Legal Relations Realizes the Value of Justice in the Form of Legal Protection for Workers

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***Abstract*—The research aims to answer normative issues of legal protection for workers and legal relations to realize the value of justice as legal protection for workers. Labor issues are industrial relations including disputes regarding rights, interests, layoffs or between trade unions or trade unions within one company. Problems are caused by disagreements on work relations, work contracts, the composition of company rules during work. The essence of legal protection is needed in realizing justice, especially for workers who are in a position that is not equivalent to their employer. This research is normative with case, regulatory and conceptual approaches in solving problem formulation. The research results show that the normative problem of legal protection for workers includes the dimensions of legislation which only accommodates the interests of workers in general and has not elaborated on the interests of workers in a proportional manner. The employment contract does not regulate the extent of equivalence between the positions of the worker and the employer, thereby placing the worker in a disadvantaged position while the employer has a high and decisive bargaining position. Meanwhile, legal relations embody the value of justice as legal protection for labor which is pursued through law as a means of achieving justice in industrial relations matters, optimizing the value of justice by judges in industrial relations decisions and legal protection through fair industrial relations dispute trials.**

***Keyword*—Justice; Legal Protection; Labor; Value.**

I. INTRODUCTION

The issue of workers' interests is dominated by the fulfillment of workers' rights in question. On the one hand, companies/employers have interests which are manifested in demands for employee obligations. In this position, it can be concluded that the interests of the workforce and the interests of the company/employer are mutually determined. The interests of workers in fulfilling welfare rights and guaranteeing work safety are mutually determinant with the interests of companies/employers in the efficiency and effectiveness of their results or targets. Such conditions have the potential to cause industrial relations problems and the potential implications of these problems in the future. One of the workers' rights regarding health insurance, for example, is that there is a capitation system, in the form of an outline in the form of preventive steps or promotional efforts aimed at building capitation in providing changes to service orientation. This change is interpreted from a curative to preventive perspective, which in this case also calculates the economic and commercial implications of these preventive efforts, including the health rights of workers [1]. This capitation also positions the fulfillment of workers' health rights guarantees as the primary cause in drafting work contracts and requires efforts to be made through statutory regulations. However, this still positions normative legal protection as not yet achieving the essence of justice because workers are in an unequal position with their employers.

Law as a juridical tool, in this case must be able to accommodate the basic values of law in full, not only the principle of legal certainty but also be supported by the fulfillment of the value of justice and the value of legal benefits. The role of justice through court decisions, for example, can elaborate the principle of legal certainty, the principle of justice and the principle of expediency in industrial relations dispute decisions. The main employment problems in the existing conditions include disputes which have causalities including the fulfillment or guarantee of rights, the wishes of workers and employers, Termination of Employment Relations (PHK) as well as problems of disputes between Trade Unions/Labourers in the work circle. These disputes can arise due to disagreements in matters relating to employment relations, contractual relations, the composition of

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company rules during employment. In these conditions, law is less positioned as a means of exploring the essence of justice to resolve industrial relations disputes. Existing conditions describe that the law is still limited to being optimized as a normative juridical aspect in resolving employment problems or industrial relations disputes only.

Current legal protection takes priority or only has normative nuances. In fact, this condition has not been able to optimize the actualization of law as a means of achieving justice or access to justice, especially for workers. The prioritization of labor as the object of fulfilling the value of justice by law is due to its clear position not being equivalent or equal to that of the employer. This position creates problems in the form of potential violations of the welfare rights of workers by employers. The problems referred to can be characterized as normative problems which can be studied in several industrial relations decisions regarding industrial relations disputes. In their legal considerations, the majority of judges are obliged to rely on legal sources as an integral relationship between legal principles in their position as guides to practical legal rules which are dogmatically embodied in the form of statutory regulations. J. J. H. Bruggink in his thoughts stated that legal rules always have fundamental-based assessment benchmarks, namely legal principles [2]. At the foundation of a legal system, it contains assessment indicators as fundamental touchstones. The indicators for this assessment are legal principles or principles [2]. Legal principles or principles are one source of law which also serves as a guide for judges in deciding a case before them. On the one hand, statutory regulations also become a source of law for judges and become the normative basis for judges in deciding a case. So, in essence, in understanding the rules of legislation, judges are also obliged to interpret legal principles in their position as guiding rules. However, in practice judges do not interpret aspects of justice through legal principles as guiding principles and tend to offer judges normative considerations based on statutory regulations and work contracts between workers and employers only.

