Media Iuris Vol. 8 No. 2, June 2025 p-ISSN: 2721-8384
DOI: 10.20473/mi.v8i2.71236 e-ISSN: 2621-5225
Article history: Submitted 24 March 2025; Accepted 23 June 2025; Available online 30 June 2025.
How to cite: Dina Silvia Puteri and Syahwal, 'Freedom of Contract Illusion in the Employment Agreement' (2025) 8 Media Iuris.

Freedom of Contract Illusion in the Employment Agreement

Dina Silvia Puteri[1], Syahwal[2]
[1] Faculty of Law, Universitas Negeri Semarang, Indonesia. E-mail: dinasputeri@mail.unnes.ac.id.
[2] Faculty of Law, Universitas Negeri Semarang, Indonesia. E-mail: syahwal@mail.unnes.ac.id

Keywords:
Conflict; Employment Agreement; Exploitation; Unequal Bargaining Position.

Abstract
The presence of freedom of contract presupposes that the parties to the agreement are free to choose the agreement's terms, structure, participation, and several other freedoms. As a type of contractual relationship, employment contracts are thought to include some degree of contractual freedom. This study attempts to answer the claim that employment contracts include freedom of contract by addressing the question of whether such a claim is supported by the premise of such freedom. The questions highlighted in this article will be investigated by reviewing the rules and legislation pertaining to employment contracts under Indonesian labor law, within the theoretical framework of critical realism. Critical realism provides a lens through which the underlying structures, mechanisms, and social conditions shaping employment relations can be uncovered, even when these are not directly observable. It allows researchers to move beyond surface-level legal formalities and examine the real constraints that limit workers' choices and autonomy. Through this approach, the legal and social dimensions of employment contracts are assessed not only as written agreements but also as instruments shaped by power relations and economic dependence. According to research, employment contracts lack the justification of true contractual freedom. In practice, workers are not given the freedom to plan, decide, and select choices according to their preferences. Because of the employment contract, the worker becomes a party who is dependent on the employer, both personally and financially, particularly in terms of the wages determined and provided by the employer.

Introduction

This article reviews the existence of freedom as postulated by the freedom of contract principle in the employment agreements. This study is important considering that theoretically the argument for freedom departs from the assumption of equal bargaining positions between the parties, whereas in employment agreements what is found is unequal bargaining positions. With such conditions, is freedom still present in the employment agreement? Apart from theoretical aspects, this study is also essential from a practical perspective considering that the argument of freedom is often used to justify regulations in labor law which provide for the determination of a series of work conditions, rights and obligations through the approval of the parties in an employment agreement.

Freedom of contract is one of the principles in contract law which contains the idea of entitlement for the parties in the agreement to regulate all aspects of the agreement including the content, form, and even the parties included in the agreement. The ideas of freedom as found in the freedom of contract principle originated from the view that everyone has the freedom to obtain their demand.[1] The substance of the freedom of contract principle was clearly intended to facilitate business transactions that were developing at that time.

Apart from targeting business practices, the freedom of contract principle has targeted labor and employer relations established through employment agreements. An employment agreement is a contractual relationship in which transactions between wages and work are carried out by employees and employers. As a contractual relationship, employment agreements are also believed to contain the principle of freedom of contract. Both employees and employers are believed to have the ability to discuss, negotiate, or determine the form or content of an employment agreement that will benefit each party in the agreement.

Departing from assumptions about the existence of freedom in employment agreements as postulated by the freedom of contract principle, the problem in this article is formulated by questioning whether freedom as postulated by freedom of contract exists in employment agreements. The problem is formulated considering that the study of the freedom of contract principle in labor law discourse in Indonesia mostly revolves around a normative framework. For example, Saptaryo[2] and Suryono[3] questioned freedom of contract in standard employment agreements. Research found that the parties actually have freedom even though the agreement entered into is a standard employment agreement. This freedom is reflected through the freedom for employees to accept or reject the agreement. In contrast to the studies that have been mentioned, Santoso and Puru[4] stated the opposite, that freedom of contract exists only in formal

[1] Mariam Darus Badrulzaman, *Kompilasi Hukum Perikatan* (Mandar Maju 2016).

[2] Heru Saptaryo, 'Penerapan Asas Kebebasan Berkontrak Pada Perjanjian Kerja Antara Majikan Dan Tenaga Kerja Indonesia Di Malaysia' (2015) 8 Notarius 287.

[3] Leli Joko Suryono, 'Kedudukan Dan Penerapan Klausula Baku Dalam Perjanjian Kerja Di Indonesia' (2011) 18 Jurnal Media Hukum 35.

[4] Budi Santoso and Ratih T., 'Eksistensi Asas Kebebasan Berkontrak Dalam Perjanjian Kerja' (2012) 5 Arena Hukum 201.

sense, but in practice the principle of freedom of contract no longer exists, especially with the existence of a standard employment agreement.

Based on the previous explanation, this article will consist of two discussion parts. This article will first review the main employment agreement on the reasons for its existence, functions and elements that tend to be disguised in the employment agreement. Analysis on employment agreements will be a basis for reviewing the freedom of contract principle in this article. The review of the principle of freedom of contract in this article will test the argument for the existence of freedom as contained in the freedom of contract principle if the contract in question is an employment agreement.[5] As a complement, this article will be end by looking at the implications of freedom of contract for the nature of the labor law presence in the employment agreements. Previous research focuses more on a normative framework; therefore, the research in this article will be an additional discourse that complements previous research by focusing on employment agreements in general. The novelty of this article lies in its analytical approach that places employment agreements as a concrete object for re-examining the principle of freedom of contract. While previous studies have mainly focused on normative frameworks, this research aims to contribute additional discourse by focusing on general employment agreements in practice. Furthermore, the formulation of the problem in this article emphasizes the tension between individual freedom of workers and the protective nature of labor law, a dimension that has not been explicitly addressed in earlier studies. Therefore, this article offers a fresh perspective that complements and expands upon existing literature in the field of labor contract law.

