance of social bonds. Furthermore, Stephen Park SK, in his article entitled 'Social Bonds for Sustainable Development: A Human Rights Perspective on Impact Investing' (Park, 2018), provides a view that a framework is needed to evaluate human rights factors as an impact of investment in social bonds. Finally, Sophie Peeters, Maud Schmitt, and Ariane Volk discuss social bonds in the context of economic mitigation and the social effects of the COVID-19 crisis (Peeters, Schmitt, & Volk, 2020). The three research findings differ from this paper, which reviews the comparison of social bond regulations in Indonesia and the Philippines, particularly those related to the financing instruments for the fulfilment of affordable housing. Based on the description of the background, the primary issue for examination is how the characteristics and models of the regulatory

frameworks for social bond financing instruments differ between Indonesia and the Philippines, and how such regulations are implemented from an international legal perspective, particularly regarding the fulfilment of affordable housing.

2 METHOD

The method used in this study is normative legal research, and the approach used is the statute approach, which will examine the research object in the form of the norms regulated in the laws and regulations applicable in Indonesia and several countries related to the object of study, as well as the international agreements or conventions (Marzuki, 2019). The statute approach is used to examine the rules or standards agreed upon in international conventions and their incorporation into the legal framework of a particular country, which can be done through either legal harmonisation or unification. The legal instruments that can be used for unification or harmonisation include international conventions and model laws. The term ‘model law’ here refers to works produced by international organisations in specific legal fields that can serve as references for legislation in each country to create or modify their national laws and regulations.

Meanwhile, unification can be achieved through customs, international practices, international agreements, or between countries through international conventions. This understanding refers to the opinion of George A. Zaphiriou, who states that international unification means adoption of an agreed set of rules, standards or guidelines for application to transnational transactions. In international trading, this was achieved by custom, international practice or by international agreement within the framework of a professional organisation or between states by an international convention (Cenuk Widiyastrisna Sayekti, 2022).

From the aspect of legal subject enforcement, international conventions based on the Vienna Convention on the Law of Treaties Between States and International Organisations or Between International Organisations (Vienna Convention 1986) can be between international organisations or between international organisations and states, as formulated in the preamble to the Vienna Convention 1986, ‘... international organisations are parties as subjects of international law distinct from states.’ From this understanding, it can be interpreted that both harmonisation and unification can be achieved through the issuance of legal regulations by non state actors (Endarto,

Taufiqurrahman, & Mardiana, 2024). Referring to these provisions, international organisations such as the International Capital Markets Association (ICMA) and the ASEAN Capital Markets Forum (ACMF) can be considered legal entities. Therefore, both the Social Bond Principles published by the ICMA and the ASEAN Social Bond Standards formulated by the ACMF can be adopted through harmonisation or unification models.

In addition, this study also uses a conceptual approach related to the doctrines of theories relevant to the subject matter of this study (Irwansyah, 2022). The concepts that will be examined in relation to social bonds include, but are not limited to, sustainable finance, social finance, and thematic bonds, which are concepts of sustainable finance and finance that have a social impact.

Next, a comparative approach will be used to compare the regulations and institutions from other countries that are relevant to the research subject. As a method, comparative law is considered a way to comprehensively examine the law by also studying the systems, rules, institutions, and legal history of more than one country or more than one legal system (Fuady, 2010). This is based on Gary Bell's view that 'Comparative law studies are basically about understanding each other's legal systems.' One of the focuses of comparative law studies is to find similarities and differences between the legal systems of different countries, as well as to find the reasons behind these similarities and differences. However, in conducting comparative legal studies or research, comparisons are not only made between similar or identical legal systems but also between the legal systems of different countries (BELL, 2019)(Mukni & Saleh, 2024). There are a number of reasons why certain countries were chosen as the objects for comparison. These include similarities in the legal systems, similarities in the form and/or system of state/government, geographical similarities, proximity of territory, and so on (Mukni & Saleh, 2024). Based on these views, this study will compare the laws of the Philippines and Indonesia, considering their geographical similarities and proximity.

In order to discuss the existing issues, the main points of discussion are divided into four topics, namely the characteristics of social bonds as an instrument of sustainable finance, the regulation of social bonds in Indonesia, the regulation of social bonds in the Philippines, and finally, a comparative study of the regulation of social bonds in Indonesia and the Philippines.