Normative legal protection through statutory regulations and court decisions is not yet optimal in providing the essence of justice considering the unequal position between workers and employers. Legislative regulations also always have multiple perceptions and give rise to antinomies. Antinomy as a method of thinking is two conditions or circumstances that are different from each other but can complement each other [3]. Antinomy, as Fockema's idea, is a condition of difference between two or more rules where the solution must be studied through in-depth interpretation [4]. Thus, antinomies are characterized by conflicting rules or legal implementation but on the one hand they can complement each other. In the implementation of the legal system, antinomies inevitably occur because in principle law and antinomies are interrelated, especially in the judge's thoughts which are manifested in his considerations. Referring to statutory regulations also means facing multiple perceptions, giving rise to conflicting opinions or thoughts.

This practice does not provide legal protection when referring to work contracts as the main domain of consideration for judges. In fact, work contracts are drawn up based on conditions that are not equivalent between the worker and the employer. This condition contributes to skepticism in resolving industrial relations problems in industrial relations courts. The composition of this situation is a legal issue that must be immediately formulated to be addressed. Therefore, it is necessary to study the normative issue of forms of protection by law, especially for workers. Next, it examines legal relations to realize justice as a form of legal protection for workers. This article has novelty, especially a philosophical and interpretive analysis of the essence of justice as a problem-solving problem for employment.

II. LITERATURE REVIEW

A. Employment Contract

Definitions regarding employment or industrial relations can be classified into meanings originating from statutory regulations and definitions from expert opinions or doctrine. When referring to the substantive or normative definition, employment or industrial relations are defined and mentioned in Law no. 13 of 2003 concerning Employment. The broad meaning of employment or industrial relations according to the definition of Article 1 number 16 of the law focuses on relations formed from the composition of the company or employer, workforce, government which are carried out in accordance with the values of Pancasila and the constitution.

Referring to doctrine, a definition of industrial relations is found according to the thoughts of Suprihanto who explains that industrial relations is a form of causality that examines all political, cultural, social and economic elements and problems, directly or indirectly, and is related to the relationship between labor and employers [5]. The employment or industrial relations paradigm was then followed up by the tripartite government. Industrial relations have an urgency or important role in realizing employment development which is realized on the basis of the principle of integration with functional and multi-sectoral coordination. Employment relations problems can touch general fields, namely economics, socio-culture, legal politics, psychology and defense and security. The implication is that labor relations problems are not limited to zoning between employers and workers. Industrial relations issues actually touch government and community zoning. Employment relations issues can touch the general field, namely the economic, social

fields. Therefore, the adoption of the literal term employment relations is more appropriate than labor. The definition of employment relations in Article 1 number 16 of the Employment Law is a normative meaning, meaning that there is the potential for other interpretations in its realization. Therefore, the elements of employment relations can be classified, namely: (i) the existence of an employment relations system; (ii) there are elements that include entrepreneurs, labor and government; and (iii) the existence of a production mechanism in the form of goods or services

B. Justice Values

The value of justice is included as a component of basic legal values according to the thoughts of Gustav Radbruch. The basic value of law, as the majority of society aspires to, justice becomes important when examined from a legal perspective. Its position provides an illustration of whether or not the law functions in state. The limitation of the value of justice is something that has no boundaries. These conditions mean that justice cannot yet become a single value. Justice has the nature of subjectivity, in its definition of course there will be differences between the parties in court, also different from the perspective of the litigants, presenting differentiation from the judge's perspective, there are also always differences from the perspective of society until conditions where justice is no longer able to be interpreted objectively. Therefore, justice is a value system that is the majority of thought from ethical schools where there is justification, that in principle the aim of law is an effort to achieve conditions of justice. The doctrine states that justice is an abstract composition, the form of justice in principle is also related to the ethical level inspired or interpreted by the individual [6]. This abstraction will continue to increase if viewed from John Rawl's theory, namely justice as a form of honesty. Justice is a condition that is considered to best accommodate all interests and this justification has an element of subjectivity both from the judiciary and through the judge's considerations.

Justice is a value that is used as a standard indicator for assessing the quality or not of a law. Good law is a law that is able to accommodate and guarantee justice as its main goal. Analyzing the purpose of law from a justice perspective. This is the most important perspective from various thoughts. Positions as a means of building industrial relations that realize employment development are regulated in employment regulation rules. The targets of labor law itself are [7]: (i) implementing and realizing social justice in the field of employment; and (ii) provide protection for workers from the absolute power of employers.

