

## Collective Labor Agreements (CLA) in Foreign Capital Companies: Gustav Radbruch's Perspective

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**Abstract.** *Analysis of Collective Labor Agreements in multinational corporation through the lens of Gustav Radbruch's theory underlines the importance of material justice, legal certainty, and the conformity between legality and morality in industrial relations. Radbruch's theory provides a comprehensive framework for evaluating the fairness and effectiveness of Collective labor Agreements, emphasizing the important role of trade unions in protecting workers' rights and ensuring fair implementation of Collective labor Agreements. The application of Radbruch's principles in this context requires active cooperation from all stakeholders, including the government, employers, and trade unions. The government has the responsibility to create a legal environment that supports justice and legal certainty, while employers must respect workers' rights and comply with the contents of Collective labor Agreements. Trade unions, as representatives of workers, have a crucial role in ensuring that workers' voices and interests are heard and considered in the process of negotiating and implementing Collective labor Agreements*

**Keywords:** *Agreement; Collective; Corporation, Labor; Theory.*

### 1. Introduction

The Collective Labor Agreement (CLA) is an important instrument in industrial relations in Indonesia, especially in regulating employment relations between workers and employers. (Ariani DW, 2020) However, the dynamics of industrial relations in foreign capital companies (PMA) often present their own challenges, involving different legal and cultural complexities. Employers together with trade unions or labor unions must reduce existing disputes. Therefore, after the collective labor agreement (CLA) is drafted and approved by the employment party or authorized institution, it is important to conduct socialization or education for all employees. A collective labor agreement (CLA) is the result of discussions between a trade union/labor union or several unions registered with an authorized agency in the field of employment and an employer or several employers,

which contains the terms of work, rights, and responsibilities of both parties. This means that the CLA also includes the rights and obligations of each party in industrial relations, so that the CLA can be a guideline in resolving problems between the two parties. (Ary Prasetyo et al., 2024). Problems can be minimized and significantly reduce the spike in lawsuits in the Industrial Relations Court. (Kusmayanti A. and Karsona AM. Fakhriah, 2020).

The purpose of this paper is to analyze CLA in Multi National Corporation through the thinking window of Gustav Radbruch, a German legal expert and philosopher who is famous for his theory of legal objectives with 3 (three) terms, namely legal justice, legal certainty and legal benefits (Abdul Azis Nasihuddin, 2024). Radbruch's principles can be used to evaluate the fairness, effectiveness, and implementation of PKB in the context of PMA companies in Indonesia.

## **2. Research Methods**

The normative legal research method is an approach used in legal research that focuses on the analysis of applicable legal norms (Yeltriana and Ismed, 2024) Nelvitia Purba, 2020), both those written in laws and regulations and in legal practices in society (Marzuki, 2020) This approach prioritizes the study of legal rules, legal principles, doctrines, and court decisions that are used as references in resolving legal problems (Irwansyah, 93). The steps in normative research begin with determining the legal problem to be studied, first reviewing applicable legal norms, conducting studies on laws and regulations, court decisions, or legal literature that are relevant to the problems being studied related to PKB. Second, analyzing and interpreting the law, third reviewing and analyzing existing legal norms to find solutions to the legal problems faced and fourth drawing conclusions based on the analysis of existing legal norms, researchers then draw conclusions or provide suggestions related to existing legal problems, related to PKB in PMA.

## **3. Results and Discussion**

### **3.1 Material Justice in PKB in PMA Companies**

Gustav Radbruch, with his famous legal theory, emphasizes the importance of justice as a legitimate legal basis. He argues that applicable laws must be fair and in accordance with moral values. In the context of PKB in PMA companies, the application of Radbruch's theory requires careful analysis of the balance between the interests of workers and employers. Is the PKB produced truly fair to both parties, or does it tend to benefit one party disproportionately? PMA companies, with their large resources and influence, often have a stronger bargaining position in PKB negotiations. This can lead to unfair agreements for workers, where their rights and welfare are ignored for the benefit of the company. Radbruch will question the legality of a PKB if the agreement fundamentally violates the principle of justice. He will focus on the aspect of material justice, namely whether the contents of the PKB provide adequate protection for workers' basic rights, such as decent wages, health insurance, pension insurance, and sufficient leave.