3 RESULTS AND DISCUSSION

3.1 Characteristics of social bonds as a sustainable finance instrument

It has become a global commitment that development in various countries has referred to the SDGs, which are long term global programmes initiated by the UN in order to optimise the full potential and resources of each country. The SDGs have 17 goals and 169 underlying targets. Along the way, the concept of the SDGs has also impacted the finance industry, which is required to develop the concept of a sustainable financial system. In principle, sustainable development embraces the interrelated goals of achieving durable and equitable economic growth, preserving the natural environment, and maximizing social welfare (Park & Berger-Walliser, 2015). Similarly, from the perspective of corporate environment today, investors are increasingly aware of the operational, reputational and legal risk associated with human rights, as well as the positive correlation between a company's social performance and its operational performance (Ferrell, Liang, & Renneboog, 2016).

Several studies conducted by Raghu Raman *et al.* found that efforts to support the fulfilment of the SDGs are not sufficient if they are limited to the commitment of the ratifying countries, financial instruments are also necessary. However, it is also recognised that there are still challenges such as evolving regulations, market barriers, and capacity constraints that can become market barriers (Raman, Ray, Das, & Nedungadi, 2024). Furthermore, it was conveyed that despite obstacles and challenges, innovative and inclusive financial mechanisms are still needed to mobilise capital flows in line with global priorities (Raman *et al.*, 2024). To meet the SDGs, ideally social finance developments should be followed, even though they are still limited (Rizzello & Kabli, 2020).

Based on research conducted by Francesco Rizzi *et al.* on 17 social finance institutions in three European countries, namely Ireland, Italy, and the United Kingdom, two forms of social finance were identified, namely social impact investment and ethical banking. Both guide the institutionalisation and paradigm building process, and these forms assume the production of a social impact, namely an impact on society, the environment, and sustainable development, as a distinguishing trait from commercial financial approaches, but differ in terms of business models and products and services

provided to customers. Dominant institutionalisation patterns reflect the social embeddedness of these institutions. The convergence of the two dominant models would be desirable in order to further facilitate the development of social finance as a new paradigm in the finance and banking industry, as an alternative to commercial finance (Rizzi, Pellegrini, & Battaglia, 2018). From these two studies, quoting Marek Luszczyn, it can be said that social finance describes a new way of solving global problems through the mobilisation of capital for social and environmental impacts. As a financial instrument, social finance aims to create value in standard ways and is orientated towards sustainable development (Verma, 2025). Thus, it is clear that social finance is influenced by the idea or concept of sustainable finance, which is closely related to the global goals of the 2030 SDGs, which aim for sustainable development.

In addition, sustainable finance is an integral part of environmental, social, and governance (ESG) principles (Ma'ruf, Mahomed, & Mohamad, 2021)(Ditlev-Simonsen, 2022). Within companies, sustainability is no longer an ancillary issue confined to corporate social responsibility but a fundamental issue of the core business. Within the investment industry, sustainability used to be the exclusive domain of 'socially responsible investors' who had social as well as financial objectives, but it is now mainstream and includes investors with purely financial goals (Edmans & Kacperczyk, 2022).

Historically, the development of sustainable finance began with the Paris Agreement commitment, which played a major role in triggering the emergence of green bonds based on the urgent need for global institutional investors to join efforts to combat climate change through capital investments based on sound environmental principles. At the same time, there was also growth in other types of bonds, such as social bonds, sustainable bonds, and SDG bonds, which are collectively referred to as thematic bonds. The emergence of thematic bonds was a response to the global challenge of offering solutions through investment models aimed at generating positive environmental and social benefits. Issuing thematic bonds is a multifaceted process involving several distinct steps that issuers must undergo. As such, thematic bonds have the potential to contribute to the implementation of the SDGs' agenda (United Nations Economic and Social Commission for Asia and the Pacific, 2021).

The definition of thematic bonds refers to the opinion of Banu Turhan Kayaalp, which is fixed income securities issued in capital to raise financing for projects and

activities related to a specific theme, such as climate change, education, housing, ocean and marine conservation, the Sustainable Development Goals, and sustainable finance instruments, including green, social, sustainability, and sustainability linked bonds (Casanova & Miroux, 2021). From this definition, it can be concluded that social bonds are part of the thematic bonds, which, according to Sidorenko, are defined as social bonds that raise funds for projects with expected positive social outcomes, helping issuers address social inequalities. Social project categories include affordable basic infrastructure (clean drinking water, energy, and sanitation); access to health, education, and financial services; affordable housing; employment generation; and food security.

Social bonds, as a type of thematic bond, have specific characteristics in terms of both their use of proceeds, or an equivalent amount, which will be exclusively applied to finance or refinance in part or in full new and/or which are aligned with the four core components of the Social Bond Principles (Peeters *et al.*, 2020). Furthermore, it is also explained that the four core components for alignment with the Social Bond Principles are the use of proceeds, process for project evaluation and selection, management of proceeds, and reporting and social impact (Peeters *et al.*, 2020).