The above is the key so that industrial relations in employment development can realize general welfare as a consequence of the welfare state. The second point is rooted in the meaning of social justice which is a massive paradigm for fulfilling general welfare which is a characteristic of achieving social justice. In the paradigm of employment law, industrial relations must protect the principle of fulfilling the rights and obligations between the employer and its workforce. This is due to understanding the unequal position between the two where employers or entrepreneurs are superior when compared to workers or laborers who are inferior both in terms of capital, power, educational background and in terms of work experience.

III. METHOD

This research is normative with case, regulatory and conceptual approaches in solving problem formulation. This research examines the object of legal science and therefore uses a type of normative research which on the one hand positions the object of legal science as coherence between legal norms and legal principles and then on the other hand coherence between legal rules and legal norms[8]. This type of normative research has the same definition as the type of doctrinal research, namely research that refers to primary legal materials and secondary legal materials [9]. Therefore, researchers used data collection from literacy studies. A literature review is carried out that is relevant to the object under study. Legal materials and literature related to the research objective of providing answers to normative problems of legal protection, especially for workers, then legal relations realizing the principles of justice as legal protection, especially for workers.

IV. RESULT AND DISCUSSION

A. Normative Issues of Legal Protection of Labor

Normative problems are always intertwined with juridical problems in interpreting nomo-dynamics norms which are in the dimensions of statutory regulations and court decisions. Industrial relations disputes also have means of resolution as regulated in statutory regulations. Settlement through bipartite negotiations, for example, is a resolution of industrial relations problems in the form of discussions between labor elements or trade unions and employers in order to find a middle way to resolve labor relations disputes. This condition is differentiated from the Bipartite Cooperation Institution in the Employment Law, which states that the Bipartite Cooperation Institution is a forum for communication and consultation regarding elements that are interrelated with employment relations in companies where the members are employers and unions as registered or registered. data in agencies that have accountability for employment elements or labor aspects. There are two mechanisms for resolving labor relations disputes, namely non-litigation or outside the court and litigation or through judicial mechanisms. Non-litigation problem resolution is divided into: (i) bipartite negotiations; (ii) conciliation; (iii)

arbitration; and (iv) mediation. These four mechanisms have the right to be implemented first in resolving labor relations problems in accordance with the principle that prioritizes deliberation to reach consensus so that the work activity process can continue to run.

However, normative problems arise when examining the equivalence or equality of position between workers and employers. In efforts to resolve labor relations problems outside of the judicial mechanism, there is no legal protection for workers. Employer representative must be someone who is competent in employment matters, for example a lawyer. Meanwhile, labor positions are only assisted by labor unions who have different perspectives and desires. The employer can carry out forms of intervention or spoil the representatives of the Work Union and, if possible, commit fraud or cheating in the form of personal lobbying which is profitable in the hope of breaking down the power of the Work Union. In litigation, it was also found that the problem was that not all judges had the perspective of paying attention to the vulnerability of workers in industrial relations disputes, so that judges prioritized the fulfillment of the value of legal certainty and the value of usefulness compared to the value of justice for workers who were not in an equal position with the employer. Another normative problem is that there is no institution that supervises court decisions regarding industrial relations disputes. The weak executorial power of industrial relations court decisions presents its own dimension of problems related to workers who tend to have difficulty in obtaining guarantees for the fulfillment of their rights after being won by a court decision.

Litigation and non-litigation settlements thus present normative problems because the original positions between workers and employers are not equivalent or balanced. This equivalent is also related to human rights which must be fulfilled to ensure that the original rights of individuals from birth are not reduced, violated, limited or even eliminated by the arbitrariness of other parties or parties who have more power. Therefore, in industrial relations disputes it is necessary to reinterpret the principle of equality which is manifested in the fulfillment of human rights, especially ensuring the fulfillment of the rights of workers who are not equal in position and status to their employers. All of them aim to ensure the creation of social welfare. The standard of prioritizing laws and regulations as a guide to resolving industrial relations problems must also be criticized because it is not impossible that there is political lobbying to produce laws and regulations that are biased only towards the interests of the authorities and entrepreneurs/employers. The employment contract, as a manifestation of the preparation of guarantees for the fulfillment of labor rights, has so far not yet regulated the extent of the equivalence between the position of the labor force and the position of the employer, which has implications for placing the worker in a disadvantaged position while the employer has a high bargaining position and determine.

