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## The Role of the Principle of Balance in Agreements: Contract Validity and Annulment Under Indonesian Civil Law

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## Abstract

The principle of balance in agreements is essential to ensuring fairness in the formation and enforcement of contracts under Indonesian Civil Law. This principle dictates that the rights and obligations of both parties must be proportional, preventing any party from dominating the other. Although not explicitly mentioned in Article 1320 of the Indonesian Civil Code, the principle of balance is crucial for ensuring contracts reflect the genuine interests of both parties and avoid unfair advantages. It also intersects with the concepts of consensualism and freedom of contract, which allow parties to negotiate terms within legal and moral boundaries. However, abuses such as "take it or leave it" clauses can create significant imbalances, leading to unfair contracts. The research highlights the importance of this principle in preventing undue influence and exploitation, and it suggests the need for its formal inclusion in Indonesian Civil Law, either through a Supreme Court Regulation as a short-term solution or through the revision of the Civil Code in the long term. The principle of balance serves as a foundation for promoting equitable and just contractual relationships in Indonesia.

## Keywords

Contract Annulment, Contract Validity, Fairness, Principle of Balance Indonesian Civil Law

## 1. Introduction

The principle of balance in agreements is a fundamental aspect of contract law, aiming to ensure fairness and justice between the parties involved. In Indonesia, as in many other legal systems, the importance of ensuring that contracts are negotiated and enforced equitably cannot be overstated (Susanti, 2024). The principle of balance, in essence, requires that the rights and obligations of the parties involved in a contract be proportionate, ensuring that no party holds undue power over the other. This concept is essential for creating just and fair contracts that protect the genuine interests of all parties, preventing one party from exploiting the other. However, in the context of Indonesian civil law, the application of the principle of balance is a subject of ongoing debate and complexity. Although Indonesia's legal framework under the Civil Code (Kitab Undang-Undang Hukum Perdata, or KUHPer) provides conditions for the formation and validity of contracts, the principle of balance as a ground for contract annulment is not explicitly addressed, leading to uncertainty about how it should be applied (Azra et al., 2024).

The Indonesian Civil Code, particularly Article 1320, outlines the essential elements of a valid contract, which include mutual consent, legal capacity, a lawful object, and a lawful cause. These elements serve as the foundation for contract formation, ensuring that agreements made between parties are legally binding and enforceable. However, the principle of balance, which emphasizes equality between the parties, is not directly included in these provisions (Kakisina et al., 2023). Instead, Indonesian contract law focuses primarily on the formal and objective aspects of contract validity. This creates a gap in the legal framework, as the balance between the parties' rights and obligations is not always considered. The principle of balance is, therefore, not directly linked to the annulment of contracts under Indonesian law, even though it has the potential to address situations in which one party unfairly dominates the contractual relationship.

Several scholars in Indonesia have emphasized the importance of the principle of balance in contracts, recognizing that without it, the fairness of an agreement may be compromised. Herlien Budiono, for example, highlights that the principle of balance is crucial in protecting the expectations of both parties, preventing unjust enrichment, and ensuring that no party is unfairly harmed by the contract's terms (Salsabila & Ispriyarso, 2025; Polontoh et al., 2025). The principle serves as a safeguard against situations where one party may use its superior bargaining power to impose unfair terms on the other, leading to an imbalance in the agreement. It is essential, therefore, that the principle of balance is considered in the context of both contract formation and enforcement, to prevent abuses such as the imposition of one-sided clauses, which can lead to an inequitable result.

Despite the importance of the principle of balance, its application remains unclear in Indonesian civil law (Tan, 2020). The Civil Code does not explicitly mention balance as a reason for annulling or invalidating an agreement (Izzati, 2020). This lack of clarity means that the principle is not always considered by courts in cases where the fairness of the contract is questioned. Under the current framework, contracts are primarily annulled based on subjective elements, such as lack of legal capacity, consent, or the presence of fraud or coercion. Objective elements, such as the lawfulness of the object and cause, are also considered when determining a contract's validity. However, there is no provision that directly addresses the situation in which one party's rights or obligations are disproportionately burdensome, despite this being a clear issue of fairness.

The absence of the principle of balance as a formal ground for annulment under Indonesian law raises important questions about the application of equity and justice in contract law. In many instances, one party may exploit its position of power, creating an unequal agreement that may be legally valid but inherently unfair. For

example, contracts that include "take it or leave it" clauses or other one-sided terms may be legally binding but may violate the underlying principle of fairness. In such cases, the principle of balance could serve as a mechanism for ensuring that both parties are treated equally and that neither party is unfairly burdened by the contract. The lack of explicit legal recognition of this principle leaves a gap in the protection of parties who may be vulnerable to exploitation (Amayreh et al., 2019).