Research Method

Reflecting the research questions outlined above, this study adopts a socio-legal methodology that seeks to bridge the gap between doctrinal legal analysis and the broader social realities in which law operates. It integrates the normative

[5] Critical realism departs from the belief that in everyday life observations can only reach what appears on the surface, but through conceptual exposure the essence that forms the visible reality can be identified. Critical realism therefore upholds the view that what is visible is influenced by what is not visible. See Tony Lawson, *Economics and Reality* (Routledge 1997).

approach that recognized as sui generis within legal scholarship for its emphasis on internal legal coherence and formal reasoning with the critical realist perspective, which emphasizes the interplay between underlying structures, social agency, and observable legal phenomena. Critical realism posits a stratified ontology consisting of three levels: *the empirical* (what is experienced or observed), *the actual* (what happens, regardless of whether it is observed), and *the real* (the generative mechanisms and structures that cause events to occur).[6] This tripartite view allows for a more nuanced understanding of legal and social phenomena by distinguishing between surface-level appearances and deeper, often unobservable causal mechanisms. In this study, such an approach facilitates an inquiry into how legal doctrines, such as the principle of contractual freedom, are embedded within, and possibly determined by, underlying structures of labor-capital relations.

The research design thus employs qualitative methods, including document analysis and interpretive analysis of statutory and court decisions. These methods aim to capture not only empirical regularities in employment practices, but also to enable a retroduction process—that is, a mode of inference that moves from observed phenomena to hypothesized underlying structures that make those phenomena possible.[7] Through this process, the study seeks to identify the often invisible but operative social, legal, and economic mechanisms that condition contractual relations in the labor market. Legal texts, particularly those that enshrine abstract principles such as "freedom of contract", are thus treated not merely as normative artifacts, but as historically situated expressions of shifting social relations and embedded forms of domination.[8] By integrating critical realism into the methodological framework, this article attempts to move beyond formalistic or doctrinal interpretations and to expose the structural determinants that shape the possibilities and limitations of contractual freedom in employment relations. In doing so, it engages with the legal text not as a closed system of rules, but as a site of contestation, where legal form and social content continuously interact and evolve.

[6] Roy Bhaskar, *A Realist Theory of Science* (Verso 1975).

[7] Roy Bhaskar, *The Possibility of Naturalism: A philosophical critique of the contemporary human sciences* (Routledge 2014) 165-168.

[8] Roy Bhaskar, Philosophy and scientific realism, 16-47.

Beyond the Black Letter Meaning of Employment Agreements: A Proposal

1. Inequality and Conflicts in Employment Agreements

As a way to interpret employment agreements, the social context in which employment agreements are instituted cannot be ignored. As Bhaskar previously mentioned, the forms of socioeconomic relations in society are not a given condition but are formed from the underlying structure.[9] This also shows that employment agreements as a form of social relationship have an underlying structure that influences their nature and character, along with the outcomes created by employment agreements. An employment agreement is one of the instruments instituted to accommodate transaction interests in capitalism. The presence of employment agreements has made it possible for employers to obtain work completion from employees without direct coercion and to do so legally. Employment agreements are used as a means of juridical legitimation of market actions that mediate social relations in capitalist society.

In the juridical construction of Indonesian labor law, an employment agreement is interpreted as an agreement between employers and employees which contains work conditions, rights and obligations for each party.[10] To continue, the juridical construction of Indonesian labor law also makes employment agreements the basis for an employment relationship which has elements of work, wages and orders.[11] Based on such employment agreement arrangements, it is revealed that in the employment agreement there is one party who has the power to order while the other party will be subject to orders. Thus, resulting in a formal recognition of the existence of a subordination relationship in the employment agreement between employees and employers.

Formal recognition of the existence of a subordination relationship is often accepted as it is, even though the subordination relationship as a condition that appears to be legitimized in law is formed by the underlying structure or empirical facts that show social reality. In Indonesian labor law discourse, there are very few views that question

[9] Roy Bhaskar, *The Possibility of Naturalism: A Philosophical Critique of the Contemporary Human Sciences* (Routledge 1998).

[10] Indonesia, "Law No. 13 of 2003 on Manpower", article 1(14).

[11] Indonesia, "Law No. 13 of 2003 on Manpower", article 1(15).

why and in what ways employees are subordinated to employers. Apart from receiving full formal recognition,[12] the situation also eliminates structural studies of employee-employer relations established through employment agreements. The implication is that the subordination relationship is seen to only exist in the employment agreement that exists between the employee as an individual and the employer as an individual. The subordination relationship is not considered to originate and exist from a structural perspective that goes beyond the employment agreement.

In order to reveal the structural conditions of an employment agreement, it must first be understood that, similar to agreements in general, employment agreements also start from the existence of a consensus between two parties, namely employees and employers, where each party promises achievements in the form of work and wages. Employment agreements that accommodate the exchange between wages and work have made employment agreements one of the institutions that mediate social relations in capitalist society. Employment agreements become institutions introduced by the labor market in order to obtain juridical justification for their role in mediating social relations.[13] This indicates that the actual exchange between wages and work is an exchange mediated by the labor market. Of course, this is a feature of capitalist society, where social relations are mediated by the market.

The labor market that mediates the exchange of wages and work is a market created by capitalism, a market where employees are considered to have equality with employers so that employees can freely sell or not sell their energy to work. In fact, in the labor market, the exchange of wages and work often forces employees to accept the exchange even though the available exchange is an unequal exchange. This is because employees do not have any other options that can guarantee their lives other than the labor they sell. The absence of anything else that employees can sell to

[12] Formal recognition of subordination relationships has also led to the development of an understanding that employees who enter into employment agreements with employers are considered to have an equal bargaining position.

[13] Regarding the role of legal institutions as instruments that justify the market in mediating social relations, it can be referred to, for example, in Joanna Kusiak, 'Legal Technologies of Primitive Accumulation: Judicial Robbery and Dispossession-by-Restitution in Warsaw' (2019) 43 International Journal of Urban and Regional Research 649, https://doi.org/10.1111/1468-2427.12827.

ensure their lives is certainly inseparable from proletarianization, where employees as individuals in society have experienced the dismantling of production means,[14] making employees no longer own[15] anything other than their energy to maintain their lives.[16] Employees then enter the labor market by depending on employers to meet their daily needs and survive. This condition creates employees' dependence on wages,[17] but because the only person who can provide wages is the employer, employees also depend on employers.[18]

The dependence of employees on employers shows the position of employees as parties who really need employers. This also shows that, in an employment agreement, the employer sits with a handful of capital and the power that accompanies it, while the employee sits with a hand that only holds a fistful of its power. Then it becomes clear the reasons for the unequal bargaining position between employees and employers in employment agreements. Employees need work to live, while employers only need employees to make a profit. Failure of an employment agreement for employees will threaten their lives, while employers will only suffer small losses.

The power possessed by employers in terms of bargaining position in the labor market has made employers able to subordinate employees in establishing relationships.[19] The dependence of employees on employers, whether in terms of capital or individual employers, is considered to be different from the subordination

[14] Raymond L Hogler, 'Labor History and Critical Labor Law: An Interdisciplinary Approach to Workers' Control' (1989) 30 Labor History 165.

