

## **THE PRINCIPLE OF PROPORTIONALITY IN FRANCHISE AGREEMENTS: IMPLICATIONS AND PRACTICES IN BUSINESS CONTRACTUAL RELATIONSHIPS**

**Mia Rasmiaty**

Universitas Islam Nusantara Bandung, Indonesia  
miarasty64@gmail.com

### **Abstract**

The principle of proportionality plays a very important role in maintaining the balance between the rights and obligations of the parties to a franchise agreement. In practice, franchise agreements often exhibit an imbalance between the franchisor and franchisee, potentially to the detriment of the weaker party. This article discusses the implications of the principle of proportionality in franchise agreements in Indonesia, focusing on how its application can prevent contractual imbalance. It also explores the best practices and regulations needed to ensure a fairer and more proportional application of this principle in franchise agreements. The research method used is a normative juridical method that relies on the analysis of the relevant legal framework, especially related to the regulation of franchise agreements in Indonesia. The results of the discussion show that strengthening regulations, dispute resolution mechanisms, and the application of transparency and balance principles in agreements can create a fairer and more sustainable business climate.

**Keywords:** principle of proportionality, franchise agreement, dispute resolution

**INTRODUCTION**

The principle of proportionality is a fundamental principle in contract law that aims to create a balance of rights and obligations between the parties in an agreement (Pane, 2022). In the context of complex business relationships, such as franchise agreements, this principle has high relevance. Franchise agreements, which are regulated in Law No. 42/2007 on Franchising and its implementing regulations, often contain provisions that give greater dominance to the franchisor. This imbalance can lead to injustice, especially if the franchisee, as a party that usually has a weaker bargaining position, is burdened with responsibilities that are not proportional to the rights it obtains (Salim, 2021). The urgency to discuss this issue lies in the high potential for disputes arising from inequality in the contractual relationship. According to Satjipto Rahardjo, the law must be able to protect the interests of the parties fairly, not just be a means of legal formality (Rahardjo, 2010). In many cases, franchisees often face burdensome provisions, whether in the form of exclusivity arrangements, royalty obligations, or restrictions on business activities that can threaten their business continuity. This imbalance not only creates a potential violation of the principle of proportionality, but also reduces trust in business relationships that should be based on fairness and legal certainty.

In the perspective of modern contract theory, as proposed by Friedrich Kessler, contracts that do not provide space for freedom of negotiation between parties with unequal economic positions can be considered as adhesion contracts. Such agreements are prone to causing harm to the weaker party (Halim dkk., 2024). In the context of franchising in Indonesia, clauses that provide excessive benefits to the franchisor, without considering the ability of franchisees to fulfill their obligations, can be classified as actions that violate the principle of substantive justice. In addition, the principle of proportionality also serves as a normative guideline to ensure that business contracts are not only legally valid, but also fair in execution. According to Philip Selznick, the law should be directed to accommodate the principles of social justice, including the protection of vulnerable parties in commercial contracts (Selznick, 1996). Therefore, further study of the application of the principle of proportionality in franchise agreements is indispensable to ensure a balance of rights and obligations that can reduce the risk of conflict in the future.

The imbalance of rights and obligations in franchise agreements is often the root of problems that contradict the principle of proportionality, a principle that fundamentally regulates balance in contractual relationships. In contract law, this principle demands a fair distribution of rights and obligations between the parties to prevent unilateral control that can harm parties with weaker bargaining positions (Komnas, 2021). This provision in Indonesia can be found in Article 1338 of the Civil Code, which emphasizes that agreements must be carried out in good faith. This good faith implies the need for a balanced proportion between rights and obligations in order to achieve contractual justice.

In the context of franchising, imbalance is often seen in the dominance of the franchisor in determining contract clauses that limit the freedom of franchisees, such as exclusivity arrangements, high royalty charges, or unilateral cancellation provisions (Amalia & Prasetyawati, 2019). According to Soerjono Soekanto, the law must be able to protect all parties involved proportionally, not just give advantages to the economically stronger party (Soekanto, 2011). This is in line with the principle of proportionality which aims to avoid inequality that can cause harm to parties with weaker positions. Therefore, this imbalance is not only contrary to the value of justice in contract law, but also violates the moral principles that are the foundation of every valid agreement. A similar opinion was expressed by Satjipto Rahardjo who stated that the law should not only function as a formal control tool, but also as a means to achieve harmony in social relations. The imbalance of rights and obligations in franchise agreements creates an asymmetrical relationship, where franchisees are often in a position that is vulnerable to exploitation (Rahardjo, 2003). In such a situation, the imbalance not only

creates a risk of material loss but also undermines trust in long-term business relationships. In addition, Friedrich Kessler emphasized the importance of contractual arrangements that pay attention to substantive balance in the legal relationship of the parties. In many cases, franchise contracts that do not observe the principle of proportionality can be categorized as contracts of adhesion, which allow one party to dictate terms that cannot be negotiated by the other party. This is clearly contrary to the principle of fairness contained in the principle of proportionality (Hernoko & others, 2016). Thus, this imbalance requires not only correction through the application of the principle, but also the strengthening of regulations that ensure the protection of vulnerable parties in contractual relationships.