One example of material injustice that may occur is the determination of a minimum wage that is far below the standard of living. Although the PKB has been formally agreed upon, from Radbruch's perspective, the PKB cannot be considered valid because it violates the principle of justice. Likewise, the practice of excessive overtime work without adequate compensation, or arbitrary termination of employment (PHK) without clear reasons and appropriate compensation. All of these are violations of the principle of material justice that Radbruch will criticize. Furthermore, Radbruch will analyze the PKB negotiation process itself. Does the process take place democratically and transparently, providing equal opportunities for workers to participate and express their opinions? If the negotiation process is dominated by employers and workers do not have equal access to express their aspirations, then the resulting PKB can be questioned as fair. Radbruch will emphasize the importance of equal worker participation in the negotiation process to ensure that the PKB truly reflects a balance of interests.

The application of the principle of material justice in the CLA in PMA companies also requires consideration of local culture and context. Although universal principles of justice apply, their implementation must be adjusted to the specific conditions in Indonesia. Radbruch will encourage an approach that is sensitive to the cultural context, but still adheres to the principles of universal justice. This requires a deep understanding of Indonesian labor law and relevant cultural practices. Further analysis of the application of the principle of material justice in the CLA in PMA companies requires the study of real cases. Comprehensive case studies will help identify practices that violate the principle of justice and formulate recommendations for improvement. This is important to ensure that the CLA in PMA companies is truly an effective instrument to protect workers' rights and create harmonious industrial relations. According to Radbruch, material justice is not just formal compliance with the law, but also the fulfillment of moral and ethical values in industrial relations.

Material justice in this context also involves transparency in wages, allowances, and other benefits. A wage system that is not transparent and allows for manipulation can be considered a violation of material justice. Radbruch will criticize such a system because it is detrimental to workers and creates distrust in industrial relations. Therefore, transparency and accountability are important aspects in achieving material justice in PMA companies' CBAs. It is also necessary to consider the aspect of protecting women workers and other vulnerable workers. PBAs must protect their special rights, such as protection against discrimination, sexual harassment, and exploitation. Radbruch will emphasize the importance of protecting this more vulnerable group of workers to ensure justice and equality in industrial relations. Thus, the analysis of material justice in PMA companies' CBAs must take into account various relevant aspects and contexts.

It is also necessary to consider the protection aspect of women workers and other vulnerable workers. The CLA must protect their special rights, such as protection against discrimination, sexual harassment and exploitation. Radbruch will emphasize the importance of protecting this more vulnerable group of workers to ensure justice and equality in industrial relations. Thus, the analysis of material justice in the CLA in PMA must take into account various relevant aspects and contexts.

### **3.2 Legal Certainty and CLA: Implementation of Radbruch's Theory**

Radbruch's theory also emphasizes the importance of legal certainty. The law must be clear, predictable, and understandable to all parties involved. In the context of CLA in PMA companies, legal certainty means that the contents of the CLA must be formulated clearly and unambiguously, so as not to cause disputes or different interpretations. This means that the CLA must be easily understood by workers, who may not have a strong legal background. Radbruch would be very critical of CLAs that use complicated and difficult to understand legal language, or that contain ambiguous clauses that can be interpreted differently by the parties involved.

Legal certainty is also related to the law enforcement process. If a dispute arises between workers and employers regarding the contents of the CLA, there must be a clear and effective dispute resolution mechanism. This mechanism must be easily accessible to workers and provide fair and fast decisions. Radbruch would question the validity of a CLA if there is no effective and fair dispute resolution mechanism. The absence of legal certainty can trigger uncertainty and conflict in industrial relations, harming both workers and employers.