[15] The phrase controlled clearly goes beyond the phrase owned, because ownership of the means of production does not directly mean control of the means of production. The development of contemporary capitalism which presents the gig economy is a clear example. Employees clearly own the means of production - such as vehicles, etc. - but employees do not control the means of production. Employers who do not own the means of production are actually able to control the means of production.

[16] Petar Marceta, 'Platform Capitalism: Towards the Neo-Commodification of Labour?' in Julieta Haidar and Maarten Keune (eds), *Work and Labour Relations in Global Platform Capitalism* (Edward Elgar Publishing Limited 2021).

[17] Karl Marx, *Capital: Volume 1* (Lawrence & Wishart 2010).

[18] Ruth Dukes, 'Constitutionalizing Employment Relations: Sinzheimer, Kahn-Freund, and the Role of Labour Law' (2008) 35 Journal of Law and Society 341.

[19] Inequality of bargaining position is one of the causes of creating a relationship of subordination between employees and employers. Another reason is the bureaucratic capabilities possessed by employers. Regarding the bureaucratic capabilities of employers, refer further to Hugh Collins, 'Market Power, Bureaucratic Power, and the Contract of Employment' (1986) 15 Industrial Law Journal 1-14, https://doi.org/10.1093/ilj/15.1.1.

of employees to employers.[20] The dependencies mentioned do not absolutely lead to a relationship of subordination which is interpreted as the existence of the power to give orders and control by employers to employees.[21] However, the author believes that the dependence of employees either on employers or capital has given employers the power to provide command and control, so between subordination and dependence there is no substantial difference that could disrupt the understanding of labor law and especially employment agreements.[22]

Apart from unequal bargaining positions, employment agreements also have the character of conflicts. In contrast to the inequality of bargaining positions which is recognized in the juridical construction of Indonesian labor law, conflicts in employment agreements actually tend to be obscured. In an employment agreement, employees and employers each bring interests that are expected to be fulfilled by each party. The interests are diametrical, if not mutually negating. Employees who are required to provide performance in the form of work, have an interest in maximizing wages and improving their working conditions. On the opposite side, employers must make achievements in the form of providing wages while continuing to strive to reduce wages to the minimum level, even, if possible, they will try to increase the unpaid work taken from employees. These differences in interests are the basis for resulting conflicts in employment agreements.

Conflicts of interest in employment agreements exist because employment agreements are legal instruments that carry out the market's role in mediating social relations in society. As a result, employees in employment agreements are seen simply as commodities, which means that determining wages and a series of other labor rights are measured using purely economic lenses and ignoring non-economic assessments such as justice and human dignity of employees. The conflict between employees and

[20] Guy Davidov, 'Subordination vs Domination: Exploring the Differences' (2017) 33 International Journal of Comparative Labour Law and Industrial Relations 365.

[21] Guy Davidov, 'The Three Axes of Employment Relationships: A Characterization of Workers in Need of Protection' (2002) 52 The University of Toronto Law Journal 357.

[22] Regarding the conflict between wages and work, see further in E Tucker, 'Renorming Labour Law: Can We Escape Labour Law's Recurring Regulatory Dilemmas?' (2010) 39 Industrial Law Journal 99–138, https://doi.org/10.1093/indlaw/dwq001.

employers in employment agreements has formed a distinctive struggle, namely the struggle for life and the struggle for profit.[23] The conflict between wages and work cannot be avoided; the idea of realizing harmony between the two is just a utopia.[24]

The conflict between work and wages in employment agreements is a consequence of the nature of employment agreements as legal instruments that legitimize social relations in capitalism. Wages and a series of labor rights are the interests of employees which are in conflict with the interests of employers to make a profit.[25] If taken further, this conflict originates from the employer's objective goals regarding the involvement in market transactions. Employers want to produce commodities that have exchange value, and commodities that have a value greater than the overall value of the commodities used in the production of these commodities.[26]

Efforts to create value greater than the total value of the commodities used are employers' efforts to create profits. Unfortunately, in the initial state, the resulting commodity will not produce a value above its value, because the value of a commodity is determined by the average labor time required to produce that commodity.[27] The value of the commodity produced will be equal to the total value used in its production on average; this shows no profit for the employer. Employers will gain profits when they obtain employees' unpaid work that produces value but does not materialize into the calculation of employees' wages.[28] Employers' profits come from reduced wages or wages that are not paid to employees. In short, in employment agreements, conflict occurs because fulfilling employees' rights - not limited to wages - is a cost for the company which will cause the company to fail to gain profits.

2. Vulnerability of Abusive Condition in Employment Agreement

Unequal bargaining positions accompanied by conflicts of interest in employment agreements have created opportunities for employers to dominate employees in

[23] Zoe Adams, 'Labour Law, Capitalism and the Juridical Form: Taking a Critical Approach to Questions of Labour Law Reform' (2021) 50 Industrial Law Journal 434.

[24] Paul Davies and Mark Freedland, *Kahn-Freund's Labour and the Law* (Stevens & Sons 1983).

[25] Karl Marx, *Wage-Labour and Capital & Value, Price and Profit* (International Publishers 2006).

[26] Marx (n 8).

[27] Marx (n 14).

[28] ibid.

employment agreements. A conflict of interest in an employment agreement is a conflict that indicates the negation of an interest in order to accommodate an interest in the employment agreement. The existence of unequal bargaining positions in employment agreements clearly shows that employees' interests will be eliminated in such a way as to accommodate the interests of employers in employment agreements. Thus, it is understandable when in practice various clauses are found in employment agreements that exclude various employees' interests.