The principle of proportionality has a central role in ensuring fairness between the parties to the agreement, especially in franchise agreements that are loaded with long-term business relationships. The complexity of contractual relationships in franchising often places the franchisor in a more dominant position in determining the content of the agreement, so that arrangements are needed that ensure a balance between the rights and obligations of the parties (Hidayati, 2012). In Indonesian contract law, Article 1339 of the Civil Code stipulates that an agreement is not only binding on matters expressly stated, but also on everything that is fairly required by the nature of the agreement. This shows that every agreement, including franchise agreements, must reflect the principle of substantive justice.

According to Satjipto Rahardjo, contract law should not be seen as a mere formality tool, but as an instrument capable of answering the needs of social justice between the parties (Rahardjo, 2009). In the context of franchise agreements, the principle of proportionality can be a counterweight to the interests of franchisors and franchisees, especially in situations where franchisees often face burdensome provisions. Clauses such as unbalanced royalty payment obligations or overly strict operational restrictions often create injustice for franchisees (Harnoko & Ratnawati, 2015). Such provisions not only create inequality, but can also potentially undermine the stability of the business relationship at the core of the franchise agreement. The importance of implementing the principle of proportionality is also emphasized by Friedrich Kessler, who states that fairness in contracts must involve a substantive balance between the parties, so that no party is disadvantaged due to the dominance of the other party (Saechu & Syifa, 2024). In a franchise agreement, where the business relationship is long-term and involves dependence between the two parties, the application of the principle of proportionality is very important to prevent exploitation or structural imbalances that can harm one party (Sepriano dkk., 2023). Therefore, this principle is not only a guideline in drafting the agreement, but also a tool to evaluate whether the provisions in the agreement have reflected the fairness that should be.

In the Indonesian legal system, the regulation of franchising contained in Government Regulation No. 42/2007 on Franchising has provided a normative basis to protect the interests of the parties. However, without an explicit application of the principle of proportionality, the regulation is often insufficient to prevent potential unfairness in its implementation. Therefore, an in-depth study of the application of this principle is required to ensure that every franchise agreement is fair, balanced and based on universal principles of justice. The study of the principle of proportionality in franchise agreements has strategic value in providing a conceptual and practical basis for creating fair and balanced contractual relationships. The principle of proportionality not only functions as a moral principle in contract law, but also has practical implications that can minimize potential conflicts between the parties (Kosasih, 2021). In the context of Indonesian law, although Article 1320 of the Civil Code has regulated the legal requirements of an agreement, a more concrete application of this principle can enrich the understanding of the aspects of substantive justice in the implementation of complex contractual relationships such as franchising.

According to Van Dunne, the principle of proportionality should be understood as a mechanism to control arbitrariness in contracts by balancing the rights and obligations of the parties (Dunne dkk., 2001). In franchising practice, the application of this principle requires an evaluation of contract clauses, particularly those relating to exclusivity rights, imposition of financial obligations, and operational arrangements. In many cases, imbalances in these arrangements can give a disproportionate advantage to the franchisor, thereby reducing the competitiveness and business continuity of the franchisee (Iswari dkk., 2023). Therefore, the principle of proportionality is not only an instrument to correct imbalances, but also encourages the creation of harmony in mutually beneficial business relationships.

The legal regulatory aspects of this principle also need to be reviewed to provide a more structured guarantee of justice. Although Government Regulation No. 42/2007 on Franchising has provided a basic legal framework, the regulation is often still general and lacks specific guidance in regulating the application of the principle of proportionality (Sitania & Suponyono, 2020). According to Philip Selznick, the law must be able to adapt to social and economic dynamics, so that the applicable regulations can truly reflect the principles of justice that are relevant to the needs of the parties (Selznick, 2011). In the context of franchising, this includes the need to develop clearer guidelines regarding the mechanism for drafting balanced contracts, as well as sanctions for violations of the principle of proportionality in the agreement. Furthermore, an important contribution of this study is to provide a deeper understanding of how the principle of proportionality can be applied not only in the drafting of agreements, but also in the settlement of disputes that arise. According to Satjipto Rahardjo, law must be able to move beyond formal norms and prioritize the substance of justice. Thus, the implementation of this principle does not only depend on written regulations, but also on progressive interpretation by judges and parties involved in the dispute resolution process. This effort can improve the quality of legal arrangements and provide more comprehensive protection for the parties to the franchise agreement.