The role of the principle of balance in contracts in Indonesia becomes even more critical when considering the concept of abuse of circumstances. In situations where one party uses its position to impose unfair terms on the other, the balance of the agreement is disrupted (Putri & Taupiqqurrahman, 2023). The principle of balance could serve as a basis for annulment in such cases, ensuring that contracts reflect the true intentions of the parties involved. This principle is aligned with the broader goals of Indonesian civil law, which seeks to protect the integrity of agreements and ensure that contractual relationships are based on mutual respect and fairness (Parmitasari, 2019). However, for the principle of balance to be effectively implemented, it must be integrated into the legal framework more explicitly (Nugroho & Santoso, 2024).

This research seeks to address the gap in the Indonesian legal system by exploring the role of the principle of balance in contract formation and annulment (Romadhon & Mediawati, 2024). The specific problem under investigation is the lack of clear provisions in Indonesian civil law that incorporate balance as a ground for annulment. This research will explore how the principle of balance can be more explicitly applied to contract law in Indonesia, providing a more robust legal framework for ensuring fairness in contractual relationships. The study will focus on how the principle can be integrated into existing legal structures, including the potential for judicial recognition and the need for legislative reform. The research will propose solutions for incorporating the principle of balance into Indonesian contract law, both through short-term measures, such as Supreme Court Regulations, and through long-term reforms to the Civil Code. While the current legal framework provides a solid foundation for contract formation and annulment, it fails to adequately address the issue of imbalance in agreements. This research aims to highlight the importance of the principle of balance and its potential role in the annulment of contracts, offering recommendations for its integration into Indonesian civil law to better protect the rights and interests of all parties involved.

## **2. Methods**

The research utilizes a normative juridical method, focusing on the analysis of existing legal norms, regulations, and legal principles related to the principle of balance in Indonesian contract law. This approach involves examining the legal framework, judicial decisions, and statutory provisions that govern the formation and enforcement of contracts in Indonesia. Specifically, the research delves into the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata), particularly Article 1320, which outlines the conditions for a valid contract, and relevant regulations regarding fairness, balance, and equity in contractual agreements. In addition, the research incorporates regulations related to judicial decisions, such as Supreme Court rulings, and analyses the evolving interpretations of the principle of balance in Indonesian contract law. This provides a comprehensive understanding of how the principle is applied (or neglected) in practice. The technique employed in this research is descriptive, focusing on systematically describing and analyzing the legal rules, judicial perspectives, and scholarly views on the principle of balance. Through this method, the research aims to clarify the current status of balance within Indonesian contract law and identify potential gaps or areas for reform. By examining the relevant regulations and judicial decisions, the research will offer a detailed and objective picture of how balance is conceptualized and applied in

contractual relationships, contributing to the broader discourse on legal reform and fairness in Indonesian contract law.

### 3. Results and Discussion

#### *3.1. Current Gaps in Indonesian Civil Law Regarding the Principle of Balance*

This The principle of balance is fundamental to ensuring fairness in contractual relationships. This principle dictates that the rights and obligations of the parties in a contract should be proportionate, and no party should hold an unfair advantage over the other. In the context of Indonesian law, the importance of this principle is undeniable, as it seeks to protect the integrity of agreements by ensuring that all parties act within an equal bargaining position (Wardhani et al., 2022). However, while the principle of balance plays a critical role in contract law, Indonesian civil law lacks clear provisions that incorporate it as a ground for annulment. This gap creates ambiguity and raises concerns about the fairness of contractual relationships in Indonesia (Askari, 2023).

Under Indonesian Civil Code, agreements must meet specific conditions to be valid, such as the subjective elements of legal competence and willingness to be bound, and the objective elements of having a lawful cause and a specific object, as stipulated in Article 1320 of the Civil Code (Soleman, 2018; Pohan & Hidayani, 2020). If these conditions are not met, the agreement can either be annulled or deemed void. However, the principle of balance, despite its significance, is not explicitly mentioned in Article 1320 as a ground for annulment. This absence leads to an unclear application of the principle, as there is no legal framework directly referencing imbalance in contractual terms as a reason for invalidation. As a result, situations where the principle of balance is violated may go unaddressed under the current legal structure (Ratnaningsih & Dewi, 2023).