In addition to the Social Bond Principles published by the ICMA, the ASEAN Capital Markets Forum (ACMF) is a forum which comprises market regulators from ASEAN countries whose primary task is to promote the greater integration and connectivity of regional markets. The ACMF also published the ASEAN Social Bond Standards, setting out four components of the Social Bond Principles, namely the use of proceeds, the process for project evaluation and selection, the management of proceeds, and reporting. The distinguishing feature of the social bond issuance components of the two organisations lies in the social bond's impact, which is only found in regulations issued by the ICMA. It is worth noting that the success of the social bond's issuance lies in its social impact achievement, which is the goal orientated aspect of the social bond's issuance (Lenzi, 2021). This should be the main parameter in addition to the other social bond issuance principles. Lenzi added that there are three main distinctions which may facilitate the development of different types of social bonds. Categories of social bonds may mainly depend on (Lenzi, 2021):

1. Who is in charge of achieving the social impact (issuers of beneficiary), and on what legal basis?
2. The definition given to the achievement of the social impact.

3. Investor remuneration.

The development of global social bonds was perceived to be rapidly expanding during the COVID-19 pandemic, when there was a significant need for alternative funding to combat the outbreak. However, the pandemic also caused a drastic decline in economic and social growth. This can be seen from several studies that found that the issuance of social bonds became highly necessary to meet the funding needs arising from the economic downturn and the social effects caused by the crisis resulting from the COVID-19 pandemic itself (Peeters *et al.*, 2020).

According to the SDGs, particularly Goal 11, which aims to make cities and human settlements inclusive, safe, resilient, and sustainable, one of the targets is the provision of affordable housing. According to data on progress towards the Sustainable Development Goals compiled by the United Nations General Assembly Economic and Social Council on 25 April 2025, urbanisation continues to accelerate, with more than half of the global population now living in cities, which is projected to reach nearly 70 per cent by 2050. Under these conditions, social issues may arise, particularly regarding the need for improved housing. Therefore, it is essential to prioritise the preparation of affordable housing for urban communities. Further, cities face mounting challenges, including rising urban poverty, growing slum populations, inadequate public transportation, and threats to infrastructure from disasters. To advance Goal 11, cities need integrated strategies that are focused on affordable and inclusive housing, participatory urban planning, heritage preservation, and stronger local governance, all supported by robust disaggregated data. Initiatives aimed at accelerating the progress on Goal 11 include the Local 2030 Coalition, which drives action on the goals at the local level by bringing together United Nations entities, local governments, and other partners (Perkins, Kurtiş, & Velazquez, 2022).

To address this situation, it is clear that an appropriate financing model for the provision of affordable housing is needed. Based on data on the progress towards the Sustainable Development Goals, the 2025 session of the Economic and Social Council, related to target 11.1, elaborated in point 100, related to funding needs, that housing affordability is a pressing issue affecting 1.6 billion to 3 billion people globally, encompassing challenges from homelessness to overcrowding and lack of basic services. Recent data from 124 countries reveal that the global average housing cost burden is 31

per cent, with sub Saharan Africa at 43.5 per cent, compared with 21.4 per cent in Europe and North America (Peeters *et al.*, 2020).

This data can be used as a reference for planning housing procurement and appropriate financing models for the ASEAN region, including Indonesia. From the above description, it can be concluded that one of the goals of the SDGs, particularly in the area of affordable housing, is a global issue that must be supported by financing instruments such as social bonds. Similarly, Indonesia also requires the strengthening and development of social bonds as a financing instrument for affordable housing to fulfil its SDGs commitments, particularly Goal 11.1. The urgency of the affordable housing issue worldwide will also be a pressing concern for Indonesia and the Philippines. Therefore, it is highly appropriate that both countries have accommodated this by establishing alternative relevant financing instruments, namely social bonds.

3.2 Regulation of social bonds in Indonesia

Every country aims to realise the concept of a welfare state. This can be achieved when the state is able to provide social justice to its citizens. In his perspective on a socially equitable society, John Rawls proposes two basic principles: (1) equality in the enjoyment of freedom (a concept fraught with compliance) and (2) affirmative action, in effect, for the least advantaged among us. This would be achieved by ensuring that the poor have opportunities and that they would receive a relatively larger share of any wealth whenever the economic pie grows larger (Gaitán, Aguiar, & Viciania, 2023). From John Rawls' perspective, it can be interpreted that social justice can be achieved when the state guarantees equality for all citizens to enjoy freedom and provides special treatment for the most disadvantaged groups. Furthermore, it is also stated that this can be achieved by ensuring that the poor have equal opportunities and receive a relatively larger share of wealth or income when the economic pie grows larger (Rais, 2022).