## **RESEARCH METHODS**

The research method used is normative juridical with an analysis of the legal framework of franchise agreements in Indonesia, especially Law Number 42 of 2007 and its implementing regulations, in order to assess whether its application reflects the principle of proportionality in contract law (Al-Fatih, 2023). In addition to normative analysis, a conceptual approach is used to understand the role of the principle of proportionality in maintaining the balance of rights and obligations between franchisors and franchisees, in line with Satjipto Rahardjo's view that the law must reflect social justice. Legal literature studies were also conducted to explore the views of experts, such as Friedrich Kessler who highlighted the need for protection for weaker parties in adhesion contracts, including franchising. Clauses that give excessive dominance to the franchisor can be considered violating the principle of proportionality, so this study not only examines legal certainty but also assesses substantive justice in the practice of franchise agreements (Purwono, 2024). By integrating normative, conceptual, and literature analysis, this research aims to provide a comprehensive overview and recommendations based on universal legal values to improve fairer contractual regulations, as emphasized by Philip Selznick that law must be a means of creating social justice.

## **RESULT AND DISCUSSION**

### **Implementation of the Principle of Proportionality in Franchise Agreements**

The application of the principle of proportionality in franchise agreements has important significance in ensuring a balance between the rights and obligations of the parties. Franchise agreements, as stipulated in Law No. 42/2007 on Franchising, require arrangements that reflect the principle of fairness, as also required by the principle of good faith in Article 1338 paragraph

(3) of the Civil Code. However, in practice, substantive imbalances are often found in the agreement clauses, especially those relating to the distribution of rights and obligations between the franchisor and franchisee. In general, the franchise agreement clause includes the franchisor's right to receive royalties, set operational standards, and supervise the implementation of the franchise by the franchisee. On the other hand, franchisees are obliged to comply with the conditions set by the franchisor, pay franchise fees, and maintain service quality according to the specified standards. An imbalance arises when the franchisor's rights are extended to the realm that burdens the franchisee, such as the imposition of unilateral sanctions without clear settlement procedures or exclusivity arrangements that limit the franchisee's room for maneuver in running its business (Hariyani, 2021). In Friedrich Kessler's opinion, this inequality often reflects the characteristics of adhesion contracts, where the party with the weaker bargaining position has no room to negotiate (Kessler, 1943).

Inequality in the clause is also seen in the regulation of financial obligations. Franchisees are often burdened with high royalty payment obligations without adequate legal protection regarding compensation if the franchisor fails to fulfill its obligations, such as providing technical support or training (Aidi & Farida, 2019). This kind of clause has the potential to create economic losses for franchisees that are contrary to the principle of proportionality. Satjipto Rahardjo argues that contract law must be able to bridge the gap of interests between the parties, by ensuring that no party is disproportionately disadvantaged in the contractual relationship (Asnawi dkk., 2024). The application of the principle of proportionality in the analysis of franchise agreement clauses also includes monitoring clauses that have the potential to harm one party, such as provisions for unilateral cancellation by the franchisor or restrictions on access to information for franchisees. Such clauses not only violate the principle of contractual fairness, but can also create legal uncertainty in long-term business relationships. Therefore, as proposed by Philip Selznick, a legal approach is needed that not only upholds formal justice, but also ensures substantive justice to protect the interests of vulnerable parties in franchise agreements. Thus, the implementation of the principle of proportionality should guide the drafting and review of franchise agreement clauses. Unfair arrangements not only have the potential to violate the principles of justice mandated by law, but can also degrade the quality of the business relationship between the franchisor and franchisee (Sugijanto, 2021). Efforts to improve this practice should include strengthening regulations, increasing supervision, and providing greater space for franchisees to participate in the formulation of agreements to ensure sustainable justice.