The elements of an employment agreement above along with the threat of their impact on the clauses in the employment agreement have raised questions about the validity of an employment agreement. The validity of employment agreements is strictly regulated in the construction of labor law. In order to gain legitimacy, an employment agreement must meet certain conditions that have been formulated in labor law regulations.[29] The employment agreement must be made based on an agreement between the employee and the employer, the ability of the employee and the employer to carry out legal actions; there are jobs which do not conflict with public order, morality and applicable laws and regulations. Moving on from the legal requirements for an employment agreement, in order to obtain binding force, an employment agreement mainly starts from the existence of an agreement between the employee and the employer. The consensuality from both parties is the main source of giving legitimacy to employment agreements by law. Agreement means the willingness of the parties to bind themselves to each other because there is a meeting between two wills.[30]

In the midst of conflicting and mutually negating interests, agreements in employment agreements attempt to create belief that, even though there are conflicting interests, employees and employers are able to reach an agreement to share common interests in achieving profits and providing wages for employees. In fact, in practice such an agreement cannot be reached, as in employment agreements there are often clauses that benefit employers in such a way while marginalizing, reducing or even eliminating the interests of employees. Thus, it is no wonder that in its development, consensuality

[29] Indonesia, "Law No. 13 of 2003 on Manpower", article 52(1).
[30] J Satrio, *Hukum Perikatan: Perikatan Yang Lahir Dari Perjanjian* (Citra Aditya Bakti 2001).

in employment agreements is often questioned. Agreements in employment agreements are often considered as a protective veil against oppressive subordination relationships.[31]

Agreements in employment agreements are often seen as pseudo-agreements, an agreement that is different from what is desired in the agreement, namely an agreement based on free will. The provisions of Article 1321 BW regulate that "no agreement is valid if this agreement is given by mistake or obtained by force or fraud." This article indicates that the parties must be free from error,[32] coercion[33] or fraud[34] in accepting the agreement. In its development, there is a doctrine that complements the three conditions which cause defects in the will in the agreement to give rise to a pseudo-agreement; the doctrine in question is the doctrine of abuse of circumstances.

Abuse of circumstances is a doctrine which emphasizes that a false agreement in an agreement can arise because of circumstances that are more favorable to one of the parties to the agreement, which can arise either because of economic superiority or psychological superiority.[35] Abuse of circumstances can not only be actualized by one of the parties in determining the contents of the agreement but can also be actualized before the agreement is concluded.[36] This is what causes abuse of circumstances by a party in a stronger position to cause a weaker party to agree to an agreement. In the context of an employment agreement, abuse of circumstances results in the employer's actions to influence the employee either directly or indirectly so that the employee is unable to resist the employer's wishes. The employee has

[31] Hugh Collins, 'Market Power, Bureaucratic Power, and the Contract of Employment' (1986) 15 Industrial Law Journal 1.

[32] The mistake (dwaling) referred to is in accordance with what is regulated in Article 1322 BW which contains the provision that a person's desire to enter into an agreement is based on a mistake or misrepresentation of the object or subject contained in the agreement. See Badrulzaman, Kompilasi Hukum Perikatan.

[33] Coercion (*dwang*) as found in the provisions of Articles 1323 BW to Article 1327 BW is the existence of a will based on the coercion of one party in an agreement to another party, so that the party is bound by an agreement.

[34] Fraud (bedrog) as regulated in Article 1328 BW is an agreement based on false or untrue information that is intentionally carried out by one party to persuade the other party to make an agreement. See Subekti, *Hukum Perjanjian* (Intermasa 2005).

[35] Suharnoko, 'Hukum Kontrak Dalam Perspektif Komparatif' in Rosa Agustina and others (eds), *Hukum Perikatan* (Pustaka Larasan 2012).

[36] Nabiyla Risfa Izzati, 'Penerapan Doktrin Penyalahgunaan Keadaan (Undue Influence) Sebagai Alasan Pembatalan Perjanjian Kerja Di Pengadilan Hubungan Industrial' (2020) 49 Masalah-Masalah Hukum 180.

then agreed to an employment agreement because of abuse of circumstances, both in determining the employment agreement clauses and when the agreement was to be agreed. Without such conditions of abuse, employees will not agree to the clauses on the employment agreements.

In its application, the abuse of circumstances doctrine has the ability to provide protection for employees, as Izzati's[37] research shows that the application of the abuse of circumstances doctrine is able[38] to protect employees from unfair termination of employment. However, the abuse of circumstances doctrine also has its own dilemmas. As is known, misuse of conditions causes defects in the agreement in the employment agreement, where the defect in the agreement gives the employee the right to request the cancellation of the employment agreement. As a result of the cancellation of the employment agreement requested by the employee, the work relationship between the employee and the employer is deemed to be canceled. The question then is whether the employee is able or willing to request cancellation of the employment agreement even though there is an abuse of circumstances. Canceled employment agreements cause employees to lose their jobs, whereas in capitalist society, employees are very dependent on work to ensure their livelihood and existence. Employees need work to live, while the abuse of the circumstances doctrine can cause employees to lose their jobs.

Freedom of Contract in the Employment Agreement

1. Freedom of Contract: An Introduction

Freedom of contract is one of the developments of the contract law system which emerged as a result of the failure of contract law around the 16th century to regulate the rapid development of business transactions along with the emergence of giant business entities with large amounts of production and distribution and involving

[37] ibid.

[38] The use of the phrase "capable" is used considering that in the research referred to, the doctrine of abuse of circumstances was postulated by one of the judges in a quo case. Apart from indicating that the abuse of circumstances doctrine is recognized in Indonesian contract law, this also indicates the power that the abuse of circumstances doctrine has to provide protection for employees. See details in Izzati.

many individuals in it.[39] Freedom of contract is used as a legal principle that functions to accommodate business transactions that are outside the scope of contract law. Freedom of contract is a principle in contract law which carries a spirit of individualism and of course *laissez faire*.[40] This shows that freedom of contract cannot be separated from the spirit and influence of capitalism.

Apart from functioning as a legal principle that accommodates business interests directly, the presence of freedom of contract is also intended as an effort to avoid disruption carried out by judicial or legal institutions in general. Freedom of contract, which places contracts in the interests of individuals and not social institutions, has set limits on the authority of the courts. The court can no longer intervene in the contract, but only interprets the contract that has been agreed upon by the parties. Likewise with law, the law no longer strictly determines the contents of the contract, but rather leaves it to the agreement of the parties.

Freedom of contract in Indonesian contract law can be found regulated in Article 1338 of the Burgerlijk Wetboek which clearly states that all agreements made legally apply as law for those who make them. The phrase "all" in Article 1338 BW indicates that agreements with any content, in any form, with anyone, are binding as long as they are made legally. The conditions for an agreement to be deemed to have been made legally can be revoked from the provisions of Article 1320 BW. Freedom of contract is the freedom that every individual has to freely determine the content, subject,[41] form of the agreement, and other freedoms as long as it does not conflict with statutory regulations.

Through freedom of contract, everyone - in the sense of legal person and legal entities - is allowed to freely develop their interests, with this social justice is deemed to

[39] Apart from giving rise to the principle of freedom of contract, the development of the economic system at that time also changed the nature of contract law into "jus dispositivum". Contract law is a complementary law whose compliance is left to the intentions of the parties to the agreement. See F Kessler, Contracts of Adhesion, 1943.

