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RATIO LEGIS OF SETTING TIME LIMITS FOR JUDGES IN RETURNING DISPUTES IN INDUSTRIAL RELATIONS UNDER ARTICLE 103 LAW NUMBER 2 OF 2004

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ABSTRACT

This article is results from legal research on setting time limits for judges to decide industrial relations disputes with legal certainty and justice. This study aims to examine and analyze the ratio legis Article 103 of Law Number 2 of 2004. This research is normative legal research using a statutory approach. This study's conclusion shows that the ratio legis for setting time limits for judges in deciding industrial relations disputes under Article 103 of Law Number 2 of 2004 can be examined into three aspects: philosophical, sociological, and juridical. The philosophical aspects consist of ontology, epistemology, and axiology. Ontology, employers are considered to have a stronger bargaining position than workers. Epistemologically, the settlement of industrial relations disputes is carried out in two ways: non-litigation (bipartite and tripartite) and litigation. Axiologically, the settlement of industrial relations disputes is known as quick value. Sociological Aspects, as a form of social protection and economical protection for workers. The juridical aspect, provides legal protection for workers from formal aspects.

KEYWORDS:

Ratio legis, time limit, judge, industrial relations, dispute settlement.

In the implementation of national development, the workforce has a very urgent role and position both as actors and as development goals (Wijayanti, 2018). This is in line with the objectives and substance of national development is carried out in the framework of the development of the whole Indonesian human being and the development of the Indonesian society as a whole to create a society that is prosperous, just, prosperous, equitable, both materially and spiritually based on Pancasila and the Constitution of the Republic of Indonesia 1945. In this regard, a form of regulation of legal protection for workers is needed to guarantee the basic rights of workers and ensure equal opportunity and treatment without discrimination to realize the welfare of workers and their families while still paying attention to the progress of the business world.

Efforts to protect workers are carried out when the workforce is carrying out their work and when there are disputes between workers and employers. The increase in human activities in line with globalization's current acceleration has resulted in frequent conflicts of interest between persons and groups that cause disputes or disputes. These disputes also often occur between workers and employers. In Law Number 13 of 2003 concerning Manpower (after this referred to as the Manpower Law) are referred to as Industrial Relations Disputes. Industrial relations is "a system of relations formed between actors in the process of producing goods and/or services consisting of elements from entrepreneurs, workers/laborers, and the government based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia". The causes of industrial relations disputes can come from both employers and workers. From the entrepreneur's side, the dispute's cause is paying less attention to the workforce's interests and their demands, taking action against workers who make demands, obstructing or refusing the worker from carrying out the work (Asikin, et al, 2016). The cause of disputes on the part of the workforce is that the employer has not fulfilled his demands, either individually or collectively, to slow down or stop work due to the dispute (Asikin, et al, 2016).

Legal protection for industrial relations workers is very urgent and must be protected by employers and the government to create a proportional position (Zulkarnaen & Utami, 2016). Soepomo stated that juridically, the relationship between workers and employers in implementing this working relationship has an equal position, where they can carry out freely (Soepomo, 1985). From what is described in Imam Soepomo's opinion, it can be seen that worker's and employers' status is juridically the same. Still, sociologically it isn't easy to find similarities in society (Asyhadie & Kusuma, 2019). This unequal position of workers and employers often creates conflicts, and employers provide good and acceptable regulations to workers according to their considerations (Asyhadie & Kusuma, 2019). But the workers sometimes have different views from the employer, so that will create disputes (Asyhadie & Kusuma, 2019).

In industrialization, the mathematics of industrial relations is increasing and complex, so that fair, precise, fast, and cheap industrial relations dispute resolution institutions and procedures are needed. Currently, there is "Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes" (after this referred to as the PPHI Law), which is expected to be able to resolve disputes between workers and employers as well as possible. The settlement of industrial relations as regulated in the PPHI Law is classified into two primary forms: non-litigation and litigation (Udiana, 2015). The mechanism and time for settling industrial relations disputes can be described as follows:

Source: legal materials processed from Law Number 2 of 2004.

Based on this chart, it can be explained that the settlement of industrial relations disputes should be resolved as much as possible by negotiation or deliberation. If the negotiations fail, the dispute settlement is resolved through the Industrial Relations Court, whose settlement is limited to no later than 50 (fifty) working days from the first trial. This is as regulated in Article 103 of the PPHI Law, which states that "the panel of judges is obliged to give a decision on the settlement of industrial relations disputes within no later than 50 (fifty) working days from the first trial".

