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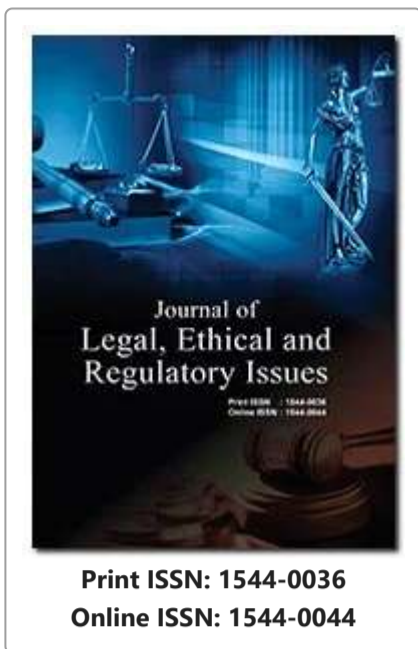
A franchise agreement, like a legal document, deserves to fulfill three elements, namely justice, benefit and legal certainty. This paper aims to reveal why the aspect of justice is not receiving the portion as the other two aspects. The approach used in this study is philosophical normative approach. The conclusion of this study is that the contents of the franchise contract document by domestic and foreign parties on the one hand, show the prominence of the aspect of legal certainty, then in the aspect of benefit, while on the other ...

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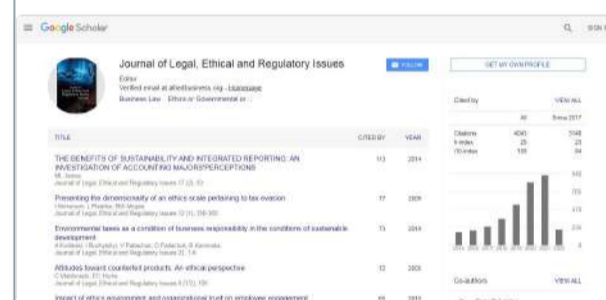
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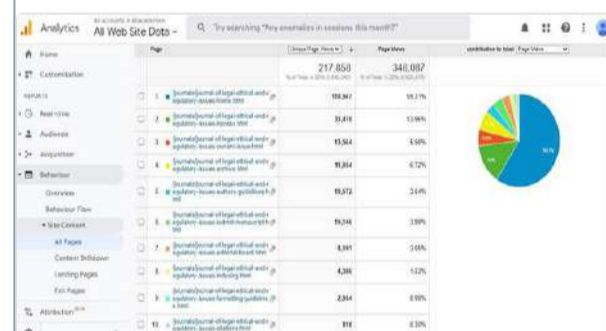
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LEGALITY AND JUSTICE OF THE EXISTENCE OF THE FRANCHISE AGREEMENT IN INDONESIA

Ery Agus Priyono, Diponegoro University

R. Benny Riyanto, Diponegoro University

Joko Priyono, Diponegoro University

ABSTRACT

A franchise agreement, like a legal document, deserves to fulfill three elements, namely justice, benefit and legal certainty. This paper aims to reveal why the aspect of justice is not receiving the portion as the other two aspects. The approach used in this study is philosophical normative approach. The conclusion of this study is that the contents of the franchise contract document by domestic and foreign parties on the one hand, show the prominence of the aspect of legal certainty, then in the aspect of benefit, while on the other hand, the aspect of justice does not get the “portion” it should be. Justice is not achieved for the parties, especially franchise recipients, due to the unbalanced bargaining position of the franchisor when compared to the bargaining position of the franchisee. This has an impact on the contents of the contract which is fully drawn up by the franchisor, which of course tends to provide as much benefit as the franchisor.

Keywords: Business Law, Contract, Franchise, Good Faith, Legality, Indonesia.

INTRODUCTION

The definition of an agreement, as regulated in Article 1313 of the Civil Code is an act whereby one or more people bind themselves to one or more other people. This definition is so general that it cannot describe its true essence. The weakness that exists in this definition is that it is one-sided, does not mention goals, but also does not impose limits on the word “creation” which is of course very broad in understanding (Badrulzaman, 2001; Simamora, 2013). An agreement whether made in oral or written contract should be able to express the general will of the parties into steps or actions that are more tangible in order to realize the purpose of the agreement which was previously agreed upon (Schwartz & Scott, 2003; Corbin, 1918).

Agreements made by the parties both orally and in writing should take into account the legal principles of the agreement, the legal rules related to the agreement. Among those foundations, among others, which are very important are the principles of freedom of contract (Epstein, 1999). This basis becomes the basis of the occurrence of the consensual basis, where this consensual basis underlies the occurrence of the basis of the force of binding agreement (Richard, 2002; Goode, 1998). The application of the principles mentioned above, especially at the pre-contract stage and generally at the contract stage, cannot be carried out freely, but within the framework of good faith and propriety (Sepe, 2010; Fuady, 2014). Good faith is not only seen subjectively in the sense of not deceiving, not lying, dishonest, but also objectively

CRIMES AGAINST SEXUAL INVIOLABILITY OF MINORS: CRIMINAL LEGAL AND PENITENTIARY FEATURES

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ABSTRACT

The study is devoted to criminal legal and penitentiary features of counteraction to criminal attacks on the sexual inviolability of minors. The goal is to analyze the criminal legal and penitentiary methods of combating crime directed against the sexual inviolability of minors, provided for in the national criminal and executive legislation of Kazakhstan, the USA, and European countries. The study examines the international organizational and legal experience of protecting minors and norms of criminal legislation. Based on the research of the materials on criminal and executive law and experience of different countries in the field of combating crimes against sexual inviolability of minors, the authors propose further improvement of the criminal legislation of the Republic of Kazakhstan, in terms of protecting minors from sexual assault. In particular, the necessity of introducing voluntary chemical castration as a prerequisite for mitigating punishment, changing the type of punishment, and early release for persons who committed these crimes for the first time is substantiated. The main provisions and conclusions of the study can be used in scientific and practical activities when considering the issues of crime prevention and the effectiveness of the norms on crimes against sexual inviolability of minors, as well as in subsequent reform of the norms of criminal and executive legislation in the field of sexual freedom and inviolability.

Keywords: Criminal Law, Executive Law, Penitentiary System, Sexual Inviolability.