[40] F Kessler, *Contracts of Adhesion* (1943); Kartini Muljadi and Gunawan Widjaja, *Perikatan Yang Lahir Dari Perjanjian* (Rajawali Pers 2008).

[41] Badrulzaman (n 1).

be achieved.[42] It is believed that everyone will compete freely and try their best to fulfill their interests and needs. Freedom of contract also postulates the autonomy of each person to determine and take measurable steps to gain profits. It is believed that free competition with the autonomy of each person will be able to create welfare, prosperity, social justice and control commodity prices.

Something similar was revealed in a court decision which reflected the spirit of freedom of contract in Indonesian labor law. The court decision in question is where the employee is bound by an employment agreement for a certain period of time which violates the law and is deemed to have agreed to such an employment agreement.[43] The consequence is that employees and employers are considered responsible for losses and all risks arising from such employment agreements. Although later in the same decision there was a dissenting opinion, one of the judges believed that the unlawful fixed-term employment agreement was agreed due to the employer's abuse of conditions against the employees.[44] However, this was not noticed and was instead legitimized even stronger at the level of judicial review.[45] It can be seen how the judge truly believes that the agreement reached by the employee and employer was created on the basis of the parties' freedom of contract, so that the employee and employer are deemed to be fully aware of their actions.

The court decision mentioned also shows the development of the principle of freedom of contract. If originally freedom of contract was used to accommodate the development of business activities, now freedom of contract also covers relations between employees and employers. In employment agreements, freedom of contract is considered a legal principle that is able to provide protection to employees against dehumanizing practices of employees at work. Freedom of contract means that employees have the power to refuse a job when the work offered to them threatens their dignity as a human being and reduces them to mere commodities. The arguments above are arguments that

[42] Péter Cserne, 'Contract, Freedom Of', *Encyclopedia of Law and Economics* (Springer New York 2014); Kessler (n 23).

[43] "Court Decision No. 29/G/2016/PHI.Sby between Ria Ana Wati against PT Garam (Persero)", n.d.

[44] "Court Decision No. 29/G/2016/PHI.Sby between Ria Ana Wati against PT Garam (Persero)".

[45] "Court Decision No. 845 K/Pdt.Sus-PHI/2016 in Conjunction with Court Decision No. 114 PK/Pdt.Sus-PHI/2018 between Ria Ana Wati against PT Garam (Persero)", n.d.

provide moral justification for the principle of freedom of contract.

The development of contemporary capitalism should raise doubts about the moral justification of the principle of freedom of contract. Freedom of contract is no longer able to guarantee that everyone in society has self-autonomy in determining steps to gain profits. Everyone no longer competes freely. This situation has implications for changes in the characteristics of freedom of contract. If initially freedom of contract was believed to benefit everyone, with the development of contemporary capitalism, freedom of contract has emerged as a preference for some groups of people in society.[46] Finally, in the context of employment agreements, freedom of contract is a tool that employers have to take control of the agreement, both in determining the clauses or the form of the employment agreement.

Apart from the problem of moral justification, freedom of contract also stands on unstable lining. Freedom of contract refers to a perfect market condition. It is understandable when supporters of the idea of freedom of contract firmly believe that restrictions on freedom of contract make markets inefficient. This is because the market has worked perfectly and efficiently, by which intervention will cause inefficiency in the market. In the context of labor law, freedom of contract also presupposes that the labor market is a perfect market. A perfect labor market is one in which employees and employers have complete information about a job, perfect competition, as well as the ability of employee and employers to move from one demand to another.[47]

The assumption of a perfect labor market means that the state no longer needs to be involved in the labor market. The labor market has its own way of dealing with problems that arise. State intervention will actually create inefficiency in the labor market. It is at this point that freedom of contract between employees and employers is created in the labor market. Freedom of contract with a perfect labor market postulates that employees will easily move from one company to another when the old company provides clauses that are burdensome for employees or when performance fulfillment does not match what was promised. This means that when moving to a new company, employees will

[46] Kessler (n 23).
[47] Guy Davidov, 'The (Changing?) Idea of Labour Law' (2007) 146 International Labour Review 311.

not suffer any losses, such as wages will remain the same, and other non-wage income will also remain the same.

The current presumption of a perfect labor market is questionable considering that the current labor market is one that has an abundance of employees. This indirectly turns the labor market into a monopsony market where employers become buyers with many sellers. Employers ultimately have the ability to reduce labor wages to the lowest level and use the most profitable form of employment agreement. Meanwhile, on the other hand, employees have no other choice but to accept. Employees become increasingly dependent, to the point that they are willing to make adjustments to their interests simply to get a job, even though the job offered is unsuitable.[48]

2. Freedom of Contract Illusion in the Employment Agreement

Freedom of contract is a principle of contract law which has also been adopted into Indonesian labor law, especially in the field of employment agreements. Table 1 below shows the inclusion of the principle of freedom of contract in several areas of Indonesian labor law, especially in Law No. 13 of 2003 on Manpower (hereinafter written as UUK) and Law No. 6 of 2023 on the Establishment of Government Regulations in Lieu of Law No. 2 of 2022 on Job Creation becomes Law (hereinafter written as UUCK).

Table 1. Freedom of Contract in Labor Law

Article	Norm Substance	Explanation
55 UUK	Withdrawal of Employment Agreement	Withdrawal and/or changes to the employment agreement can be made based on the agreement of the parties.
81 (2) UUK	Implementation of Menstrual Leave	The implementation of menstrual leave is left to the arrangements agreed by the parties either in the employment agreement, company regulations, or collective employment agreement.

[48] See details in Zoe Adams, 'Aspirational Work: A UK Labor Law Analysis' (2022) 3 Journal of Law and Political Economy <https://escholarship.org/uc/item/1q84s67h>, https://doi.org/10.5070/LP63259634.

85 UUK	Work on statutory holidays	Employers can employ employees on official holidays other than the type and nature of work that must be carried out continuously as long as there is an agreement between the employee and employer.
93 (5) UUK	No Work No Pay Principle	The implementation of wages when employees are absent from work is stipulated in the employment agreement, company regulations, or collective employment agreement
113 (1) UUK	Changes in Company Regulations	Changes to company regulations before the end of the validity period can only be made on the basis of an agreement between the employer and employee representatives.
81 (16) UUCK	Expiration of the employment agreement	Apart from reasons originating from law, employment agreements can also end due to certain circumstances or events stated in the employment agreement, company regulations, or collective employment agreement.
81 (25) UUCK	Implementation of Annual Leave	Implementation of annual leave is regulated in the employment agreement, company regulations or collective employment agreement
81 (31) UUCK	Wages in Micro and Small Enterprises	Determination of wages for micro and small businesses is based on an agreement between employees and employers.
81 (45) UUCK	Termination of Employment	Employers and employees can agree on termination of employment relations outside of what is regulated in statutory provisions

Sources: *Law No. 13 of 2003 on Manpower (hereinafter written as UUK) and Law No. 6 of 2023 on the Establishment of Government Regulations in Lieu of Law No. 2 of 2022 on Job Creation becomes Law (hereinafter UUCK).*

Table 1 presents the application of freedom of contract principle in the employment regulation from Law No. 13 of 2003 on Manpower and Law No. 6 of 2023 on the Establishment of Government Regulations in Lieu of Law No. 2 of 2022 on Job Creation becomes Law.

