

Contracting Risk in the Oil and Gas Industry

*A Comparative Legal Study of Malaysia, the UK,
and the US*

By

Wan Mohd Zulhafiz bin Wan Zahari

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List of Abbreviations

Carigali	PETRONAS Carigali Sdn Bhd
EIA	Environmental Impact Assessment
GDP	Gross Domestic Product
JOA	Joint Operating Agreement
La. Rev. Stat. Ann	Louisiana Revised Statutes Annotated
LAIA	Louisiana Anti-Indemnity Act
LHWCA	Longshore and Harbor Workers' Compensation Act
LOAIA	Louisiana Oilfield Anti-Indemnity Act
MITI	Ministry of International Trade and Industry
MOF	Ministry of Finance
MOAIA	Malaysian Oilfield Anti-Indemnity Act
N.M. Stat. Ann	New Mexico Statutes Annotated
OBM	Oil-based mud
OCSLA	Outer Continental Shelf Land Act
Or. Rev. Stat.	Oregon Revised Statutes
PDA	Petroleum Development Act
PETRONAS	Perbadanan Petroliaam Nasional (National Petroleum Corporation)
PS Contractors	Production Sharing Contractors
PSC	Production Sharing Contracts
TAIA	Texas Anti-Indemnity Act
Tex. Civ. Prac. & Rem. Code	Texas Civil Practice & Remedies Code
TOAIA	Texas Oilfield Anti-Indemnity Act
UCC	Uniform Commercial Code
UCTA	Unfair Contract Terms Act 1977
UK	United Kingdom
UKCS	United Kingdom Continental Shelf

US/ USA	United States of America
USC	United States Code
Wyo. Stat. Ann.	Wyoming Statutes Annotated

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United Kingdom

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CSOH 63.

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Preface

This book examines the problem of unfair risk allocation and the use of imbalanced indemnity and hold harmless clauses in oilfield service contracts, with particular reference to the Malaysian oil and gas industry. It is developed from the author's doctoral study, which has been substantially revised, updated, and refined for publication as a scholarly monograph. The revisions reflect subsequent doctrinal developments, comparative insights, and a broader engagement with regulatory and policy considerations affecting the petroleum sector. The motivation for this book arises from sustained engagement with oil and gas contracting practice, where indemnity and hold harmless clauses play a central role in allocating risk among operators, contractors, and subcontractors. While such clauses are commonly justified on grounds of efficiency and certainty, their operation in practice often reflects underlying disparities in bargaining power. In industries characterised by high capital intensity, technological complexity, and concentration of ownership such as oil and gas, contractual freedom may function unevenly, permitting dominant parties to transfer disproportionate risks to those least able to manage or absorb them. This book seeks to interrogate that dynamic from a legal perspective.

The focus on Malaysia is both timely and necessary. Malaysia's expansion into deep water petroleum exploration and production has intensified operational risks and magnified the consequences of contractual imbalance. At the same time, Malaysian contract law lacks a dedicated statutory framework governing the allocation of risk and the enforceability of indemnity clauses in oilfield service contracts. Judicial approaches to unconscionability and inequality of bargaining power remain unsettled, while insurance arrangements are largely left to private ordering. These factors combine to create a regulatory

environment in which contractors may be exposed to extensive and uninsured liabilities.

This book draws on doctrinal legal analysis, comparative law, and selected insights from industry practice to examine the development, interpretation, and limits of indemnity and hold harmless clauses under Malaysian law, as well as under English and United States law. Comparative analysis of the United Kingdom and selected United States jurisdictions provides a basis for assessing alternative regulatory responses and identifying models suitable for adaptation in Malaysia. Insights derived from industry practice are used to ground the legal discussion in commercial reality.

The comparative jurisdictions selected are not incidental. English law is examined due to its historical and continuing influence on Malaysian contract law, as recognised under the Civil Law Act 1956. United States law, particularly the experience of Texas and Louisiana, is analysed because of its extensive offshore petroleum activity and its use of sector-specific oilfield anti-indemnity legislation to address contractual inequity. These jurisdictions offer contrasting but complementary perspectives on how law may respond to imbalanced risk allocation, whether through industry practice, judicial interpretation, or statutory intervention.