Peter Corning then offers three integrated and balanced normative policy principles to achieve social justice, namely equality, equity, and reciprocity. The explanation of these three principles is as follows (Taqiuddin, 2021):

1. Goods and services must be distributed to each according to his or her basic needs (equality).

2. Surpluses beyond the provisioning of our basic needs must be distributed according to 'merit' (equity).
3. In return, each of us is obligated to contribute to the collective survival enterprise proportionately in accordance with our ability (reciprocity).

To achieve social justice, ideally the three principles proposed by Peter Corning must be applied in a balanced manner in an effort to achieve justice.

However, the development of the concept of the social welfare state must take into account the culture of the society, as stated by Harry C. Triandis, who argues that people in a collectivist culture see themselves as interdependent with their ingroup, which provides a stable social environment for them to which they must adjust. Meanwhile, people in an individualist culture see themselves as stable and the social environment as changeable, so they tend to shape the social environment to fit their personalities (Parlavecchio, Moreau, Favier-Ambrosini, & Gadais, 2022). Based on this view, Indonesian society tends to be born out of a collectivist culture, rather than an individualistic one.

From a constitutional perspective in Indonesia, Jimly Asshiddiqie explains that as a country governed by the rule of law (Taqiuddin, 2021), Indonesia does not merely adhere to the concept of a welfare state, but rather its constitution tends to promote the spirit of a social welfare state, which is the soul or spirit of all the constitutional policies regarding the economy (Rais, 2022). Furthermore, the results of the second amendment to the 1945 Constitution of the Republic of Indonesia in 2002 merged Article 33 with Article 34 and transformed them into a chapter titled 'National Economy and Social Welfare.' From this, it can be explicitly concluded that it contains not only the idea of social welfare but it also can be said to be the constitution of a social welfare state or a social welfare constitution as well as an economic constitution (Taqiuddin, 2021). In the socio economic context as a means of realising social welfare and implementing the social welfare constitution, reference must be made to the values of Pancasila as Indonesia's *Weltanschauung* (Philosophische Grondslag), where the economic system in Indonesia is based on a people centred economy based on cooperativism and kinship (Meliala & Woods, 2022). Furthermore, Aurora Jillena Meliala and Jonathan Andre Woods found in their study that Indonesia's inherent economic system has yet to be implemented in the national legal life and dramatically impacts the nation's notions of prosperity (Meliala & Woods, 2022).

In the relevance of this study and referring to several of these views, there appears to be a contradiction where, on the one hand, the capital market is an individualistic and liberal product, but on the other hand, it is encouraged to provide space for aspects of collectivism. When faced with these two conflicting choices, we should look to the 2030 Agenda. The 2030 Agenda's concept of sustainable development emphasises five elements. (1) People, we are determined to end poverty and hunger in all their forms and dimensions and to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment. (2) Planet, we are determined to protect the planet from degradation, including through sustainable consumption and production, sustainable management of its natural resources, and taking urgent action on climate change, so that it can support the needs of present and future generations. (3) Prosperity, we are determined to ensure that all human beings can enjoy prosperous and fulfilling lives and that economic, social, and technological progress occurs in harmony with nature. (4) Peace, we are determined to foster peaceful, just, and inclusive societies that are free from fear and violence, as there can be no sustainable development without peace and no peace without sustainable development. (5) Partnership, we are determined to mobilise the means required to implement this agenda through a revitalised Global Partnership for Sustainable Development, based on a spirit of strengthened global solidarity, focused in particular on the needs of the poorest and most vulnerable, and with the participation of all countries, all stakeholders, and all people (Hutabarat, 2022).

From these five elements of sustainable development, the SDGs are essentially a development concept that maintains continuous improvement in the economic welfare of society, a development that maintains the quality of the environment, and a development that guarantees justice and the implementation of governance capable of maintaining improvements in the quality of life from one generation to the next (Hutabarat, 2022).

One of the elements formulated in the sustainable financial system is the roadmap for finance, whereby the OJK, as the financial services authority in Indonesia, must formulate a work programme known as the sustainable finance framework (Hayati, Yulianto, & ., 2020). The Roadmap for Sustainable Finance outlines four main principles, namely, risk management principles, sustainable priority economic sector development principles, environmental and social governance and reporting principles and capacity enhancement and collaborative partnership principles (Amatul Haq, Fauzia, & Khoirunnisa, 2019). These four main principles are broadly orientated towards

sustainable development and therefore require following up in the form of regulations related to more specific sustainable financial system instruments known as thematic bonds.