Clarity in CBA clauses, especially those related to workers' rights, is essential to avoid conflicts and disputes. Ambiguous clauses can be interpreted differently by the parties involved, thus triggering disputes. Radbruch will emphasize the importance of using simple and easy-to-understand language in formulating CBAs. This is important to ensure that workers fully understand their rights and obligations under the CBA.

In addition, legal certainty is also related to the consistency of the application of the law. Labor law must be applied consistently by all authorized parties, without discrimination or exceptions. Radbruch will criticize inconsistent law enforcement practices, as this can create uncertainty and injustice. Consistency in the application of the law is essential to create a stable and predictable legal environment.

The implementation of effective and efficient dispute resolution mechanisms is an integral part of legal certainty in CBAs. These mechanisms must ensure that disputes can be resolved fairly and quickly, without incurring high costs for workers. Radbruch will emphasize the importance of workers' access to fair and affordable dispute resolution mechanisms. Complicated and expensive processes can hinder workers' access to justice.

### **3.3 Legality and Morality of PKB in Radbruch's Perspective**

Radbruch's theory emphasizes the relationship between legality and morality. Applicable laws must be in accordance with widely accepted moral values. In the context of PKB in PMA companies, the legality of PKB must be tested based on its morality. Does the content of the PKB comply with the values of justice, equality, and human dignity? A legally valid PKB is not necessarily moral. Radbruch will analyze it from two perspectives:

First, does the content of the PKB ensure the fulfillment of basic workers' rights, such as decent wages, working in a safe and healthy environment, and protection from discrimination? If the PKB does not meet these minimum moral standards, then even

though it is legally valid, Radbruch will consider it an unfair law and not worthy of being obeyed.

### **3.4 The Role of Trade Unions in PKB in PMA Companies**

The role of trade unions is crucial in the negotiation and implementation of PKB in PMA companies. (Toni Siswanto et al., 2023). They act as workers' representatives in the negotiation process, ensuring that workers' voices and interests are heard and properly considered. From Radbruch's perspective, trade unions have an important role in realizing justice and legal certainty in PKB. The existence of strong and independent trade unions is essential to balance the bargaining position between workers and employers. Without effective trade unions, workers are often in a weak position in PKB negotiations. Employers, with their greater resources and power, can easily dominate the negotiation process and produce agreements that benefit themselves, harming workers. Radbruch would see this situation as unfair and a violation of the principle of material justice. (Ayu Ratna Sari, 2024).

Effective trade unions must have the freedom to organize and negotiate without interference from employers or other parties. They must have the same access to information as employers, so that they can conduct balanced negotiations. Freedom of association and negotiation are important prerequisites for realizing justice and legal certainty in PKB. Radbruch will fully support workers' rights to form unions and bargain collectively.

### **3.5 Implementation and Supervision of CLA in Multi National Corporation Companies**

Implementation and supervision of CLA in Multi National Corporation is a crucial aspect to ensure that the agreements reached are actually implemented and provide benefits to workers. Radbruch will emphasize the importance of an effective mechanism to supervise the implementation of CLA and ensure that workers' rights are protected. Without adequate supervision, CLA can become nothing more than a piece of paper, with no power to protect workers from exploitation.

## **4. Conclusion**

The analysis of CLA in PMA companies through the lens of Gustav Radbruch's theory underlines the importance of material justice, legal certainty, and the conformity between legality and morality in industrial relations. Radbruch's theory provides a comprehensive framework for evaluating the fairness and effectiveness of CLA, emphasizing the important role of trade unions in protecting workers' rights and ensuring fair implementation of CLA. The application of Radbruch's principles in this context requires active cooperation from all stakeholders, including the government, employers, and trade unions. The government has a responsibility to create a legal environment that supports justice and legal certainty, while employers must respect workers' rights and comply with the contents of the CLA. Trade unions, as representatives of workers, have a crucial role in ensuring that workers' voices and interests are heard and considered in the process of negotiating and implementing CLA.

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