This book does not argue against contractual risk allocation *per se*. Rather, it questions the assumption that freedom of contract alone is sufficient to ensure fairness in highly asymmetrical contracting environments. It contends that indemnity and hold harmless clauses must be evaluated not only in terms of drafting precision, but also in light of structural power relations, insurance availability, and public policy considerations. In this respect, the book seeks to contribute to broader debates on contractual justice, regulatory intervention, and the governance of extractive industries.

The primary contribution of this work lies in its articulation of a principled case for legislative reform in Malaysia through the proposed Malaysian Oilfield Anti-Indemnity Act. Drawing on comparative experience, the proposed framework aims to recalibrate contractual risk allocation without undermining commercial certainty or industry efficiency. While the focus is doctrinal, the analysis is intended to be relevant to academics, legal practitioners, policy makers, regulators, and industry participants concerned with the sustainability and fairness of oil and gas contracting practices.

This book is written at a time when contractual risk allocation in the oil and gas industry is undergoing renewed scrutiny. Post-Macondo contracting practices, increasing capital intensity in offshore projects, growing ESG and governance expectations, and heightened concern over accountability for catastrophic losses have intensified debates over the fairness and sustainability of traditional indemnity regimes. Despite these developments, Malaysian law has not evolved a coherent statutory or doctrinal response to contractual risk imbalance in oilfield service contracts. This book seeks to address that gap.

This book is written at a time when questions of risk, responsibility, and accountability in the extractive industries are increasingly intertwined with concerns about governance, environmental protection, and long-term economic sustainability. It is hoped that the analysis offered here will contribute to informed legal reform and serve as a foundation for further scholarly inquiry into the regulation of contractual risk in Malaysia and comparable jurisdictions.

Chapter 1

Understanding Risk and Liability in Malaysia's Oil and Gas Industry

Introduction

This chapter introduces the key elements that frame the discussion in this book. It outlines the fundamental themes explored throughout, provides an overview of the approach taken for collecting and analysing information, and previews the structure of the chapters to come.

The Landscape of Industry Risks

Oil and gas projects involve significant risks.¹ Industry players face various hazards, including the potential to destroy the entire facility and the danger of injuring or killing personnel.² For example, on January 26, 2012, in Malaysia, a Malaysia International Shipping Corporation (MISC) tanker, MT Bunga Alpinia, caught fire in Labuan while loading methanol.³ This unfortunate accident caused loss of life and property damage, and it also indirectly led to economic losses by disrupting operations at Patau-Patau Power Station.⁴

¹ Greg Gordon, John Paterson and Emre Usenmez, 'Oil and Gas Law on the United Kingdom Continental Shelf: Current Practice and Emerging Trends' in Greg Gordon, John Paterson and Emre Usenmez (eds), *Oil and Gas Law: Current Practice & Emerging Trends* (2nd ed, Dundee University Press 2011) 443.

² Toby Hewitt, 'Who Is to Blame? Allocating Liability in Upstream Project Contracts' (2008) 26 *Journal of Energy & Natural Resources Law* 177, 183.

³ Jeffrey Chiang Choong Luin, 'One More Lesson in Safety' (2012) September *JURUTERA* 20.

⁴ *ibid.*

The oil tanker caught fire and exploded at the Petronas Methanol jetty Labuan.⁵ The facility is situated within the Ranche-Ranche industrial zone on Pulau Enos island, near Labuan. During a thunderstorm, the 38,000 deadweight-tonne MISC tanker, which was loading six tonnes of methanol, experienced a small fire outbreak.⁶ The fire reportedly spread quickly, causing at least three major explosions, which some witnesses stated could be felt throughout the island.⁷ MISC, a subsidiary of Petronas, confirmed that the incident caused five fatalities and a number of serious injuries.⁸ Following the incident, operations at the Patau-Patau Power Station, the only power plant in Labuan located next to the terminal, were halted for safety reasons.⁹ On July 11, 2012, an explosion occurred at the Petronas Tukau B drilling platform in Sarawak, Malaysia, injuring five offshore workers—two Petronas employees and three contractor workers.¹⁰ On May 10th, 2012, a similar incident occurred at a Petronas gas processing plant in the GPP Complex A in Kerteh, Terengganu, where one worker was killed and twenty-three others were injured in a gas plant explosion Malaysia.¹¹ Some of the victims were employed by the contractor servicing the GPP, the Hyundai-PFCE Consortium.¹²

⁵ 'Tanker Fire Halts Ops at Petronas' Labuan Terminal' .