One of the key aspects of the principle of balance is ensuring that contracts are based on the genuine interests of both parties, without any party dominating or taking unfair advantage. Scholars emphasize the importance of equality in bargaining power and position between the contracting parties. Herlien Budiono, for instance, stresses that the principle protects the expectations of the parties and prevents unlawful enrichment or harm. Without balance, one party may impose clauses that are detrimental to the other, leading to unjust outcomes. This is particularly evident when one party holds a dominant position in the negotiation process, forcing the other to accept unfair terms (Arnawa et al., 2024).

The lack of clarity regarding the principle of balance in Indonesian law has created challenges in enforcing fairness in contracts. A significant aspect of this problem is the absence of a legal provision that allows courts to annul or modify contracts based on an imbalance in the rights and obligations of the parties. For example, while the Civil Code mandates the need for a lawful cause and specific object in an agreement, it does not address the fairness of the terms, or the bargaining power of the parties involved. This gap leaves open the possibility for agreements to be enforced even when they are heavily skewed in favor of one party, undermining the purpose of fairness in contractual relations (Firdaus & Koswara, 2024).

Despite the progress made in judicial interpretation, the lack of clear statutory recognition of the principle of balance creates uncertainty for both courts and contracting parties. The principle is often left to be implied or inferred from broader concepts like fairness and equity, but without specific legal guidelines, its application remains inconsistent. This ambiguity can result in unequal bargaining positions being overlooked, leading to unfair agreements that undermine the interests of one party. To address this issue, there is a need for explicit recognition of the principle of balance within the Indonesian Civil Code, providing a legal basis for courts to

annul or modify contracts that fail to meet the standard of fairness (Marsela et al., 2024).

To remedy this gap, it is necessary to formulate the principle of balance into Indonesian civil law (Suadi et al., 2021). One potential short-term solution is the creation of a Supreme Court Regulation that would establish clear guidelines for recognizing and addressing imbalances in contracts. This could provide immediate clarity for courts and parties involved in contractual relationships, ensuring that fairness is upheld in the absence of specific legal provisions in the Civil Code. In the long term, a more comprehensive solution would involve revising the Civil Code to include the principle of balance as a valid ground for annulment, thus aligning Indonesian law with modern contractual standards that prioritize fairness and equity.

In conclusion, while the principle of balance is essential for ensuring fairness in contractual relationships in Indonesia, the current legal framework lacks clear provisions to address imbalance as a ground for annulment. The absence of this principle in the Civil Code creates ambiguity and leaves parties vulnerable to unfair agreements. By incorporating the principle of balance into Indonesian law, either through short-term measures like Supreme Court Regulations or long-term reforms to the Civil Code, the legal system can better protect the rights and interests of all parties involved in contractual relationships.

### ***3.2. Judicial Recognition of the Principle of Balance in Indonesian Contract Law***

Judicial recognition of the principle of balance in Indonesian contract law remains a complex and evolving area, as courts have not consistently applied this principle in contract cases. The principle of balance, which ensures that the rights and obligations of the parties to an agreement are proportionate and fair, is crucial for maintaining the integrity of contractual relationships. This principle is grounded in the idea that no party should dominate or take advantage of the other, promoting equity and fairness in contract law. In Indonesia, however, the principle of balance is not explicitly incorporated into the Civil Code as a ground for annulment, which creates ambiguity in its application and recognition by the judiciary.

The absence of direct references to the principle of balance in the Civil Code, particularly in Article 1320 which governs the requirements for a valid contract, has left courts to interpret and apply the principle based on broader concepts such as fairness, equality, and justice. This lack of clear statutory guidance has contributed to inconsistent judicial decisions, leaving both legal practitioners and parties to contracts uncertain about how balance should be applied in specific cases.

The application of the principle of balance is crucial to ensuring that agreements are made with the genuine interests of both parties in mind. Several scholars define the principle as requiring equality of position and bargaining power, emphasizing that no party should impose unfair clauses that exploit the other. Herlien Budiono, a key scholar in this area, stresses that the principle of balance protects the expectations of the parties involved and prevents unlawful enrichment or harm to one party at the expense of the other. Without balance, a contract may allow one party to impose detrimental terms on the other, undermining the fairness of the agreement (Arum, 2023).