Thus, social bonds are one of the instruments a sustainable financial system would issue in capital to raise financing for projects and activities related to a specific theme, such as climate change, education, housing, ocean and marine conservation, and the Sustainable Development Goals. Furthermore, if we look at global economic development, it can be concluded that there is a clear dichotomy between people in a collectivist culture and people in an individualist culture. This means that the issuance of social bonds is not solely profit orientated, but social bonds raise funds for projects with expected positive social outcomes, helping issuers address social inequalities, which is in line with the constitution of the Unitary State of the Republic of Indonesia, which aims to realise social economic welfare (Indriastuty & Fithri, 2024).

Responding to this new paradigm, the Indonesian government, through the Financial Services Authority (OJK) as the authority in the capital market sector, issued POJK No. 18 of 2023 on the Issuance and Requirements for Debt Securities and Sukuk Based on Sustainability, which replaced Financial Services Authority Regulation No. 60 of 2017 on the Issuance and Requirements for Environmentally Friendly Debt Securities (Green Bonds). The provisions of POJK No. 18 of 2023 aim to achieve sustainable development and maintain national economic stability by prioritising harmony between the economic, environmental, and social sustainability aspects. Under POJK No. 18 of 2023, the procedures for issuing debt securities in the capital market, such as green bonds, social bonds, sustainable bonds, and sustainability linked bonds, are regulated. According to Article 1 (4) of POJK No. 18 of 2023, a social bond is a debt security whose proceeds are used to finance or refinance socially responsible business activities. Furthermore, based on Article 1 (11), socially orientated business activities are defined as business activities aimed at mitigating social issues and/or providing benefits to target populations. From the above description, it is reasonable to conclude that the objective is to achieve social economic welfare in its constitution, and born from a collectivist cultural background, the regulation of social bonds aligns with the principles of the constitution applicable in Indonesia (Indriastuty & Fithri, 2024).

Based on the general explanation in POJK 18/2023, the regulation on the issuance of social bonds in Indonesia refers to the standards for issuing debt securities based on

sustainability published by the International Capital Market (ICMA). Regarding social bonds, the ICMA has published voluntary guidelines for issuing social bonds (Sidorenko, 2021). In addition to the ICMA, the ASEAN Capital Markets Forum (ACMF) has also published the ASEAN Social Bond Standards. Although voluntary in nature, these standards have been implemented and have become the standard for social bond issuance in Indonesia.

The use of POJK No. 18 of 2023 as a regulation on affordable housing financing instruments has been implemented by PT. Sarana Multigriya Financial (SMF) with support from the Asean Development Bank (ADB) through the issuance of social bonds worth 8 trillion rupiah, which will be used to support government subsidised mortgages (KPR) for low income communities. This initiative stems from the housing shortage (backlog) in Indonesia, which has reached 12.7 million units (Zefanya, n.d.). The SMF, as a state owned secondary finance company, raised 500 billion rupiah (\$32.4 million) through a social bond and 200 billion rupiah (\$13 million) through a social sukuk on 22 December 2023. Both instruments were listed on the Indonesia Stock Exchange on 27 December 2023. This is part of an issuance programme that allows PT. SMF to raise up to 8 trillion rupiah in future bond issuances and 1.5 trillion rupiah in future sukuk issuances to finance new and existing projects with positive social outcomes such as affordable housing ((ADB), n.d.). The funds raised through this issuance will be used to finance housing and settlement activities in Indonesia to increase home ownership and the availability of affordable housing projects for low income earners. The SMF President Director Ananta Wiyogo said that ‘as a state owned enterprise, we hope our pilot transaction under the new regulation will greatly contribute to developing a sustainable bond market in Indonesia’ (At-Tibasiy, Mane, & Yuliana, 2019). These instruments were issued under the International Capital Market Association’s Social Bond Principles and the Association of Southeast Asian Nations (ASEAN) Capital Markets Forum’s Social Bond Standards.

3.3 Social bond regulations in the Philippines

The implementation of social bond regulations in the Philippines began with the formulation of a sustainable finance policy in the Philippines, which was designed in the form of the Philippines Sustainable Finance Roadmap. This roadmap is designed to lay

out the high level action plans of the government's approach to promote sustainable finance in the Philippines (BSP, 2022). As sustainable development aims to address a number of components, this roadmap will be the first phase, focusing mostly on the transition to a low carbon economy. The definition of sustainable finance in the roadmap refers to the ICMA publication, which states that 'Sustainable finance incorporates climate, green and social finance while also adding wider considerations concerning the longer term economic sustainability of the organisations that are being funded, as well as the role and stability of the overall financial system in which they operate (ICMA, 2020).