⁶ Quintella Koh, 'Fatal Accidents at Petronas Sites Forces Relook at Safety Standards' (Rigzone, 1 August 2012) <http://www.rigzone.com/news/oil_gas/a/119752/Fatal_Accidents_at_Petronas_Sites_Forces_Relook_at_Safety_Standards>.

⁷ *ibid.*

⁸ 'MISC - Bunga Alpinia Update 7' (MISC, 30 July 2012) <http://www.misc.com.my/2012-@-MISC_-_Bunga_Alpinia_Update_7.aspx>.

⁹ 'MISC down after Tanker Catches Fire at Labuan' <<https://theedgemalaysia.com/article/misc-down-after-tanker-catches-fire-labuan>>.

¹⁰ 'Five Workers Injured in Fire Outbreak on Petronas Offshore Platform (Malaysia)' Offshore Energy Today (12 June 2012).

¹¹ Farik Zolkepli, 'Worker Killed and 23 Hurt in Gas Plant Blast' The Star (11 May 2012) <<http://www.thestar.com.my/News/Nation/2012/05/11/Worker-killed-and-23-hurt-in-gas-plant-blast/>>.

¹² *ibid.*

It is important to understand that injuries to personnel and significant property damage can lead to substantial losses for project participants. Addressing the financial impact of these risks can be very expensive,¹³ and could result in substantial financial setbacks for a business.¹⁴ Industry players typically implement various measures and practices to manage risks and minimise their exposure. Risk allocation in the industry can be accomplished by including contractual clauses that specify which party is responsible for or exempt from a particular risk, and to what degree. This allows the risk to be shared between the parties effectively advance.¹⁵ Their respective liability shares in such events are usually assigned according to standard industry contracts that have been developed over many years.¹⁶ Before the 2010 Macondo oil spill in the Gulf of Mexico, these typical liability allocation models faced little opposition and were generally upheld as enforceable when examined in court.¹⁷ Since Macondo, operators in different settings have started questioning traditional liability divisions, aiming to change how risk is shared and negotiating contracts that place more responsibility

¹³ Piper Alpha is said to have occasioned a total insured loss of US\$3.304 billion; See Hewitt (n 2)178.

¹⁴ According to the Guardian the Deepwater Horizon incident has let to the dip of BP profits by 35% See Dan Milmo, 'BP's Deepwater Horizon costs rise \$847m' (The Guardian 2012) 'BP's Deepwater Horizon Costs Rise \$847m | BP | The Guardian' <<https://www.theguardian.com/business/2012/jul/31/bp-deepwater-horizon-costs>>.

¹⁵ Sir William Reynell Anson and others, *Anson's Law of Contract* (OU Press 2010) 3.

¹⁶ Peter Cameron, 'Liability for Catastrophic Risk in the Oil and Gas Industry' [2012] International Energy Law Review 207.

¹⁷ *ibid*; Cary A Moomjian, 'Drilling Contract Historical Development and Future Trends Post-Macondo: Reflections on a 35 Year Industry Career' IADC/SPE Drilling Conference and Exhibition on 7th March 2012 in San Diego, California, USA (Society of Petroleum Engineers 2012) <<http://www.drillingcontractor.org/wp-content/uploads/2012/04/Drilling-Contract-Historical-Development-and-Future-Trends-Post-Macondo.pdf>>.

on contractors in certain cases catastrophe.¹⁸ The insurance industry, on a different assessment, does not expect contractors to assume what is seen as operators' risk. It also doubts that the post-Macondo risk allocation accounts for potential contractor liability issues.¹⁹ As a result, the insurance industry opposes this revision of risk allocation. Additionally, such disproportionate risk distribution could result in substantial financial losses for the contractors.

Apart from that, the operator's dominant role, along with the presence of a national oil company (Petronas) and its Production Sharing Contractors, influences how liability is allocated in the oilfield contracts.²⁰ This is because these operators have more bargaining power than contractors in a weaker position within the oil and gas industry, enabling them to assume they can impose any conditions they wish.²¹ Additionally, most standard oilfield service contracts in Malaysia are created and maintained by operators. As a result, these

¹⁸ Cameron (n 16); Arinaitwe Patson Wilbroad, *Risk Allocation in Oil and Gas Service Contracts* (LAP Lambert Academic Publishing 2014) For further details see, 'In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010: Memorandum in Support of Transocean's Motion for Partial Summary Judgment against BP to Enforce BP's Contractual Obligations, including BP's Obligation to Defend, Indemnify and Hold Transocean Harmless against Pollution Claims' (United States District Court, Eastern District of Louisiana, 1 November 2011).