The previous review shows the existence of unequal bargaining positions accompanied by conflict in employment agreements. It has also been shown that,

under such conditions, employees tend to experience a reduction in various rights, solely in order to create profits for the employer. Freedom of contract actually provides opportunities for employers to use various forms of contracts, regulate the contents of contracts, and enter into contracts with groups of employees who are deemed capable of bringing effectiveness from the employers' point of view. This is why in the development of contemporary labor relations, employers often find forms of contractual relations that are outside the regulation of labor law; a form of contractual relationship that allows employers to reap maximum profits.

Then, it is no wonder that, at the practical level,[49] various clauses are found in employment agreements that show or even prove the above argument. The clauses in question include:

> "The first party - the employer - can terminate the employment agreement unilaterally before the end of the term of the agreement without providing any compensation to the second party - the employee - in the event that the second party does not achieve the targets set in the Performance Target Evaluation".[50]
>
> "Employees are willing to comply with all work requirements that have become the employer's decision, both written and unwritten, which are urgently implemented".[51]
>
> "If there is no improvement in performance in terms of discipline and work effectiveness, the employer can unilaterally terminate employment".[52]
>
> "In addition to the expiration of the specified period of the employment agreement, the employment agreement can end at any time if the first party - the employer - wants the employment agreement to end".[53]

The clauses above, for example the clause which gives the employer the right to terminate the employment agreement unilaterally if the employer wishes to do so, are

[49] The practical level in question is the application of freedom of contract in employment agreements as revealed through court decisions, but this does not indicate that a quo decision specifically questions the clauses written in this article. The clauses written are the employment agreement clauses that are touched upon or revealed in the trial process as can be found in a quo court decision.

[50] "Court Decision No. 50/Pdt.Sus-PHI/2017/PN. Bdg between Dewi Cita against PT Bank Rakyat Indonesia (Persero) Tbk Garut Branch Office".

[51] "Court Decision No. 40 PK/Pdt.Sus-PHI/2015 between PT Amos Indah Indonesia against Abdul Jamil".

[52] "Court Decision No. 16/Pdt.Sus-PHI/2020/PN. Jap between Juniati Tamil against Black on Box Café & Convention".

[53] "Court Decision No. 84/Pdt.Sus-PHI/2019/PN. Bdg between Fandy Djayasaputra and Gopas Carlos Otto Barita against PT Mahkota Sentosa Utama".

clauses which show the freedom that the employer has in determining the contents of the employment agreement. This clause clearly seems to accommodate the interests of employers, while negating the interests of employees. Without such a clause, every employee would of course want a proper and fair termination of their employment relationship. The freedom that employers have is actually provided by labor law, as regulated in Article 81 Point 45 UUCK. Labor law creates preconditions so that freedom of contract can be used by employers to reduce employees' rights.

The provisions of Article 81 Point 45 of UUCK bring about the paradigm that employees and employers can reach an agreement with free will regarding the causes that can result in the termination of employment relations. Labor law seeks to form an understanding[54] that employees have the ability to match the bargaining position of employers, so that clauses will be created that suit the needs of the parties. This assumption certainly denies the social structure that exists in capitalistic society. Employees - whether the employees themselves realize it or not - are thrown into a relationship where employees have no choice but to work[55] to stay alive. The employer controls the means of production which structurally causes the other party in the employment agreement to have no freedom. Employees do not have the freedom to refuse work because of their dependence on work to fulfill their lives.

Social construction has caused the loss of self-autonomy of employees in employment agreements. In simple terms, self-autonomy is a condition where a person has control over himself to determine his will freely and autonomously.[56] Self-autonomy in labor-employer relations can manifest itself in the freedom of employees to determine important aspects of their work activities. Which things in the employment agreement are not owned or if they are owned will be very limited. Employees' dependence on capital and employers has caused employees to lose their autonomy. In some cases, employees even have to put aside their own rights, with full awareness, just to get a

[54] The law has a tendency to shape perceptions of reality, as the law seeks to build a picture of equality between employees and employers in employment agreements.

[55] Gerry A Cohen, 'Chapter Seven. Capitalism, Freedom, and the Proletariat', *On the Currency of Egalitarian Justice, and Other Essays in Political Philosophy* (Princeton University Press 2011).

[56] Steven Wall, 'Self-Ownership and Paternalism*' (2009) 17 Journal of Political Philosophy 399.

job. This condition cannot be separated from the role of employment agreements as institutions that legitimize the role of the market in mediating social relations. Employees' self-autonomy in employment agreements is ultimately oppressed by both the market and employers.[57]

The clauses in the employment agreement as previously mentioned confronted employees with the choice between drinking poison or jumping into a deep abyss.[58] The suffering may be different, but both will lead to one thing, namely death. This is how employees are faced with an employment agreement in which employees are deemed to have freedom. Freedom of contract in labor law is ultimately just the freedom that employees have to choose to work despite poor working conditions and unequal rights or choose not to work and become unemployed, which will further threaten the lives and livelihoods of employees.

The loss of employees' autonomy in employment agreements is also complemented by the dilemma behind the doctrine of abuse of circumstances in employment agreements. As an illustration, suppose then that the employee agrees to be bound by an employment agreement due to abuse of circumstances, although the law vaguely provides an opportunity for the employee to request cancellation of the employment agreement. However, this will result in the cancellation of the employment agreement between the employee and the employer: there will be no more work, no more wages for the employees. Meanwhile, it is very clear that, under capitalism, employees really need a job, just to survive and maintain their lives and existences. This also shows how weak the bargaining position is and the difficult conditions that employees have to face in employment agreements, which means that freedom of contract in employment agreements is just an illusion that is created to obscure the inequality of bargaining positions and conflicts that exist in employment agreements.

[57] See details in Paul Blokker, 'The European Crisis and a Political Critique of Capitalism' (2014) 17 European Journal of Social Theory 258, https://doi.org/10.1177/1368431014530923.