The development of the Philippines Sustainable Finance Roadmap itself is motivated by a strong awareness and commitment that sustainable finance is critical to achieving the global Sustainable Development Goals, and the SDGs are a universal call to action to end poverty, promote inclusiveness, build peaceful societies, and protect the planet (Walsh, Banerjee, & Murphy, 2022). The SDGs integrate the economic, social, and environmental dimensions of sustainable development.

Furthermore, in terms of regulations, unlike Indonesia, where regulations are contained in a single POJK 18/2023, thematic bonds in the Philippines are regulated in several separate provisions, such as:

1. SEC Memorandum Circular No. 12, Series of 2018, Guidelines on the Issuance of Green Bonds Under the ASEAN Social Bonds Standards in the Philippines (Bulletin & Standard, 2018).
2. SEC Memorandum Circular No. 8, Series of 2019, Guidelines on the Issuance of Sustainability Bonds Under the ASEAN Sustainability Bonds Standards in the Philippines (Bulletin & Standard, 2019b).
3. SEC Memorandum Circular No. 9, Series of 2019, Guidelines on the Issuance of Social Bonds Under the ASEAN Social Bonds Standards in the Philippines (Bulletin & Standard, 2019a).
4. SEC Memorandum Circular No. 3, Series of 2023, Guidelines on the Issuance of Sustainability Linked Bonds Under the ASEAN Sustainability Linked Bonds Standards in the Philippines (Bulletin & Standard, 2023b).
5. SEC Memorandum Circular No. 15, Series of 2023, Guidelines on Eligible Blue Projects and Activities for the Issuance of Blue Bonds in the Philippines (Bulletin & Standard, 2023a).

Specifically, the regulations related to social bonds, when viewed from the subject, SEC Memorandum Circular No. 9, Series of 2019, clearly refer to the ASEAN Social Bonds Standards, and these standards were developed based on the International Capital Markets Association's (ICMA's) Social Bond Principles, which were intended to enhance the transparency, consistency, and uniformity of the ASEAN social bonds, which will also contribute to the development of a new asset class, reduce due diligence costs, and help investors to make informed investment decisions. The SEC Memorandum Circular No. 9, Series of 2019, is very clear in its unification, adopting the ACMA's Social Bond Principles and the ASEAN Social Bond Standards. This situation shows that the conventions or model laws developed by international organisations are not merely coordinating institutions but rather tend to be subordinate (Endarto, Hadi, & Fithri, 2022). In recognition of the importance of alternative finance in supporting sustainable development in ASEAN and the increasing amount of global capital seeking green and sustainable investments, the ASEAN Capital Markets Forum developed the ASEAN Social Bond Standards to complement the ASEAN Green Bond Standards.

The ASEAN Social Bond Standards are developed based on the Social Bond Principles of the International Capital Markets Association (ICMA) and are intended to enhance the transparency, consistency and uniformity of ASEAN social bonds, which will also contribute to the development of new asset classes, reduce due diligence costs and help investors to make informed investment decisions.

In practice, the first social bond issuance in the Philippines was carried out in 2021, where the IFC invested in a \$150 million C to help them recover from the impact of the pandemic on their businesses (Macfarlane, 2021b). Next, the IFC partnered with Ayala Corporation to issue the first social bond in the healthcare sector in the Philippines. The proceeds of the bond were used to develop a dedicated cancer hospital, which received EDGE certification, making it the first green hospital in the country (Macfarlane, 2021a). In 2024, the issuance of social bonds for affordable housing financing was oriented to expand financial inclusion and support human capital development in the Philippines. The International Finance Corporation (IFC) is investing \$100 million in a social bond issued by City Savings Bank (City Savings), the first thrift bank to issue a social bond in the country. Proceeds from the social bond will be used for loans to women in low and lower middle income groups to encourage them to make investments in small businesses to supplement their family's income, in addition to payments for healthcare,

education and housing. City Savings, a subsidiary of the Union Bank of the Philippines (UnionBank), is one of the largest thrift banks in the country and provides salary loans to public school teachers, government workers, pensioners, and many other customer segments (Hermoso, 2024).

Several social bonds have been issued in the Philippines through City Savings, supported by the International Finance Corporation (IFC), to finance affordable housing. The establishment and issuance of social bonds in the Philippines is an effort to implement regulatory frameworks and financial support systems to support the fulfilment of affordable housing in order to end extreme poverty and fulfil SDG Goal 11, Sustainable Cities and Communities.