The industrial relations court panel of judges is presided over by a career judge. Apart from carrying out their duties as judges of industrial relations courts, career judges also have to examine and adjudicate civil and criminal cases in general (Sejati, 2018). Thus, the career judge concerned must manage the time properly to implement the 50 working-day limits (Sejati, 2018). Juridically, Article 103 of the PPHI Law is an incomplete provision because there are no juridical consequences if the decision to settle industrial relations disputes exceeds the predetermined time. As a result, the panel of judges may issue decisions beyond the time limit of 50 days. It also extends the dispute resolution time.

Based on this research background, this article will discuss the ratio legis, the panel of judges is obliged to decide on industrial relations disputes within 50 working days based on Article 103 of Law Number 2 of 2004.

METHODS OF RESEARCH

The type of research used in writing this article is normative legal research, which is to research by reviewing and analyzing various laws and regulations, legal systems, and legal principles related to the settlement of industrial relations disputes. The approach used in this legal research is the statute approach. This approach is carried out by examining all laws and regulations related to the problems (legal issues) that are being faced.

RESULTS AND DISCUSSION

Ratio legis is the basis for in-depth thinking about the existence of certain provisions in statutory regulation. It can be interpreted that the ratio legis is the basis of deep thought, which is a philosophical thought, which means that the study is based on scientific studies in the field of philosophy, especially the branch of legal philosophy. The law is also approached based on the scientific layer of legal science, namely the philosophical, sociological, and juridical or dogmatic aspects (Yuningsih, 2019).

In this subchapter, the ratio legis regarding the time limit for settlement of disputes in industrial relations courts will be divided into three aspects: ratio legis for philosophical aspects, ratio legis for sociological aspects, and ratio legis for juridical aspects. Based on the study of these three aspects, the reasons and objectives for setting the time limit for dispute resolution in the industrial relations court will be found.

Philosophical Aspects. Industrial relations in Indonesia have been based on and imbued with the values of Pancasila so that the concept of Pancasila Industrial Relations is known. Pancasila Industrial Relations was born from the National Workshop results, which was held from 4 to 7 December 1974 which was attended by representatives from labor/worker organizations, employers' organizations, representatives from the government, and elements of higher education institutions (Udiana, 2015). Pancasila Industrial Relations is a relationship between actors in the process of producing goods and services consisting of elements from entrepreneurs, workers / or laborers, and the government based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia, and grow and develop on the personality of the Indonesian nation and the national culture of Indonesia.

The Pancasila Industrial Relations pattern is also reflected in the arrangement for the settlement of industrial relations disputes. This can be seen from the principles of dispute resolution that animate Law Number 2 of 2004. These principles are as follows:

- Principles of Deliberation for Consensus. Settlement of industrial relations disputes based on the principle of deliberation for consensus is a bipartite settlement. This mechanism must be taken before pursuing other mechanisms. This out-of-court dispute settlement mechanism puts forward deliberation to reach a consensus;
- Principle of Free Choosing a Dispute Resolution Institution. Parties involved in industrial relations disputes may choose an arbitration, mediation, or conciliation settlement mechanism before resolving the dispute settlement mechanism in an industrial relations court;
- Principles of Fast, Fair, and Cheap. Settlement of industrial relations disputes carried out both outside the court and through the industrial relations court adheres to the fast principle. There is a time limit for each mechanism. The principle is fair because the settlement of disputes prioritizes deliberation and consensus. The composition of judges at the industrial relations court consists of career judges, ad hoc judges representing employers, and ad hoc judges representing workers. The principle of low cost because cases in industrial relations courts are not subject to court fees as long as the lawsuit's value up to the execution is below Rp.150.000.000,- (one

hundred and fifty million rupiah). Appeal legal remedies are not recognized in settlement of industrial relations disputes.

One of the principles of settling industrial relations disputes is the principle of speed. It is said to be fast because there is a time limit for dispute resolution in each mechanism. In the bipartite and tripartite stages, the time limit for completion is 30 days. At the industrial relations court stage, the judges' panel is obliged to make a decision no later than 50 working days from the first trial. In addition to the time limit for each dispute resolution stage, industrial relations disputes also do not recognize legal remedies for appeal. Regarding rights disputes and dismissal disputes, it can be filed for cassation. In contrast, industrial relations court decisions on disputes over interests and disputes between labor unions in one company are final and binding.