¹⁹ Cameron (n 16); Lyndsay Rebeca Garnica González, 'Self Insurance in the Offshore Drilling. The Aftermath of the Macondo.' (Thesis, Faculty of Law, University of Oslo 2011) 9.

²⁰ Wan Zulhafiz, 'Unfair Contract Terms Act 1977: Does It Provide a Good Model in Regulating Risk Allocation Provisions in Oilfield Contracts in Malaysia?' (2015) 8 *International Journal of Trade & Global Market* 3; Dennis Culligan and Barbara de Roo, 'Risk Allocation Future Prospects' Proceedings of the IMCA Contracts & Insurance Seminar: Allocation of Risk in the Current Challenging Market on 19th May 2015 in London, UK (International Marine Contractors Association (IMCA) 2015); Cameron (n 17) 210.

²¹ Chris Thorpe, *Fundamentals of Upstream Petroleum Agreements* (C P Thorpe Ltd 2008); Cameron (n 16) 213.

contracts often favour the operator, making risk distribution and the fairness of the terms and conditions less balanced.

Some might argue that the main cause of the issues mentioned above is the absence of national laws or international agreements in this area problem.²² Without regulation, contractors might face situations where they cannot completely manage the risks or have full control and decision-making power over operations powers.²³ This book advocates for establishing specific legal mechanisms that encourage or mandate operators to follow recognised industry standards. In essence, Malaysian authorities should enact legislation to regulate the loss and liability of project participants concerning risk allocation in oil and gas ventures. The primary aim of this book is to promote fairness in the contractual distribution of risk between the operator and the contractor.

Objectives and Significance of the Book

This book aims to explore the legal issues and challenges associated with indemnity and hold harmless clauses in Malaysia's oil and gas sector. It concentrates on how risks are allocated between operators and contractors. Additionally, it suggests a regulatory framework designed to safeguard the interests of both parties, drawing on indemnity laws from the UK and the US.

Contractors typically contend that risk is allocated in a way that favours operators, those who hold more bargaining power than contractors.²⁴ They also argue that the contract terms proposed by the operators include unfair risk allocation provisions. These terms, along

²² Cameron (n 16) 212.

²³ *ibid.*

²⁴ Timothy Martin, 'Model Contracts: A Survey of the Global Petroleum Industry' (2004) 22 *J.Energy & Nat.Resources L.* 281, 333.

with other Invitation to Bid documents, are provided to contractors during the bidding process for negotiation. However, contractors contend that they are unable to qualify or modify these conditions because they are concerned about losing the bid.²⁵ It is argued that operators and contractors do not have equal bargaining power when it comes to allocating contractual risks under Malaysia's oilfield service contracts.²⁶

This book presents the findings of an empirical study focused on imbalanced risk allocation, indemnity, and hold harmless clauses in oilfield service contracts in Malaysia. It specifically provides evidence on how risk is allocated during negotiation in the bidding process and how parties perceive these risks. The book uses a sample of oilfield service contracts collected from the involved parties, which serve as case studies.

This book also aims to discuss the analysis on the feasibility of applying statutory control over indemnity clauses in oilfield contracts in Malaysia. For instance, certain US states like Texas and Louisiana have enacted the Oilfield Anti-Indemnity Act ('Act'). These laws intend to protect contractors from disproportionate risk allocation and unfair indemnity and hold harmless clauses.

These Acts are generally used to regulate how risk transfer is managed in oilfield contracts. They define the extent of legal liability one party can shift to another through the contract. They also prevent the transfer of liability linked to the transferor's negligence, or sometimes only

²⁵ Mohammad Fadhil Mohammad, 'Procurement Strategies for the Oil and Gas Industry: To Capture Changing Values and Dealing with Multi Cultural Complexity', The Proceedings of the International Conference on Construction and Building Technology (ICCBT2008), Universiti Teknologi MARA (UiTM), Malaysia (2008) 33.

²⁶ Zulhafiz, 'Unfair Contract Terms Act 1977: Does It Provide a Good Model in Regulating Risk Allocation Provisions in Oilfield Contracts in Malaysia?' (n 21) 7.

liability from the transferor's sole negligence. In some states, the Act may restrict a contracting party's ability to require additional insured status on the other party's insurance policies. Additionally, it is important to consider some historical factors related to how these Acts originated in those regions, which will be discussed further below.