The application of the principle of proportionality in franchise disputes both in Indonesia and internationally provides a concrete illustration of the challenges faced in ensuring the balance of rights and obligations between franchisors and franchisees (Susanto dkk., 2021). In the context of Indonesian law, cases of franchise disputes often arise due to imbalances in contract clauses that are more favorable to the franchisor. One dispute that can be an example is a case related to the imposition of royalties that are considered burdensome for franchisees without the provision of proportional benefits from the franchisor, such as training or technical support (Harnoko & Ratnawati, 2015). This dispute reflects the weak application of the principle of proportionality, as implicitly stipulated in Article 1339 of the Civil Code, which emphasizes that agreements must fulfill substantive fairness in addition to formal validity. For example, in a dispute involving an international fast food restaurant franchise, the franchisee objected to the franchisor's policy of stipulating the purchase of raw materials from certain suppliers at a price that was much higher than the market price. In this case, the franchisee claimed that the provision violated the principle of fairness, as it did not provide reasonable operational freedom for the franchisee. A similar opinion was expressed by Friedrich Kessler, who stated that contractual provisions that unreasonably restrict the autonomy of the weaker party can be categorized as a form of abuse of contractual power. The dispute was then resolved

by the courts, which ruled on the need to revise the contract clauses to better reflect the principle of proportionality. At the international level, franchise disputes also occur frequently, one of which is a case involving a global retail company and a franchisee in a developing country. In this dispute, the franchisee sued the franchisor for the limitation of geographic exclusivity rights which was considered to reduce their potential income. The franchisor, on the other hand, argued that the restrictions were necessary to maintain operational standards. According to the doctrine of contractual fairness put forward by Philip Selznick, clauses that restrict the rights of certain parties must be tested whether the restrictions are made in the common interest or merely serve the dominant interests of one party (Hidayat, 2022). In this case, the court emphasized that exclusivity clauses should be considered in the context of proportionality, so as to provide a fair outcome for both parties.

In the domestic context, Law No. 42/2007 on Franchising and its implementing regulations have not specifically regulated the monitoring mechanism against disproportionate clauses, so many similar disputes have to be resolved through the courts. This indicates the need for more detailed regulations to ensure that franchise contracts are not only legally valid but also fulfill the principle of substantive justice. In line with Satjipto Rahardjo's view, law should aim to create harmony and justice in social relations, including commercial contractual relations such as franchising (Rahardjo, 2009). Through this case study, it is shown that the application of the principle of proportionality is a key element in franchise dispute resolution. The importance of monitoring contractual clauses and enforcing substantive fairness can reduce the potential for conflict and create healthier business relationships. Efforts to improve the application of this principle require not only a more comprehensive legal approach, but also a commitment from the parties to draft contracts based on the principles of mutual benefit and justice.

The application of the principle of proportionality in the practice of franchise business contracts is often faced with various obstacles that are both normative and practical (Zai, 2020). In the Indonesian legal context, although Law No. 42/2007 on Franchising has provided a regulatory framework, the application of this principle in franchise contracts is far from optimal. One of the main obstacles is the lack of supervision of contractual clauses that have the potential to create an imbalance between the rights and obligations of the franchisor and franchisee. The provisions in the regulation are still general in nature and do not explicitly regulate the mechanism to ensure that each agreement reflects the principle of proportionality substantively (Suharnoko & others, 2015). In addition, the unequal bargaining position between franchisors and franchisees is a structural obstacle in the application of this principle. Franchisors, who often have more dominant economic and legal power, tend to determine the content of the agreement unilaterally, resulting in adhesion contracts. Clauses such as unbalanced royalty obligations or geographical restrictions that burden franchisees are clear examples of violations of the principle of proportionality. According to Friedrich Kessler, this kind of inequality often occurs in adhesion contracts, where the party with the stronger position imposes terms that are favorable to itself without providing adequate negotiating space for the other party (Kidwell dkk., 2007).

Another obstacle is the parties' lack of understanding or awareness of the importance of the principle of proportionality in creating a fair contractual relationship. Franchisees, especially in developing countries, often do not have sufficient legal knowledge to evaluate the contents of the contract proposed by the franchisor. This is exacerbated by the lack of access to legal aid that can help franchisees negotiate disproportionate clauses. Satjipto Rahardjo argues that law should not only be normative but also responsive to the needs of society, so this obstacle reflects the need for a more inclusive legal approach in protecting weaker parties in business contracts. From an implementation perspective, the lack of supervision and enforcement mechanisms against violations of the principle of proportionality is also a

significant challenge (Pizanti & Lerner, 2003). Franchise-related disputes are often resolved through lengthy and costly litigation, preventing franchisees from seeking justice for unfair contractual terms. According to Philip Selznick, the law should be designed to provide effective access to justice for all parties, especially those in vulnerable positions. Therefore, the absence of faster and more affordable alternative dispute resolution forums is another obstacle that complicates the application of this principle in practice. These obstacles indicate that the application of the principle of proportionality in franchise contracts requires not only more comprehensive regulation, but also reforms in the legal system and business practices (Selznick, 1943). Increasing legal awareness, strengthening the bargaining position of franchisees, and providing effective monitoring and dispute resolution mechanisms are steps that need to be taken to ensure that the principle of proportionality can be optimally applied in franchise contractual relationships.