Philosophical considerations why the settlement of industrial relations disputes are interesting to study because industrial relations disputes are different cases from other cases resolved through general courts. In industrial relations, several aspects must be considered so that the procedure for resolving them is specifically regulated. In civil procedural law, the principles of fast, simple, and low cost are recognized. Meanwhile, the industrial relations court's procedural law specifically regulates fast, precise, fair, and cheap principles. The principle of speed in the industrial relations court's procedural law seems to reaffirm the principle of speed, which has long been recognized in civil procedural law in general. This is formulated by setting a time limit for settlement of disputes at the relationship court, no later than 50 working days. This discussion's philosophical study is divided into three parts, namely ontology, epistemology, and axiology. According to Koento Wibisono Siswomihardjo, the field of work on science philosophy is primarily directed at the components that are the pillars of support for the existence of science, namely ontology, epistemology, and axiology (Tim Dosen Filsafat Ilmu Fakultas Filsafat UGM, 2012).

Ontology is part of the philosophy of everything that exists, which studies the essence of the existence of something (Putra, 2015). The ontology of science includes what the essence of truth and reality is inherent with scientific knowledge that cannot be separated from the perception of what and how (which) exists (Tim Dosen Filsafat Ilmu Fakultas Filsafat UGM, 2012). The truth and reality here regarding the settlement of industrial relations disputes are that industrial relations disputes are different from other civil cases. The parties involved in industrial relations disputes, namely employers and workers, have previously worked together to achieve one goal. However, because there is a difference in understanding, there is a dispute. When a dispute occurs, the worker's position is on the weak side (Santoso, 2012), so that the employer is considered the party with a stronger bargaining position than the workers. Therefore disputes that occur need a special resolution.

John Rawls stated that economic and social differences must be arranged in such a way as to provide the greatest benefit for the greatest portion for the most disadvantaged groups (Lebacqz, 1986). Based on John Rawls' theory, the workers who are economically and socially inferior to the employers must be more concerned about settling industrial relations disputes to create justice.

Epistemology includes sources, means, and procedures for using these means to achieve (scientific) knowledge. Differences regarding the ontologic basis's choice will come naturally and result in differences in determining the chosen means (Tim Dosen Filsafat Ilmu Fakultas Filsafat UGM, 2012). The epistemological aspect relates to the methodological steps that are carried out during the process of legal reasoning. The epistemological basis questions how the process makes it possible to obtain knowledge, the procedures, what things must be considered to obtain correct knowledge (Tim Dosen Filsafat Ilmu Fakultas Filsafat UGM, 2012). Epistemologically, the settlement of industrial relations disputes is carried out in two ways: non-litigation (bipartite and tripartite) and litigation. This method is different from the civil settlement in general. Besides being resolved especially, the settlement of industrial relations disputes also regulates a time limit at each settlement stage. In the industrial relations court, it is limited to a maximum of 50 working days. The judge must have read the verdict. This method of settling industrial relations disputes is appropriate

because of the ontological basis that considers the bargaining position of the workers, both economically and socially.

Axiology comes from the Greek words *axios* (value) and *logos* (theory), which means an idea of value. Humans own the value in question to make various judgments about what is being assessed. Axiology is a branch of philosophy that questions how humans use their knowledge. So what axiology wants to achieve is the nature and benefits contained in knowledge. Based on the definition of axiology, in settling industrial relations disputes, it is known that the values are fast, accurate, cheap, and fair. In the context of this research, the focus will be on fast value. The quick value referred to is that there is a time limit at each stage of dispute resolution. Setting the time limit for judges of the industrial relations court to decide disputes no later than 50 days from the first trial is one of the quick values formulated in Law Number 2 of 2004.

It is hoped that the settlement of industrial relations disputes will be completed in a short time and do not drag on. The existence of a time limit set in the procedural law for the settlement of industrial relations disputes is intended to be under the nature of industrial relations disputes and the value of benefits for the parties, especially those of workers who have a lower position, to protect workers both economically and socially.