3.4 Comparative study of social bond regulations in Indonesia and the Philippines

Considering their characteristics and genus, social bonds are one type of thematic bond, alongside green bonds, sustainable bonds, and sustainability linked bonds. ‘Thematic bonds’ is a term used to refer to these types of bonds collectively (Tirumala & Tiwari, 2023). In recent years, thematic bonds, which are debt securities, have experienced significant growth. This is due to their unique characteristics, where the primary projects they finance aim to generate environmental and social benefits. As such, thematic bonds have the potential to contribute to the implementation of the 2030 Agenda for Sustainable Development. Thematic bonds can also be considered innovative products because their focus is on using the proceeds from their issuance to align with environmental, social, and governance (ESG) principles (United Nations Economic and Social Commission for Asia and the Pacific, 2021).

Its relevance to this study discussing the comparison between Indonesia and the Philippines of the laws relating to social bonds, which are a type of thematic bond, is understood in that comparative legal studies are essentially about finding differences and similarities in the legal regulations of each legal system in one country with those in another (Mousourakis, 2013). Comparative law includes systematic scientific knowledge with comparative legal content that refers to legal phenomena or institutes from different areas of law, as well as the major contemporary legal systems in the world (Sinani & Mehmeti, 2025). In terms of substance, social bond regulation is a legal phenomenon and one of the major contemporary legal systems in the world. Social bonds, which are a type

of thematic bond, have developed in line with global commitments such as the SDGs and can therefore be considered one of the major contemporary legal systems in the world.

The research findings revealed differences in the regulation of social bonds in Indonesia and the Philippines. Social bonds in Indonesia are regulated by Financial Services Authority Regulation (OJK) No. 18 of 2023 on the Issuance and Requirements for Debt Securities and Sukuk Based on Sustainability, which replaced Financial Services Authority Regulation No. 60 of 2017 on the Issuance and Requirements for Environmentally Friendly Debt Securities (Green Bonds). In POJK No. 18 of 2023, the procedures for issuing thematic bonds such as green bonds, social bonds, sustainable bonds, and sustainability linked bonds are regulated. This means that the provisions related to thematic bonds in Indonesia are formulated in a single regulation. This differs from the Philippines, where each thematic bond is regulated separately according to its type. Specifically, social bonds are regulated in SEC Memorandum Circular No. 8, Series of 2019, Guidelines on the Issuance of Sustainability Bonds Under the ASEAN Sustainability Bonds Standards in the Philippines, which adopts the ACMF social bond standards (ACMF, 2018).

In addition to exploring the similarities and differences between the legal systems of the two countries, the scientific discipline of comparative law and scholarly comparative law can be applied to various legal systems around the world with the aim of improving and expanding the epistemological horizon regarding the typology of existing legal systems from a transnational perspective, thereby creating a better and more integrated understanding of scientific comparisons and the functions of existing legal systems around the world (Sinani & Mehmeti, 2025). In addition, comparative law can encourage the convergence of legal systems and reduce national legal divergence, as well as assist in the process of the approximation and harmonisation of legal systems, particularly in the context of international law (Sinani & Mehmeti, 2025). This view is very much in line with the spirit established as a global commitment that legal systems should converge and encourage the approximation and harmonization of laws in countries towards the global commitments in the SDGs (Isman, Zaim, & Eldeen, 2024), including those related to the fulfilment of affordable housing.

Despite the differences, there are substantial similarities in terms of regulation, where social bonds are regulated in Indonesia by POJK 18/2023 and by SEC Memorandum Circular No. 12, Series of 2018, Guidelines on the Issuance of Green

Bonds under the ASEAN Social Bonds Standards in the Philippines. Both of these refer to the standards for the issuance of debt securities based on sustainability published by the International Capital Market Association (ICMA) and the ASEAN Social Bond Standards published by the ASEAN Capital Markets Forum (ACMF).

Thus, both regulations are the result of accepting or adopting principles, sets of rules, or standards published by international institutions. In general, the application of these regulations in a particular country is commonly referred to as legal harmonisation or unification. The legal instruments that can be used for unification or harmonisation include international conventions and model laws. The term ‘model law’ here refers to works produced by international organisations in specific legal fields that can serve as references for legislation in each country to create or modify their national laws and regulations.