[58] In fact, freedom of contract in employment agreements contains content that is harmful if implemented. See details in Ruth Dukes, 'Identifying the Purposes of Labor Law: Discussion of Guy Davidov's A Purposive Approach to Labour Law' (2017) 16 Jerusalem Review of Legal Studies 52–67, https://doi.org/10.1093/jrls/jlx017.

Questioning Labor Law in the Freedom of Contract Illusion

Unequal bargaining positions and conflicts that exist in employment agreements are the essence that underlies the presence of labor law in labor relations with employers. The unequal bargaining position accompanied by conflicting interests means that the desired agreement cannot be achieved. The state then intervenes in the relations between employees and employers with the aim of providing protection for employees against the inherent character of employers to reduce employees' rights in order to achieve profits.[59] The state is present by setting minimum standards that must be included in the employment agreement, the state forms the essential elements of the employment agreement without which the employment agreement will be considered null and void by law.

However, the intervention of labor law into labor-employer relations with the argument that there is an unequal bargaining position is considered merely a lie rather than existing empirical facts.[60] Also, the assumption that the basis of unequal bargaining positions is a weak foundation for labor law or narrows reasoning regarding labor law and this leads to the regression on normative foundations of labor law.[61]

Assumptions that attempt to deny or abandon the basis of unequal bargaining positions as the foundation of labor law have clearly ignored structural analysis of labor law. Ignoring the existence of unequal bargaining positions in employment agreements will obscure the exploitation of employees that is legitimized by employment agreements. On the other hand, recognition of the unequal bargaining position between employees and employers will describe social construction in capitalist society, where employees are threatened with domination and exploitation, which labor law tries to overcome. Wedderburn firmly wrote that labor law must always pay attention and acknowledge the weaknesses of employees when dealing with employers.[62] Likewise, Webb admitted that the relationship between employees and employers had placed employees in all

[59] Ruth Dukes, 'Critical Labour Law: Then and Now', *Research Handbook on Critical Legal Theory* (Edward Elgar Publishing 2019).

[60] Brian Langille, 'Labour Law's Theory of Justice', *The Idea of Labour Law* (Oxford University Press 2011).

[61] ibid.

[62] Lord Wedderburn, 'Freedom of Association and Philosophies of Labour Law' (1989) 18 Industrial Law Journal 1.

sorts of disadvantages.[63] Efforts to review the normative foundations of labor law are efforts to attack and weaken labor law.[64]

Arguments that eliminate unequal bargaining positions tend to lead to libertarianism in labor law, which will ultimately result in the axiom of equality so that labor law does not need to intervene in employer-employee relations. According to Sunstein, legal intervention into labor-employer relations has become "self-defeating," such as setting minimum wages, which has reduced demand for employees, which in turn has led to unemployment.[65] Employees and employers will be able to create clauses in employment agreements that are fair and in accordance with their needs.

Apart from unequal bargaining positions, labor law intervention in employee-employer relations must also be seen as a consequence of conflicts that exist in employment agreements. As is known, conflicting interests in society are the cause of the presence of law as a social institution which will assume the role of mediating conflicting interests.[66] It becomes clear then that the presence of labor law in employment agreements must mediate conflicts of interest that occur, not in the sense of seeking a balance between interests, but by reducing competing interests. Thus, state intervention in labor law is not to create lulling harmony, but to protect the human dignity of employees who, because of the banality of capital, often have to be marginalized.

Based on the elements of an employment agreement, labor law in an employment agreement has two roles, namely a limiting role and a complementary role. Labor law limits employment agreements by establishing a set of rules which are essential elements of the agreement, without which the employment agreement is deemed to have no legal force. Labor law is required to impose restrictions because, in an employment agreement, the performance involved is not an object, but work which is an integral part that cannot be separated from an employee This is agreed by various groups regarding the function of labor law as a tool to overcome the unequal bargaining position inherent in the

[63] Davidov, 'The (Changing?) Idea of Labour Law' (n 27).

[64] Sidney Webb and Beatrice Webb, *Industrial Democracy* (Longmans Green and Co 1902).

[65] Cass R Sunstein, 'Paradoxes of the Regulatory State', Free Markets and Social Justice (Oxford University Press, New York, NY 1997).

[66] F Budi Hardiman, 'Hukum Dan Kekerasan: Sebuah Pertimbangan Filosofis' (2004) 1 Jentera: Jurnal Hukum 11.

relationship between employees and employers.[67] These reasons have been accepted as the moral basis and reason for the existence of labor law.

An employment agreement is recognized as one of the agreements that contain deliberate imperfections, which[68] are intended so that the employment agreement has loopholes[69] which are then explored by employers to gain profits. The imperfection of the employment agreement is based on the complexity in carrying out work by employees, so in its implementation, employers are given discretion to regulate the course of work implementation by employees, including by providing direction for work outside of their job description. It is at this point that the second function of labor law in employment agreements is seen. Labor law is intended to be present as a complement to existing gaps by providing complementary legal rules. When an employment agreement does not regulate it clearly, labor law fills it in. Labor law ultimately becomes an instrument to provide a sense of security for employees in establishing relationships with employers. Labor law ensures that employees will get decent wages, employees will avoid unfair termination of employment, and so on.

The above functions of labor law are in fact neglected in today's labor law politics. As can be seen through contemporary labor law products, both in the Employment Law and the Job Creation Law, labor law provides many regulations regarding work conditions, rights and obligations to employees and employers. Such an arrangement clearly shows a movement to close the state's eyes to the facts of inequality and conflict that exist in employment agreements. However, it can be understood that, since the reformation, Indonesian labor law politics has been held hostage by the ideas of neoliberalism. The state then withdrew from labor-employer relations and deliberately ignored the facts of unequal bargaining positions and conflicts in employment agreements. This is done solely so that capital can move freely. Employers can use various legal instruments that will support their efforts to gain profits.

[67] Davies and Freedland (n 13); Wedderburn (n 33); Langille (n 31); Guy Mundlak, 'The Third Function of Labour Law: Distributing Labour Market Opportunities among Workers', *The Idea of Labour Law* (Oxford University Press 2011).

[68] Hugh Collins, *Employment Law* (Oxford University Press 2010).

[69] David E Guest, 'Is the Psychological Contract Worth Taking Seriously?' (1999) 19 Journal of Organizational Behavior.