In the process of its formation, the law governing industrial relations disputes has been coordinated or affiliated with elements outside the law, namely, politics, economics, social and culture. This fact proves that law is not a rule of autonomy. Law cannot be sui generis if there is no influence from factors originating outside legal science such as cultural, social, political and economic factors or moral aspects. In his ideas, Parsons tends to position law as an element of the general social system [10]. Apart from legal factors, there are also other elements that have various logic and functions. There are various factors outside the law to maintain the ideal patterns of a society. Law is placed as a medium that occupies a role as a common rule of play. The function of these extra-legal factors is what then maintains and conditions all forms of non-conformity so that they are in harmony with the consensus that has been prepared and mutually agreed upon. In Talcott Parsons' cybernetic theory, political factors are related to power and authority, so that they become a means of legitimizing power and authority in order to obtain a target [10]. Interestingly, political factors are also influenced by economic factors as a means of utilization which refers to material aspects and is needed to support the sustainability of the entire system. Cultural factors better reflect society's acceptance or elasticity and control over legal issues.

Industrial relations have drawn more or less the same currents and patterns where this has become the rule of the game in the form of conflicts of interest between employers and workers. This is where the attraction that occurs refers to the interests brought by these two elements. There are even times when law makers have interests in entrepreneurs or come from the realm of entrepreneurs themselves. Cases such as foreign workers and unilateral layoffs from state companies are proof of this. The assimilation of law and politics will be dangerous if the political side is more determinant or even dominates the legal side, so that in this position the law is only used as a tool without thinking about its benefits in society. What needs to be underlined is the fact that the relationship between politics and law can be seen from a long time ago, starting from the positivist view that law is the order of the authorities, and its contradiction with the historical school which views law not only in terms of regulatory rules, but also as a reality in society. Mahfud MD, stated that law is actually a political product so it is full of political interests that color it. This is in line with Satjipto Rahardjo's opinion, who views law as the result of the political process [11]. Thus, legal positions always go hand in hand with politics, because the relationship influences each other.

B. Legal Relations Realizes the Value of Justice as Legal Protection for Labor

Legal relations in realizing legal protection for workers can be detailed through the following points:

1) Law as a means of access to justice in industrial relationship problems

Law as a means of access to justice in industrial relations matters, needs to be adapted, for example to the implementation of industrial relations justice with the aim of labor law as the substance or rules that create the legal rules. This right means that industrial relations justice must be understood as a means of building industrial relations that realize employment development, so it is regulated by the rules of employment law. In the technical context of justice, it is necessary to understand that the main element is the judge as the key agent of justice who focuses on access to achieve justice in the industrial relations justice reformulation scheme in this paper. Justice itself is the main benchmark for how the law can function as it functions to fulfill the values of justice, so that legal movements must provide space for entry into justice. Access to justice is defined as the community's ability to seek and obtain resolutions through formal or informal justice institutions for complaints in accordance with human rights standards [12].

It is hoped that the existence of the principle of access to justice will be the key to reformulating the form of industrial relations justice in Indonesia. After previously expressing criticism of industrial relations justice in Indonesia, the author reformulates the form of industrial relations justice by placing the principle of access to justice as its main pillar. In this case, the law which is still in the form of the principle of access to justice must be grounded to become a regulatory rule as a reflection of what it is based on. This is in line with quoting Roscoe Pound, that law cannot just be a concept but must be grounded in the real world which is filled with tendencies of needs and interests. Laws full of interests must be arranged to obtain a proportional balance [10]. In realizing this concept, it is necessary to explore the placement of the law itself so that it will produce appropriate form and function. The function of law is identical to the role of law as a method in solving certain problems. In this case, first find out the options offered by the law related to its function. This function concerns its placement, namely that the law can be positioned as a rule containing orders from the authorities.

Law can also be positioned as a unified system that can provide the detailed effects of Friedmann's theory. It could be that law is also positioned as a means of control or social engineering. Perhaps in its development the law can be positioned as the basis for the government's responsibility to fulfill the greatest happiness (or welfare) of the greatest number of their citizens [13]. Thus, the main conclusion from this is that access to justice needs to be re-criticized and a commitment to fulfill it must be established, both by judges through court decisions on industrial relations disputes and by the government in the reconstruction of industrial and employment relations regulations that accommodate access to justice, especially for workers.