The UK lacks specific oilfield anti-indemnity laws to regulate clauses that hold parties harmless, so other legal measures within English contract law should be considered. Notably, the Unfair Contract Terms Act 1977 will be examined, along with the broader influence of contractual interpretation laws. Additionally, some British practices, such as the Industrial Mutual Hold Harmless Deed (IMHH), have addressed certain issues related to indemnity clauses. The discussion will also cover certain codes of practice related to indemnity clauses in UK oilfield service contracts. Ultimately, it will be argued that these measures do not offer adequate protection for the weaker contracting party, highlighting the need for specific statutory safeguards.

Many oilfield service contracts in Malaysia often have an imbalance in liability sharing, accompanied by unfair indemnity and hold harmless clauses. This book will examine and analyse the legality of such contracts, with a particular focus on risk allocation provisions. The goal is to shed light on issues related to uneven risk sharing and unjust clauses. By combining empirical evidence with legal doctrinal analysis, the book will propose a regulatory framework and practical solutions for Malaysian legislative authorities. Ultimately, it will recommend a suitable legal mechanism to address these concerns.

The regulations seek to address unequal risk sharing and unjust indemnity and hold-harmless clauses in oilfield service contracts between operators and contractors in Malaysia. This book suggests establishing a specific statutory law to regulate unfair risk distribution and imbalanced indemnity provisions. The proposed law aims

to protect contractors' interests in Malaysia and would be called the Malaysian Oilfield Anti-Indemnity Act.

The suggestions and recommendations in this book aim to assist policymakers in reviewing and subsequently amending Malaysia's current contract law. Additionally, it seeks to enlighten key industry players—especially those directly involved with contracts—about the repercussions of liability provisions on their companies in the event of a catastrophe. This book also aims to guide key stakeholders in Malaysia's oil and gas sector on reasonable terms when drafting oilfield service contracts.

This book argues that its analytical discussion is highly valuable for corporate lawyers, providing guidance for drafting oilfield service contracts. It also enhances the existing knowledge and literature on oil and gas contracts. The book adds both theoretical and practical insights into risk allocation, indemnity, and hold harmless clauses within Malaysian oilfield service agreements. Ultimately, the findings are expected to highlight the need for further study, especially concerning insurance aspects.

Approach and Sources

This book draws on doctrinal legal analysis, comparative law, and selected insights from industry practice to examine the problems of imbalanced risk allocation and unfair indemnity and hold-harmless clauses in Malaysian oilfield service contracts.

Doctrinal analysis examines how Malaysian courts and statutes regulate contractual risk allocation, with particular attention to the interpretation and enforceability of indemnity clauses. This analysis is complemented by a comparative evaluation of legal developments in the United Kingdom and the United States, two jurisdictions that are

frequently selected as governing law in oil and gas contracts and that offer contrasting regulatory responses to contractual risk imbalance.

In addition, the book draws on empirical insights derived from industry practice in Malaysia to ground the legal analysis in commercial reality. These insights inform discussions of how contractual risk is allocated in practice, how bargaining power disparities operate during contract formation, and how indemnity and hold-harmless clauses are perceived by key industry participants.

The book focuses specifically on contractual risk allocation in oilfield service contracts and does not seek to address the full scope of insurance law, environmental liability, or regulatory enforcement. Those issues are considered only to the extent they bear directly on indemnity clauses, hold-harmless provisions, and proposals for legislative reform.

Structure of the Book

This book consists of seven chapters. The first chapter, which is the current one, explains the book's structure and outlines the fundamental aspects of the analytical design. It also offers an overview of the entire book, covering the background, key questions, aims, importance, scope, objectives, approach, sources, boundaries, limitations, and the overall structure.

Chapter two offers a literature review and outlines key concepts, legal doctrines, and theories underpinning this book. It is organised into three main sections. The first briefly explains two points: first, the various types of petroleum contracts, including oilfield service contracts; second, the legal nature of the parties involved. The second section discusses different risk categories in the oil and gas industry and introduces the broad idea of risk allocation, which integrates risk

management, common law risk allocation, and contractual risk allocation. The section details mechanisms like exclusion clauses, limitation clauses, and indemnity clauses, with a focus on indemnity and hold harmless clauses. It examines various indemnity clause types, their relationship with insurance, and issues related to their enforceability, such as potential abuse by parties with bargaining power. The final section addresses a current issue in risk allocation post-Macondo, highlighting how operators often shift a larger share of risk to contractors, a scenario known as post-Macondo contractual risk allocation.

