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Employment contracts: An exploration on the balance of powers between employers and employees through a linguistic analysis (Article)

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Abstract

Employment contracts have constantly been viewed as safety nets should the employment relationship break (Tauber, Silverman and Carol, 2002). According to Bagchi (2003), good faith is a necessary condition inherent in all contracts for the purpose of delineating the negative effects of imbalanced bargaining power. However, it must be noted that enforcing this condition in an employment relationship is a challenging task. The reason for this difficulty lies in the changes brought about by globalisation and technological development which has transformed the expectation levels of employer and employees in regards to the rights and obligations under the contract of employment. This research paper, inferring that an unequal relationship of power exists in employment contracts, employed a qualitative methodology incorporating document analysis. The researchers analysed 5 employment contracts from Malaysian private institutions of higher learning using a linguistic analysis. This research aims to show the imbalance of power in employment contracts by identifying language features that reflect the inequality in the relationship between the contracting parties. As such, the researchers' focus is to understand and expose the bargaining inequality between employers and employees by creating awareness among academicians as to how their rights are regularly negated in their employment contracts. The sampling of employment contracts was purposive to show how employment contracts of private institution of higher learning deploy select language and vocabulary which simultaneously empowers the employer and disenfranchises the employee. The findings showed that there is a bargaining inequality between employers and employees. It is hoped that the study will catalyse amendments in employment law to neutralise the unequal relationship of power between employer and employee. © 2017 American Scientific Publishers All rights reserved.

Author keywords

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
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