### **Implications of the Principle of Proportionality for Business Contract Relationships**

The principle of proportionality has a fundamental role in creating fair and balanced business relationships, especially in the context of franchise agreements that often involve parties with unequal bargaining positions (Cahyono dkk., 2024). This principle, which is implicitly reflected in Article 1338 paragraph (3) of the Civil Code through the principle of good faith, serves as a guideline to ensure that business contracts not only comply with formal legality, but also reflect substantive fairness in the distribution of rights and obligations. In practice, the application of this principle serves as a control against one-party domination that has the potential to create structural inequality in contractual relationships. Fair and balanced contractual relationships are essential in maintaining the sustainability of long-term business relationships. Franchisors and franchisees, as interdependent parties, must have rights and obligations that are regulated proportionally to create stability and trust in business relationships. According to Satjipto Rahardjo, justice in contract law lies not only in the formal validity of an agreement, but also in the balance created in its implementation (Jan & others, 2022). Imbalances in franchise agreements, such as a heavier burden of obligations for franchisees without equal rights, can trigger conflicts that damage business relationships and harm both parties.

The application of the principle of proportionality is also relevant in protecting weaker parties in business contracts. In franchise agreements, franchisees are often in a vulnerable position to the control of the franchisor, which has greater control over operational arrangements, marketing and profit distribution. Friedrich Kessler emphasized that such inequality often leads to contracts of adhesion, where the weaker party has no choice but to accept the terms set by the stronger party (Suharnoko & others, 2015). In this context, the principle of proportionality acts as a mechanism to assess and, if necessary, revise unfair contract clauses in order to achieve a better balance between the parties. Furthermore, it contributes to the establishment of a sustainable business relationship by creating mutual trust and closer cooperation between the franchisor and franchisee (SARI & others, t.t.). Philip Selznick argues that law should be designed to create harmony in social relations, including contractual relations, by encouraging a balanced distribution of rights and obligations. In franchise relationships, the application of the principle of proportionality can prevent unrealistic expectations from arising and reduce the risk of disputes caused by contractual unfairness. Thus, the principle of proportionality serves not only as an abstract legal principle, but also as a practical instrument to create fairer and more balanced contractual relationships (HUSIN, 2021). The successful application of this principle in business relationships, particularly franchise agreements, depends on the commitment of the parties to draft contracts that reflect substantive fairness and adequate regulatory and supervisory support. These efforts will ultimately create a more conducive and sustainable business climate for all parties involved.

Contractual imbalance is one of the problems that often arise in the practice of making agreements between parties who have unbalanced bargaining positions. The legal implications of such imbalance can affect the validity of the agreement, which in turn can potentially lead to the cancellation or adjustment of the contents of the agreement that have been agreed upon by the parties (Barkatullah & others, 2017). In general, agreements formed with an imbalance between the parties can be considered not fulfilling the validity requirements of the agreement specified in Article 1320 of the Civil Code (KUHPerdota), which requires a free agreement and is not affected by coercion or unfair conditions. According to Soedjono Dirdjosisworo, in his book *Perjanjian Law* (1986), an agreement made on the basis of imbalance can be declared void if there are elements of coercion, fraud, or abuse of circumstances that harm one of the parties. In this case, a significant imbalance between the rights and obligations of the parties can be considered as an indication of coercion or abuse of power by one of the parties (Muchtar dkk., 2005). Therefore, the agreement can be considered invalid and has no binding legal force.

In practice, if an imbalance is found that is detrimental to one of the parties, the law provides an option to cancel or adjust the agreement. Article 1338 of the Civil Code which regulates the principle of freedom of contract also provides space for the parties to change the contents of the agreement which are considered unfair, while still paying attention to the principle of honest and fair agreement. This is in line with the opinion of Achmad Ali in his book *Principles of Civil Law* (2003), which states that cancellation or adjustment of the agreement can be done to prevent injustice that may arise from the contractual imbalance. Furthermore, in the context of relevant laws and regulations, Law Number 8 Year 1999 on Consumer Protection also provides a legal basis related to imbalances in contracts, especially when the contract involves consumers. Article 18 of the Consumer Protection Law regulates standard agreements that can be canceled if they contain clauses that unreasonably burden consumers (Imaniyati & Adam, 2021). Therefore, in the face of contractual imbalance, it is possible that the agreement can be adjusted or canceled in order to achieve fairness between the parties. This also underscores the importance of protecting the weaker party in the contractual relationship, be it a consumer, a worker, or a party who does not have an equal bargaining position in the transaction.