The issue of fairness and imbalance in contractual agreements has been addressed in some Indonesian judicial decisions, albeit inconsistently. For instance, Kurniawan et al. (2020) examined the Supreme Court Decision Number 1369 K/Pdt/2017, which involved PT. Donindo Menara Utama and PT. Pos Indonesia, and provide an example of the growing recognition of the principle of balance. In this case, the court acknowledged that while the agreement met the formal requirements of Article 1320 of the Civil Code, it could still be annulled or modified under the principle of balance if continuing the contract would undermine its purpose. The court emphasized that,

in cases of imbalance, the agreement must be amended to ensure fairness and benefit both parties. This decision reflects an evolving judicial understanding of the importance of balance in contracts and the need for fairness in contractual relationships, aligning with international legal standards that prioritize equity (Kurniawan et al., 2020).

The principle of balance intersects with the broader concept of freedom of contract, which allows parties to negotiate the terms of their agreement within the boundaries of law and morality. While the freedom of contract provides flexibility and autonomy in contractual relationships, it should not come at the expense of fairness. The principle of balance ensures that parties enter into agreements that are based on genuine consent and mutual benefit, avoiding situations where one party may exploit its superior bargaining position to impose unjust terms. The issue of "take it or leave it" clauses, where one party has all the power to dictate the terms, is an example of how the principle of balance can be abused. These clauses often lead to unfair agreements, particularly when one party is in a dominant position and forces the other party to accept terms without room for negotiation.

Despite the growing recognition of the principle of balance in judicial decisions, the absence of explicit legal provisions addressing balance as a ground for annulment leaves many cases unresolved or inconsistently adjudicated. The lack of a clear legal framework for balance has led to varying interpretations in the courts, making it difficult to predict how the principle will be applied in future cases. As a result, there is a need for judicial guidelines that explicitly recognize balance as a legal principle, providing clearer standards for judges to follow when evaluating the fairness of contracts.

One potential solution to this problem is the creation of a Supreme Court Regulation that addresses the principle of balance in contractual agreements. Such a regulation could provide more specific guidance on how courts should assess the balance between the parties in a contract and when imbalance would justify annulment or modification of the agreement. This would serve as a short-term solution to the gap in the Civil Code and offer clearer legal guidance to both the judiciary and contracting parties.

In the long term, however, the incorporation of the principle of balance into the Civil Code would provide a more comprehensive and robust framework for ensuring fairness in contracts. Revising the Civil Code to explicitly include balance as a ground for annulment would align Indonesian contract law with international standards of fairness and equity. This would provide greater certainty for contracting parties, reduce the risk of unfair agreements, and enhance the overall fairness of contractual relationships in Indonesia. This showed that while judicial recognition of the principle of balance in Indonesian contract law has made some progress, there is still a need for clearer legal provisions and judicial guidelines to ensure its consistent application. Courts have shown a growing awareness of the importance of fairness and balance in contracts, as evidenced by decisions such as the Supreme Court Decision Number 1369 K/Pdt/2017 (Kurniawan et al., 2020). However, the lack of explicit legal recognition of balance as a ground for annulment has led to ambiguity and inconsistency in the application of this principle. To address these challenges, efforts should be made to introduce short-term solutions, such as Supreme Court Regulations, and long-term reforms, such as revising the Civil Code to incorporate balance as a key element of contract law.

### ***3.3. Proposed Legal Reforms for Integrating the Principle of Balance into Indonesian Contract Law***

The integration of the principle of balance into Indonesian contract law is crucial to ensuring fairness and equity in contractual relationships. As the current legal framework does not explicitly recognize balance as a valid ground for annulment, potential legal reforms are necessary to address the gaps and inconsistencies in the

application of this principle. These reforms should encompass both short-term solutions, such as the creation of Supreme Court Regulations to guide the application of balance in contracts, and long-term measures like revising the Civil Code to explicitly incorporate balance as a ground for annulment.

The principle of balance in agreements is fundamental to understanding how contracts should be formed and enforced. It requires that the rights and obligations of the parties be in proportion, ensuring that no party dominates the other. This principle is grounded in the idea that agreements should reflect equality of position and bargaining power, with neither party gaining an unfair advantage. Several scholars define this principle, emphasizing the importance of balance in preserving the integrity of contractual relationships. For instance, Herlien Budiono stresses that the principle protects the expectations of the parties involved, preventing unlawful enrichment or harm to one party at the expense of the other. When balance is absent, one party may impose terms that are detrimental to the other, undermining the fairness of the contract (Sulistyarini et al., 2018).

In the Indonesian legal context, the principle of balance has not been clearly integrated into the existing legal framework. Article 1320 of the Indonesian Civil Code outlines the conditions for a valid contract, including subjective elements like legal competence and willingness to be bound, as well as objective elements like lawful cause and specific object. However, the principle of balance is not explicitly mentioned as a ground for annulment in this article, making its application ambiguous and subject to inconsistent judicial interpretation. The lack of explicit reference to balance in the Civil Code has led to debates regarding its role in contract law and its potential use as a basis for the annulment or modification of agreements.