Conclusion

An employment agreement is a contractual relationship which contains unequal bargaining positions and conflicts of interest between the parties. The contents of employment agreements have caused the argument for freedom of contract in employment agreements to become just an illusion created to obscure the inequality of bargaining positions and conflicts that exist in employment agreements. Freedom of contract in employment agreements ultimately transforms into the freedom of employers to determine the form, content and other matters surrounding the agreement in order to accommodate their interests in gaining profits while negating the interests of employees. The freedom that employers have is born from the power they have in their employment agreements, as well as the dependence of employees on employers.

The facts of unequal bargaining positions and conflicts in employment agreements are ignored in contemporary Indonesian labor law politics. Labor law seeks to create an understanding regarding equality and harmony between the parties to an employment agreement. This labor law effort clearly ignores the function of presenting labor law in employment agreements. Labor law regulations that do not reflect unequal bargaining positions and conflicts in employment agreements have given rise to legal provisions that leave the determination of work conditions, rights and obligations of the parties based on agreements between employees and employers. The result is predictable, employees' rights are legally reduced, and the reduction is recognized by law.

Acknowledgments

-

Disclosure Statement

No potential conflict of interest was reported by the author.

Funding

No funding was received for this research.

References

"Court Decision No. 16/Pdt.Sus-PHI/2020/PN. Jap between Juniati Tamil against Black on Box Café & Convention," n.d.

"Court Decision No. 29/G/2016/PHI.Sby between Ria Ana Wati against PT Garam (Persero)," n.d.

"Court Decision No. 40 PK/Pdt.Sus-PHI/2015 between PT Amos Indah Indonesia against Abdul Jamil," n.d.

"Court Decision No. 50/Pdt.Sus-PHI/2017/PN. Bdg between Dewi Cita against PT Bank Rakyat Indonesia (Persero) Tbk Garut Branch Office," n.d.

"Court Decision No. 84/Pdt.Sus-PHI/2019/PN. Bdg between Fandy Djayasaputra and Gopas Carlos Otto Barita against PT Mahkota Sentosa Utama," n.d.

"Court Decision No. 845 K/Pdt.Sus-PHI/2016 in Conjunction with Court Decision No. 114 PK/Pdt.Sus-PHI/2018 between Ria Ana Wati against PT Garam (Persero)," n.d.

Adams Z, 'Aspirational Work: A UK Labor Law Analysis' (2022) 3(2) *Journal of Law and Political Economy* https://doi.org/10.5070/LP63259634.

——, 'Labour Law, Capitalism and the Juridical Form: Taking a Critical Approach to Questions of Labour Law Reform' (2021) 50(3) *Industrial Law Journal* 434 https://doi.org/10.1093/indlaw/dwaa024.

Badrulzaman MD, *Kompilasi Hukum Perikatan* (Mandar Maju 2016).

Bhaskar B, *The Possibility of Naturalism: A Philosophical Critique of the Contemporary Human Sciences* (Routledge 1998).

Blokker P, 'The European Crisis and a Political Critique of Capitalism' (2014) 17(3) *European Journal of Social Theory* 258 https://doi.org/10.1177/1368431014530923.

Clegg HA, 'Pluralism in Industrial Relations' (1975) 13(3) *British Journal of Industrial Relations* 309 https://doi.org/10.1111/j.1467-8543.1975.tb00613.x.

Cohen GA, 'Capitalism, Freedom, and the Proletariat' in *On the Currency of Egalitarian Justice, and Other Essays in Political Philosophy* (Princeton University Press 2011) 147 https://doi.org/10.1515/9781400838660-009.

Collins H, *Employment Law* (Oxford University Press 2010).

Cserne P, 'Contract, Freedom Of' in *Encyclopedia of Law and Economics* (Springer New York 2014) 1 https://doi.org/10.1007/978-1-4614-7883-6_538-1.

Davies, ACL, *Perspectives on Labour Law* (Cambridge University Press 2009).

Davies P and Freedland M, *Kahn-Freund's Labour and the Law* (Stevens & Sons 1983).

Dukes R, 'Constitutionalizing Employment Relations: Sinzheimer, Kahn□Freund, and the Role of Labour Law' (2008) 35(3) *Journal of Law and Society* 341 https://doi.org/10.1111/j.1467-6478.2008.00442.x.

——, 'Identifying the Purposes of Labor Law: Discussion of Guy Davidov's A Purposive Approach to Labour Law' (2017) 16(1) *Jerusalem Review of Legal Studies* 52 https://doi.org/10.1093/jrls/jlx017.

Guest DE, 'Is the Psychological Contract Worth Taking Seriously?' (1999) 19(S1) *Journal of Organizational Behavior.*

Hogler RL, 'Labor History and Critical Labor Law: An Interdisciplinary Approach to Workers' Control' (1989) 30(2) *Labor History* 165 https://doi.org/10.1080/00236568900890141.

Kusiak J, 'Legal Technologies of Primitive Accumulation: Judicial Robbery and Dispossession-by-Restitution in Warsaw' (2019) 43(4) *International Journal of Urban and Regional Research* 649 https://doi.org/10.1111/1468-2427.12827.

Langille B, 'Labour Law's Theory of Justice' in *The Idea of Labour Law* (Oxford University Press 2011) 101 <https://doi.org/10.1093/acprof:oso/9780199693610.

Law Number 13 Year 2003 concerning Manpower (The Republic of Indonesia State Gazette Year 2003 Number 39, Annotation 4279).

Lawson T, *Economics and Reality* (Routledge 1997).

Marx K, *Capital: Volume 1* (Lawrence & Wishart 2010).

——, *Wage-Labour and Capital & Value, Price and Profit* (International Publishers 2006).

Miru A, *Hukum Kontrak Dan Perancangan Kontrak* (Raja Grafindo Persada 2004).

Muljadi K and Widjaja G, *Perikatan Yang Lahir Dari Perjanjian* (Rajawali Pers 2008).

Satrio J, *Hukum Perikatan: Perikatan Yang Lahir Dari Perjanjian* (Citra Aditya Bakti 2001).

Subekti, *Hukum Perjanjian* (Intermasa 2005).

Suharnoko, 'Hukum Kontrak Dalam Perspektif Komparatif' in Rosa Agustina.

Suharnoko, Hans Nieuwenhuis, and Jaap Hijma (eds), *Hukum Perikatan* (Pustaka Larasan 2012) 92.

Wall S, 'Self-Ownership and Paternalism' (2009) 17(4) *Journal of Political Philosophy* 399 https://doi.org/10.1111/j.1467-9760.2009.00339.x.

Webb S and Webb B, *Industrial Democracy* (Longmans Green and Co 1902).

--This page is intentionally left blank--