2) Optimization of Justice Values by Judges in Industrial Relations Decisions

Judges are vital objects in upholding the supremacy of law, because they are law enforcement officers in judicial functions. As a legal state, Indonesia is obliged to maintain the hegemony of justice in every sphere of social life. This is vital in the hands of the judiciary as the main milestone in law enforcement in Indonesia. The role of judicial institutions is very important because they are involved and directly touch the justice paradigm in question. Talking about justice, it has been closely related to the legal paradigm since time immemorial. Justice is always used as a measure of the implementation of a law, therefore, in implementing a law it is absolutely necessary to fulfill the values of justice. In achieving his position as an agent of justice, the judge can place himself in a central position as an object for achieving justice. If it is not possible to achieve justice in statutory regulations, the judge has the freedom to carry out legal discovery (rechtsvinding) up to the creation of law. If the judge analyzes that the dimensions of the work contract are one-sided or the dimensions of statutory regulations are not sufficient to provide legal protection to workers, then the judge can carry out legal formulation and discovery

In legal discovery (Rechtsvinding) by judges, there are four formulations, namely legal construction (rechtcontructie), interpretation of the law or rechtsinterpretatie, then analogy to the law or rechtsanalogie and also in the form of efforts to refine the law or rechtsvervijning. All of them can be applied one by one or combined with each other. This proves that judges can easily find laws to resolve problems and the substance of cases where the law is not yet clear. However, it needs to be understood that rechtsvinding is also a step that is taken as a second opinion, where in the first opinion the judge must first look at the law or norms that exist in society (living law). This is a benchmark for reformulating industrial relations justice through optimizing the value of justice by judges in industrial relations decisions.

The juridical consequences that will arise from the reformulation of industrial relations justice based on the principle of access to justice are changes to the legal regulations. The emphasis of legal reformulation which aims to create an industrial relations court based on access to justice is the legal construction. In the process of law formation there are elements that influence each other, it is not impossible that in this case there will be a clash between law and power again. This creates a state of determinants, namely a state of mutual influence, there are times when law is more determinative than power and vice versa. Industrial relations justice which is based on access to justice will become a new forum for seeking justice, especially for workers/laborers whose position is unequal and unequal to their employers, to be able to protect and demand fulfillment of their rights. It is hoped that this juridical reformulation will provide consequences in the form of the application of industrial

relations justice which guarantees the values of justice, certainty and usefulness in line with the values of legal guidelines which are the goals of Gustav Radbruch. By fulfilling industrial relations justice which is based on access to justice, it is hoped that it will provide empowerment or purpose to the community so that the use of law, in this case the judiciary, can achieve the goals of justice.

3) Legal Protection through a Fair Industrial Relations Dispute Court

Judicial issues regarding employment relations are based on access to justice, directly playing the role of Pancasila as the philosophical foundation of the Indonesian nation (philosopische groundslag). The consequence is that society understands that justice is in accordance with the noble values of the Indonesian nation, because Pancasila itself is a concretization of the noble values of the Indonesian nation, as a base value or basic norm. This, namely legal protection through fair industrial relations courts, can form sociological consequences that have a vital urgency in forming legal relations to realize the value of justice as legal protection for labor. The sociological consequences in question can be seen as to whether or not the desired legal objectives of industrial relations justice reformulation are achieved or not which prioritize access to justice.

Pancasila itself, as the basic norm of the legal system in Indonesia, embodies usefulness or efficiency within the principles of social justice. In essence, all actions carried out by humans are in harmony with their desires. In this case, moral and legal interpretations are actually based on benefits. Jeremy Bentham argued that the ratio that plays a role in directing legal science is the ratio of will. On the other hand, Bentham did not agree with Hume's assessment of goodness and humanism which were motivated by empathy. According to his view, every individual tends to prioritize his personal interests. Jeremy Bentham created a measure of happiness to anticipate the moral chaos and injustice that arises from the desire to fulfill the logic of that desire. This general measure of effectiveness must be realized through law. Therefore, the law must strive for maximum benefit for each individual. This becomes an ethical and juridical indicator in social life. Guarantees for the fulfillment of individual rights must be prioritized and given protection in order to achieve the needs of individuals and the wider community.

V. CONCLUSION

The normative problem of legal protection for workers includes the dimension that legislation is still limited in accommodating the interests of workers in general and has not elaborated on the interests of workers in a proportional manner. The employment contract is not regulated to the extent that the position of the employee and the employer is equivalence, which has implications for placing the employee in a disadvantaged position while the employer has a high and decisive bargaining position.

Meanwhile, legal relations embody the value of justice as legal protection for labor, which is pursued through law as a means of access to justice in industrial relations matters, optimizing the value of justice by judges in industrial relations decisions and legal protection through fair industrial relations dispute courts.

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