Sociological Aspects. The importance of the sociological aspect in legal development can be seen from every consideration of statutory regulations, which always includes the sociological basis of the issuance of these regulations. This is also reflected in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. The sociological consideration of this law's birth is that in the era of industrialization, the problem of industrial relations disputes has become increasingly complex, so that fast, precise, fair, and inexpensive institutions and mechanisms for resolving industrial relations disputes are needed.

The issue of employment is one of the most complex and complicated problems because it involves many people's lives. In developed countries, even the employment problem becomes one of the social points that can overthrow a government regime. In Indonesia, manpower issues are becoming increasingly complex and worrying. This is mainly because economic conditions have not yet recovered due to the global financial crisis storms. The slow process of economic recovery has resulted in slow absorption of labor, and companies trying to survive have now given up and collapsed. This condition certainly cannot be tolerated because it will directly impact the community's welfare and potentially harm the national security situation.

Employment problems are not only issues related to unemployment, layoffs, and wages. There are several other aspects of labor conditions and problems before entering a working relationship, during the employment relationship, until after work. Disputes between workers and employers arise because employers as employers do not place workers as partners and assets. The entrepreneurs positioned the relationship between the two as a superior and subordinate relationship which was subordinate and very unequal. With such a relationship, of course, it will put workers in a lower bargaining position.

In juridical terms, the position between employers and workers is the same under Article 27 paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Article 27 paragraph (1) states that "all citizens have the same position in law and government and are obliged to uphold the law. and that government without exception", while Article 27 paragraph (2) states that "every citizen has the right to work and a decent living for humanity. "However, in practice, the relationship between employers and workers is not only viewed juridically but also from the socio-economic perspective (Hadi, 2018). Socially and economically, this is where the position between employers and workers is not the same (Hadi, 2018).

In reality, it is realized that the relationship between workers and employers is not a stand-alone problem but is influenced by and affects economic, social, cultural, political, and so on (Hermawan, 2018). This shows that the legal system in work relations is open, in the sense that factors outside the law influence it (Hermawan, 2018). Therefore, to study issues related to industrial relations, it must be balanced with sociological aspects.

The fast principle outlined in the settlement of industrial relations disputes is reflected in every settlement stage, including the litigation stage. In the industrial relations court, the settlement of disputes is limited to no later than 50 working days. The existence of this time limitation indicates that the industrial relations court process is short-lived, unlike the judicial process in general, which does not have a time limit. As previously stated, the workers have a lower status than the employers. The time limit at the litigation stage is a form of socio-economic protection for workers. The litigation stage process does not drag on, and the workers immediately get legal certainty regarding the dispute at hand. With a quick settlement, the workers can also determine a faster attitude towards their work and manage their rights to continue their lives with their families.

Employers who have a stronger position than workers often take advantage of their position to make things difficult for workers. Several cases show that workers are cornered socio-economically due to the disputes that have occurred. For example, A is a worker with a Fixed Term Work Agreement (PKWT) at Company B. The term of the work agreement is one year with a salary/income of 5 million per month. After carrying out work obligations for ten months, the company suddenly terminated the employment relationship with A. According to Article 62 of Law No. 13 of 2003 concerning Manpower, parties who terminate the employment relationship must pay compensation to the other party in the number of the workers' wages until the expiration time. The term of the work agreement means that the employer must provide the workers with the remaining salary according to the contract period. However, the employer was reluctant to give the remaining salary, and there was a dispute. If we pay close attention, the worker must go through the stages of dispute resolution to wait for legal certainty regarding the dispute over rights (two months of salary). Therefore, the existence of a time limit for completion is very important to protect the workers.

When there are disputes, quite some employers choose not to pay their workers' rights during the termination of employment at the Industrial Relations Court. According to Hukumonline's records, at least two companies did not pay wages even though they were still in the process of litigation at the Industrial Relations Court, namely PT. Great River Internasional (GRI) and PT. Panin Lestari Internusa (Sogo). GRI neither scores its employees nor pays processing fees during disputes. Meanwhile, Sogo did not pay his employees' wages after laying off more than 50 employees. Such things show that workers cannot do much, so that the time limit for dispute resolution at the Industrial Relations Court is very important for justice for lower positions (hukumonline, 2020).