From the aspect of legal subjects, international conventions between international organisations or between international organisations and domestic organisations are subject to the Vienna Convention on the Law of Treaties Between States and International Organisations or Between International Organisations (Vienna Convention 1986). In the Vienna Convention 1986, international legal subjects are no longer limited to states alone, but international organisations are also considered legal subjects. This is explicitly stated in the preamble, which states, ‘... international organisations are parties as subjects of international law distinct from states’ (Manin, 1987). Referring to these provisions, international organisations such as the ICMA and the ASEAN Capital Markets Forum can be considered legal entities (Endarto, Indriastuty, & Mardiana, 2025). Therefore, both the Social Bond Principles published by the ICMA and the ASEAN Social Bond Standards formulated by the ACMF can be adopted through harmonisation or unification.

From a theoretical perspective, there is a fundamental difference between the concepts of harmonisation and unification. Harmonisation tends to involve changing the existing rules to create consistency. Harmonisation can be achieved through international agreements between countries or through mandates from supranational institutions. The main objective of legal harmonisation is to seek uniformity or common ground among the fundamental principles of various existing legal systems (Zaki, 2021). Meanwhile, international unification means the adoption of an agreed set of rules, standards or guidelines for application to transnational transactions. In international trading, this was achieved by custom, international practice or by international agreement within the

framework of professional organisations or between states by an international convention (Cenuk Widiyastrisna Sayekti, 2022). The scope of unification includes the abolition and replacement of an existing legal system with a new legal system (Endarto, Fithri, & Hadi, 2022)(Taufiqurrahman, 2012). From these two concepts, it can be simply interpreted that the concept of harmonisation is a form of adoption, while the concept of unification is a model of adoption towards an agreed set of rules, standards or guidelines for application to transnational or international agreements within the framework of professional organisations or between states by an international convention (Kusumaatmadja, 1986)(Endarto, Hadi, *et al.*, 2022).

In the perspective of international law, the implementation of international conventions has given rise to two schools of thought. Manfred B. Steger classifies these into the universalist protectionist and the particularist protectionist approaches (Steger, 2025)(Steger, 2005a)(Steger, 2005b). In principle, the universalist perspective holds that international law should be oriented toward ensuring uniform outcomes. Such uniformity can only be achieved through equal recognition between foreign law and the domestic law of the receiving state. From this understanding, it may be inferred that the universalist approach embodies the spirit of unification. Conversely, the particularist perspective prioritizes alignment between the substantive legal norms of international conventions and the general policy orientation of the receiving state, emphasizing the protection of national interests. Therefore, the particularist approach be interpreted as reflecting the spirit of harmonization (Taufiqurrahman, 2012).

4 CONCLUSION

Based on the discussion in the comparative legal study on the regulation of social bonds in Indonesia and the Philippines, similarities and differences were found, as described below:

1. In terms of regulatory structure, there are differences. In Indonesia, thematic bonds are regulated under POJK 18/2023. This POJK regulates the issuance and requirements for debt securities and sukuk based on sustainability, including social bonds. In the Philippines, social bonds are regulated separately and specifically under the SEC Memorandum Circular No. 12, Series of 2018.

2. Although not yet optimal in its implementation, the regulation and issuance of social bonds for financing affordable housing in Indonesia and the Philippines is an effort to implement regulatory frameworks and financial support systems to realise an end to extreme poverty and fulfil Goal 11 of the SDGs, relating to Sustainable Cities and Communities. Furthermore, the regulation of social bonds in Indonesia and the Philippines both tend to use the concept of unification, both towards the International Capital Markets Association's (ICMA's) Social Bonds Principles and the ASEAN Capital Market Forum's (ACMF) ASEAN Social Bonds Standards. Thus, both countries recognise that international law, including that developed by nonstate organisations such as the ICMA and the ACMF, is not only a coordinative relationship but also a subordinate one for each country.

As a follow up to the conclusions formulated above, the following can be recommended:

1. As an effort to realize one of the crucial issues in ending extreme poverty, namely the fulfilment of SDG Goal 11, “Sustainable Cities and Communities”, the Indonesian Government should minimize the reliance on subsidy instruments while placing greater emphasis on the optimal utilization of social bonds as a financing mechanism, particularly in relation to affordable housing.
2. The provisions in POJK 18/2023 applicable in Indonesia and the SEC Memorandum Circular No. 12, Series of 2018, applicable in the Philippines, are both the result of the unification or adoption of the ASEAN Social Bonds Standards and the International Capital Market Association's Social Bond Principles. In other words, the implementation of the ASEAN Social Bonds Standards and the International Capital Market Association (ICMA) Social Bond Principles is more influenced by the universalist concept. Considering the similarities in the regulatory frameworks on social bonds, enhanced cooperation between the Governments of Indonesia and the Philippines is essential to promote the utilization of social bonds as a financing instrument, particularly for affordable housing in both countries.

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Authors' Contribution

Both authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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