Recommendations to ensure the application of the principle of proportionality in franchise agreements The application of the principle of proportionality in franchise agreements in Indonesia requires special attention regarding the balance between the rights and obligations of the parties involved, namely the franchisor and franchisee. This principle requires a fair and balanced relationship, so that no party is unreasonably disadvantaged (Aswati dkk., 2024). To ensure effective implementation of the principle of proportionality, it is important for the regulations governing franchising to have clear and unequivocal provisions that can protect the rights of both parties.

Law Number 8 Year 1999 on Consumer Protection can be used as the legal basis underlying the application of the principle of proportionality in franchise agreements, especially in terms of protection of weaker parties, namely franchisees. Article 7 of the Law regulates the obligation of business actors to provide clear, correct, and not misleading information, which in turn can prevent agreement clauses that disproportionately burden franchisees. This is important to keep the franchise agreement from ensnaring the franchisee with obligations that are not proportional to the rights or rewards received. On the other hand, to strengthen the application of the principle of proportionality, more detailed regulations are needed regarding franchise provisions in Indonesia (Benia, 2022). Law No. 42/1999 on Franchising regulates some relevant aspects, but there are still many aspects that could be improved to balance the interests of the parties. In this regard, a more comprehensive regulation could further detail the franchisor's obligations in providing support and training to franchisees, as well as ensuring that any fees or payments charged do not exceed reasonableness, as stipulated in Article 5 of



the Law. In addition to strict regulations, the application of best practices in the franchise industry also plays a very important role. One of them is the application of a more transparent and inclusive agreement model, which not only benefits the franchisor, but also pays attention to the sustainability of the franchisee's business. Therefore, franchisees must be given full access to relevant information, such as potential business risks, operating costs, and projected profits and losses. The opinion of Mochtar Kusumaatmadja in his book *International Trade Law* (1997), which suggests the importance of transparency in international business transactions, can be used as a reference to adapt this principle in the context of franchising in Indonesia (Kusumaatmadja, 1992).

As an additional recommendation, the practice of auditing and monitoring the implementation of franchise agreements needs to be strengthened by the authorities to ensure that every agreement made between the franchisor and franchisee has fulfilled the principle of proportionality. The existence of an efficient dispute resolution mechanism that is accessible to both parties is also very important (Ramadhan dkk., 2024). This is in line with the view of Salim HS in *Indonesian Agreement Law* (2001), which emphasizes the need for a legal system that can guarantee justice for all parties involved in contractual agreements (Jamil & Nury & Rumawi, 2020). Thus, the application of the principle of proportionality in franchise agreements in Indonesia depends not only on existing regulations, but also on the mutual awareness between franchisors, franchisees and authorities to ensure that the principles of fairness and balance are maintained in every aspect of the implemented franchise agreement.

## CONCLUSIONS

The principle of proportionality plays an important role in franchise agreements to prevent contractual imbalances that are often detrimental to franchisees due to differences in bargaining power with the franchisor. Law No. 8/1999 on Consumer Protection, particularly Article 18, confirms that unfair clauses can be canceled, in line with the principle of proportionality which aims to protect franchisee rights. In addition to legal protection, understanding and awareness from both parties is also crucial to creating a fair agreement. International practice shows the importance of balancing rights and obligations in franchise agreements to avoid exploitation. Therefore, regulations in Indonesia, including Law No. 42/1999 on Franchising, need to be updated with clearer provisions related to information transparency and franchisor obligations. The implementation of an audit system and periodic evaluation of franchise agreements will ensure compliance with the principles of fairness and proportionality, thus creating a healthy, harmonious and sustainable business climate for all parties.

## REFERENCES

- Aidi, Z., & Farida, H. (2019). Perlindungan Hukum Para Pihak dalam Perjanjian Waralaba Makanan. *JCH (Jurnal Cendekia Hukum)*, 4(2), 207–230.
- Al-Fatih, S. (2023). *Perkembangan Metode Penelitian Hukum di Indonesia*. UMMPress.
- Amalia, I. Q. A., & Prasetyawati, E. (2019). Karakteristik asas proporsionalitas dalam Pembentukan Klausul Perjanjian Waralaba. *jhbbsc*, 173–184.
- Asnawi, M. N., Faisal Santiago, & others. (2024). *Pembaruan Hukum Kontrak di Indonesia: Prakontrak, Kontrak, Pascakontrak*. Prenada Media.
- Aswati, A., Muhaini, A., & Ma'rufi, A. (2024). Paradigma Hikmah dalam Fatwa DSN-MUI tentang Janji (Wa'Ad) dalam Transaksi Keuangan dan Bisnis. *J-CEKI: Jurnal Cendekia Ilmiah*, 3(6), 6045–6056.
- Barkatullah, A. H. & others. (2017). *Framework Sistem Perlindungan Hukum bagi Konsumen di Indonesia*. Nusa Media.