Chapter three explores the Malaysian legal framework surrounding indemnity and hold harmless clauses. It begins with an overview of Malaysia's oil and gas sector, emphasising key players. The chapter then discusses relevant laws, such as the Malaysian Contracts Act 1950, and analyses related case law. This case law highlights key issues in risk allocation provisions and shows how Malaysian courts interpret indemnity clauses. The second part also reviews data from empirical case studies and fieldwork for this book. Moreover, it addresses the first key question introduced earlier. It explains the analytical approach and process, then provides an overview of the case study, including background on the ten interviewees- covering their titles, experience, and the services their companies offer.

The findings are organised into three main sections. The first section examines how key players in the Malaysian oil and gas industry perceive the process of contract formation, emphasising whether contracts are formed fairly and if the parties have equal bargaining power during negotiations. The second section explores their views on oilfield service contracts, focusing on risk allocation between operators and contractors, as well as opinions on indemnity and hold harmless clauses. The third section provides examples of actual indemnity and hold harmless clauses drafted by operators, confidentially referred to as Operator A, Operator B, and Operator C. These

clauses are analysed and compared with industry-standard contracts, such as LOGIC and FIDIC.

Chapter four examines risk allocation, along with indemnity and hold harmless clauses, in the UK. It is divided into five sections. It begins with an overview of the UK oil and gas sector. The next section explains the current application of the knock-for-knock indemnity regime in the UK, including its legal validity and stance under English law. It also discusses the rationale behind this regime and its industry operations, including the use of back-to-back provisions and the Indemnity and Mutual Hold Harmless Deeds. The subsequent section reviews judicial interpretations of the knock-for-knock indemnity system and related issues, such as the courts' approach to indemnity clauses, negligence, third-party liability, and breaches of contract. It covers relevant legislation like the Unfair Contract Terms Act 1977 and how it influences the legality of these clauses. Additionally, the chapter explores the role of the "Guiding Principles"—notably, the Infrastructure Code of Practice—in regulating such clauses in the UK. It concludes by evaluating whether the UK's knock-for-knock indemnity framework could be a viable solution for similar challenges in Malaysia.

Chapter five explores risk allocation and indemnity, focusing on hold harmless clauses in US oilfield service contracts. As previously noted, the book does not cover all US states but concentrates on three jurisdictions: US federal law, Texas law, and Louisiana law. The first section outlines the American legal system. The second section reviews federal law regulating indemnity and hold harmless clauses, such as the Outer Continental Shelf Lands Act (OCSLA) and maritime law. This section also covers state laws, specifically Texas and Louisiana. It discusses Texas common law principles like the fair notice requirements, the express negligence doctrine, and the conspicuousness test. Additionally, it reviews Texas statutes such as the Texas

Oilfield Anti-Indemnity Act that govern these clauses in oilfield contracts. For Louisiana, it examines the common law, including the “clear and unequivocal test,” and statutory laws like the Louisiana Oilfield Anti-Indemnity Act. The chapter concludes with a comparison of Texas and Louisiana laws and considers which model might best address similar issues in Malaysia.

Chapter six examines and discusses the findings of this book, answering the key questions that underpin these findings. The main conclusions are supported by core concepts, theories, and legal principles such as common risk allocation, contractual risk distribution, the doctrine of freedom of contract, theories of unequal bargaining power, and public policy. This chapter also extends to a broader discussion on the impact of these findings on the contractual elements of oilfield service agreements in Malaysia. It examines procedural fairness concerns arising from the bargaining power imbalance and assesses the substantive fairness of contracts characterised by risk allocation disparities and unfair indemnity or hold harmless clauses.

Conclusion

This chapter highlights the core structure of the book, outlining its focus, which is essential for understanding its content. It begins by explaining the background, aims, significance, key questions, objectives, approach, and sources. The chapter also clarifies the boundaries and limitations of the book. At the end, it provides a chapter-by-chapter outline.

This book presents three main findings. First, it advocates for the recognition of the legal theory of “law in action,” supported by empirical evidence from case studies and systematic analysis of legal frameworks related to imbalanced risk allocation and unfair indemnity and hold harmless clauses in Malaysian oilfield service contracts.