One of the most significant challenges is that the concept of balance in contracts is not universally recognized by the courts. While some judicial decisions have acknowledged the importance of balance, the absence of clear legal guidelines has led to varying interpretations. In certain cases, the courts have introduced new perspectives on the relationship between balance and the validity of agreements. For example, in some instances, courts have suggested that even if a contract meets the formal requirements of Article 1320, an imbalance between the parties could justify modifying or annulling the agreement. This reflects a growing understanding of the need for fairness in contracts and aligns with international legal standards that prioritize equity and justice.

Considering these challenges, legal reforms are necessary to ensure the effective integration of the principle of balance into Indonesian contract law. One short-term solution is the creation of a Supreme Court Regulation that would provide specific guidance on how the principle of balance should be applied in contractual relationships. Such a regulation could clarify the circumstances under which imbalance between the parties justifies the annulment or modification of an agreement. It would also provide a more consistent framework for judges to follow when evaluating the fairness of contracts, reducing ambiguity and promoting greater legal certainty. This regulatory approach could be implemented relatively quickly and would offer immediate guidance for both the judiciary and contracting parties.

In the long term, however, a more comprehensive solution would involve revising the Civil Code to explicitly recognize the principle of balance as a ground for annulment. A revision of the Civil Code could integrate balance as a key element of contract law, outlining the circumstances under which an imbalance between the parties renders a contract invalid or unenforceable. This would provide clearer legal standards and greater protection for parties entering contracts, ensuring that agreements are made with fairness and mutual benefit. By explicitly incorporating balance into the Civil Code, Indonesia would align its contract law with international standards of fairness and equity, enhancing the overall integrity of the legal system.

The revision of the Civil Code would also serve to clarify the relationship between balance, freedom of contract, and consensualism. The principle of freedom of contract allows parties to negotiate terms within the boundaries of law and morality. However, without the principle of balance, one party may be able to exploit its bargaining power to impose unfair terms on the other. The principle of consensualism further reinforces that agreements made in good faith are binding, but this must be tempered by the recognition that contracts should not be used to exploit one party or undermine their expectations. The proposed reforms would ensure that the principle of balance does not conflict with the freedom of contract but rather enhances it by promoting fair and equitable agreements.

One key issue that the proposed reforms would address is the abuse of certain contractual clauses, such as "take it or leave it" clauses, which are often used to impose unfair terms on parties with limited bargaining power. These clauses have the potential to create imbalances in contractual relationships, leading to agreements that are not based on mutual consent or fairness. The legal reforms would provide the judiciary with clearer standards for evaluating such clauses, ensuring that they do not violate the principle of balance.

In conclusion, the integration of the principle of balance into Indonesian contract law is essential for promoting fairness and equity in contractual relationships. The current legal framework, while providing some guidance, does not explicitly recognize balance as a ground for annulment, creating ambiguity in its application. To address this, both short-term solutions, such as the creation of Supreme Court Regulations, and long-term reforms, such as revising the Civil Code, are needed. These reforms would provide clearer legal guidelines, ensure more consistent judicial decisions, and protect the interests of parties entering contracts, ultimately strengthening the integrity of Indonesia's contract law.

## **6. Conclusion**

This research highlights the critical gap in Indonesian contract law regarding the principle of balance, which is essential for ensuring fairness in contractual relationships. The current legal framework, particularly the Indonesian Civil Code, lacks clear provisions that directly address imbalance as a ground for annulment, leaving the application of the principle ambiguous. This absence has led to inconsistencies in judicial decisions and challenges in upholding fairness in contracts. To remedy this, the study suggests both short-term and long-term reforms. In the short term, the creation of Supreme Court Regulations could offer clearer guidelines on how to apply the principle of balance in contract disputes. These regulations would provide immediate clarity for courts and parties involved in contracts, helping to prevent unfair agreements. In the long term, revising the Civil Code to explicitly recognize balance as a ground for annulment would align Indonesian contract law with international standards of fairness and equity. This would provide a more robust and predictable legal framework, ensuring that contracts reflect genuine mutual consent and preventing the exploitation of one party over another. Ultimately, integrating the principle of balance into Indonesian contract law will enhance legal certainty, protect the interests of all parties, and contribute to the development of a more equitable contractual system.



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