- Benia, E. (2022). Analisis Perlindungan Hukum Rahasia Dagang pada Perjanjian Waralaba berdasarkan Undang-Undang Nomor 30 Tahun 2000 tentang Rahasia Dagang. *Padjadjaran Law Review*, 10(2), 169–178.
- Cahyono, A., Kusuma, I. F., & Kusumo, H. H. (2024). Hubungan Hukum Kemitraan antara Driver Online dengan Penyedia Layanan. *Perspektif Hukum*, 317–331.
- Dunne, C., O'Mahony, L., Murphy, L., Thornton, G., Morrissey, D., O'Halloran, S., Feeney, M., Flynn, S., Fitzgerald, G., Daly, C., & others. (2001). In vitro selection criteria for probiotic bacteria of human origin: Correlation with in vivo findings. *The American journal of clinical nutrition*, 73(2), 386s–392s.
- Halim, A. A., La Ode, M. T., & Kaharu, I. I. (2024). Penggunaan Klausula Eksonerasi dalam Perjanjian Baku Leasing Kendaraan. *de Jure Jurnal Ilmiah Ilmu Hukum*, 5(2), 110–125.
- Hariyani, R. (2021). Tinjauan Yuridis Perjanjian Bisnis Waralaba (Franchise) Antara Franchisor dan Franchisee dalam Dinamika Perekonomian di Indonesia. *Journal of Law (Jurnal Ilmu Hukum)*, 6(2), 420–435.
- Harnoko, A. Y., & Ratnawati, I. Y. (2015). Asas Proporsional dalam Perjanjian Waralaba (Franchise). *Jurnal Hukum Bisnis*, 1(1).
- Hernoko, A. Y. & others. (2016). Asas Proporsionalitas sebagai landasan pertukaran hak dan kewajiban para pihak dalam kontrak komersial. *Jurnal Hukum dan Peradilan*, 5(3), 447–465.
- Hidayat, S. (2022). Prediksi Peningkatan Laba Perusahaan Ritel Pada Semester Kedua Berdasarkan dengan Kinerja Keuangan Perusahaan. *Ekonomi, Keuangan, Investasi dan Syariah (EKUITAS)*, 4(2), 545–550.
- Hidayati, M. N. (2012). Upaya Pemberantasan dan Pencegahan Perdagangan Orang Melalui Hukum Internasional dan Hukum Positif Indonesia. *Jurnal Al-Azhar Indonesia Seri Pranata Sosial*, 1(3), 163–175.
- HUSIN, W. L. (2021). *Manajemen Sumber Daya Manusia Internasional*. cv. cahaya arsh publisher & printing.
- Imaniyati, N. S., & Adam, P. (2021). *Pengantar hukum Indonesia: Sejarah dan pokok-pokok hukum Indonesia*. Sinar Grafika.
- Iswari, H. R., Anam, C., Rahma, A., Setiawan, B., Sirodjudin, M., Dayat, M., Tantriana, D., Dew, D. C., Nirwana, A., Handayani, A., & others. (2023). *Manajemen Umkm dan Kewirausahaan Studi Kasus dan Hasil Pemikiran*. SCOPINDO MEDIA PUSTAKA.
- Jamil, K., & Nury & Rumawi, R. (2020). Implikasi asas pacta sunt servanda pada keadaan memaksa (force majeure) dalam hukum perjanjian indonesia. *Jurnal Kertha Semaya*, 8(7), 1044–1054.
- Jan, T. S. & others. (2022). *Kerahasiaan Bank dan Perpajakan*. Penerbit Alumni.
- Kessler, F. (1943). Contracts of adhesion—some thoughts about freedom of contract. *Columbia Law Review*, 43(5), 629–642.
- Kidwell, R. E., Nygaard, A., & Silkoset, R. (2007). Antecedents and effects of free riding in the franchisor–franchisee relationship. *Journal of Business Venturing*, 22(4), 522–544.
- Komnas, H. (2021). *Standar Norma dan Pengaturan Nomor 7 tentang Hak Asasi Manusia atas Tanah dan Sumber Daya Alam*. Komnas HAM.
- Kosasih, J. I. (2021). *Kausa yang halal dan kedudukan bahasa Indonesia dalam hukum perjanjian*. Sinar Grafika (Bumi Aksara).
- Kusumaatmadja, M. (1992). Perjanjian Indonesia-Australia di Celah Timor. *Hukum dan, Indonesia*, 3.
- Muchtar, S., Dirdjosisworo, S., & Gunawan, J. (2005). *Analisis yuridik tanggung jawab PT. Jasa Marga [Persero] atas kerugian pengguna jalan tol berdasarkan Undang-undang nomor 8 tahun 1999 tentang perlindungan konsumen*. 3.