Juridical Aspects. The juridical consideration for enacting Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes is that Law Number 22 of 1957 concerning Settlement of Labor Disputes and Law Number 12 of 1964 concerning Termination of Employment in Private Companies is not under the needs of the community. Before the issuance of Law Number 2 of 2004, industrial relations dispute settlement did not have a settlement mechanism through litigation. However, the Central / Regional Labor Dispute Settlement Committee (P4P / P4D) has the authority to give decisions on labor disputes like court decisions. Initially, the P4P decision was final, but after the issuance of Law Number 5 of 1986 concerning State Administrative Courts, a lawsuit against the P4P decision can be submitted to the State Administrative Court by the party who objected to the decision.

Besides being able to be sued in the state administrative court, the P4P decision can also be overturned by the Minister of Labor. Cancellations were made through negotiations with ministry representatives who sat on P4P. The Minister of Labor can cancel or postpone the implementation of the Central committee's decision if he deems it necessary to maintain public order and protect the state's interests. This shows that although the central committee has the authority to change the regional committee's decision, the minister of labor can also cancel the decision of the central committee.

Since the enactment of Law Number 5 of 1986, which also means establishing a State Administrative Court, the P4P decision can become the object of a State Administration dispute. This makes the settlement of labor disputes even longer and tiring. The settlement

at the regional and central committee level is not given a time limit, plus the procedural law at the state administrative court also has no time limit. Not to mention that the state administrative court knows the terms of appeal and cassation, which of course, make disputes never legal certainty. Such conditions, of course, are very unfair for workers as recipients of work who are in a weak position (Setiawan, 2007) and have an inferior position. A change is needed to get a better way of resolving disputes by considering efficiency and effectiveness.

Based on this description, Law Number 2 of 2004 was enacted, one of which brings a fast judiciary spirit. The procedural law in the industrial relations court follows the civil procedural law in general. Still, special things are regulated namely, the time limit for dispute resolution is no later than 50 working days under Article 103 of Law Number 2 of 2004. There is a time limit on the industrial relations court regarding the long dispute resolution process stipulated in Law Number 22 of 1957. In addition to the time limit provisions at the litigation stage, Law Number 2 of 2004 also does not recognize an appeal, but only an appeal, even then with a time limit of 30 days.

Legal protection of workers is very necessary given their weaker position. Zainal Askin stated that legal protection from the employer's power is carried out if all parties implement the laws and regulations in the field of manpower that require or compel employers to act as in these regulations because the law's validity cannot be measured juridically (Askin, et.al, 1993). Workers are part of the Indonesian people who need to be protected. The principle of legal protection for the Indonesian people is the principle of recognition and protection of human dignity rooted in Pancasila and the rule of law based on Pancasila (Hadjon, 1987). The principle of legal protection includes two things, namely the principle of recognition and protection of human rights, especially for workers, at this time, it is a convention of human rights which by nature becomes legal rights (Hadjon, 1987).

The birth of Law Number 2 of 2004 provides legal protection for workers from a formal aspect. This means that workers receive legal protection when the dispute resolution process occurs. The time limit set in the industrial relations court is intended so that the litigation process can run more quickly and not be protracted so that the social status of workers does not float and their rights can be secured as soon as possible.

CONCLUSION

Ratio legis of the panel of judges is obliged to decide on industrial relations disputes within 50 working days based on Article 103 of Law Number 2 of 2004, which can be viewed from three aspects: philosophical, sociological, and juridical aspects. The philosophical aspects consist of ontology, epistemology, and axiology. Ontology, the employer is considered the party with a stronger bargaining position than the workers. Therefore disputes that occur need a special resolution. Epistemologically, the settlement of industrial relations disputes is carried out in two ways: non-litigation (bipartite and tripartite) and litigation. This method is different from the civil settlement in general. Axiologically, industrial relations dispute settlement is known for its fast, accurate, cheap, and fair values. In the context of this research, it is focused on the value of the fast. The quick value referred to is that there is a time limit at each stage of dispute resolution. Setting the time limit for judges of the industrial relations court to decide disputes no later than 50 days from the first trial is one of the quick values formulated in Article 103 of the PPHI Law. Sociological aspects, the existence of a time limit for dispute resolution at the industrial relations court is a form of social protection and economical protection for workers. The litigation stage process does not drag on, and the workers immediately get legal certainty regarding the dispute at hand. Juridical Aspect, provides legal protection for workers from formal aspects. This means that workers receive legal protection when the dispute resolution process occurs. The time limit set in the industrial relations court is intended so that the litigation process can run more quickly and not be protracted so that the social status of workers does not float and their rights can be secured as soon as possible.

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