- Pane, E. P. (2022). Penerapan Asas Proporsionalitas dalam Perjanjian Kredit Berbasis Online. *Locus Journal of Academic Literature Review*, 36–45.
- Pizanti, I., & Lerner, M. (2003). Examining control and autonomy in the franchisor-franchisee relationship. *International Small Business Journal*, 21(2), 131–159.
- Purwono, U. H. (2024). Rekonstruksi Paradigma Penyidikan dalam Sistem Negara Hukum Pancasila untuk Mewujudkan Keadilan Berdasarkan Pancasila. *Binamulia Hukum*, 13(2), 483–499.
- Rahardjo, S. (2003). *Sisi-sisi lain dari Hukum di Indonesia*. Penerbit Buku Kompas.
- Rahardjo, S. (2009). Pendidikan hukum sebagai pendidikan manusia. *Law Reform*, 1(1), 1–10.
- Rahardjo, S. (2010). *Penegakan hukum progresif*. Penerbit Buku Kompas.
- Ramadhan, N. I., Satiadharmanto, D. F., & others. (2024). Kerangka Hukum Kontrak Tambang Batubara di Indonesia: Studi Kasus Wanprestasi Perjanjian Kerjasama Tambang Batubara Pihak Swasta Pada Pemda Kabupaten Kota Baru, Kalsel. *Marwah Hukum*, 2(2), 56–69.
- Saechu, M. S., & Syifa, F. M. (2024). Efektifitas zakat dalam mengembangkan perekonomian umat dan pengaruh riba terhadap stabilitas ekonomi makro di Indonesia. *AB-JOIEC: Al-Bahjah Journal of Islamic Economics*, 2(01), 1–11.
- Salim, H. (2021). *Hukum kontrak: Teori dan teknik penyusunan kontrak*. Sinar Grafika.
- SARI, H. & others. (t.t.). Tinjauan Normatif Pada Kontrak Pembelian Rumah yang Memuat Klausula Eksonerasi di Kota Pontianak. *Jurnal Hukum Prodi Ilmu Hukum Fakultas Hukum Untan (Jurnal Mahasiswa S1 Fakultas Hukum) Universitas Tanjungpura*, 4(3).
- Selznick, P. (1943). An approach to a theory of bureaucracy. *American Sociological Review*, 8(1), 47–54.
- Selznick, P. (1996). Institutionalism" old" and" new". *Administrative science quarterly*, 3, 270–277.
- Selznick, P. (2011). *Leadership in administration: A sociological interpretation*. Quid Pro Books.
- Sepriano, S., Hikmat, A., Munizu, M., Nooraini, A., Sundari, S., Afiyah, S., Riwayati, A., & Indarti, C. F. S. (2023). *Transformasi Administrasi Publik menghadapi Era digital*. PT. Sonpedia Publishing Indonesia.
- Sitania, L. V., & Suponyono, E. (2020). Akomodasi Pemberantasan Tindak Pidana Perdagangan Orang dalam Aspek Hukum Internasional dan Nasional. *Jurnal Pembangunan Hukum Indonesia*, 2(1), 38–54.
- Soekanto, S. (2011). *Faktor-faktor yang mempengaruhi penegakan hukum*.
- Sugijanto, M. (2021). *The Art of Contract Drafting*. Elex Media Komputindo.
- Suharnoko & others. (2015). *Hukum Perjanjian Teori dan Analisis Kasus*. Prenada Media.
- Susanto, W., Sandika, H., & Hutagalung, A. J. (2021). Penerapan Asas Proporsionalitas dalam Kontrak Komersial Pada Jasa Konstruksi. *Jurnal Ilmiah Penegakan Hukum*, 8(2), 193–201.
- Zai, S. (2020). Penerapan Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) sebagai Dasar Pembatalan Kontrak Komersial Perbankan. *Mizan: Jurnal Ilmu Hukum*, 9(2), 154–175.